

The following US Government FARs / DFARs / CLAUSES are applicable to all purchase orders referencing

EB PO# 1000056346.

Please visit

<https://www.acquisition.gov/browse/index/far>

for full text of Part 52

<https://www.acquisition.gov/dfars>

for full text of Part 252



The following are vendor specific flowdowns from General Dynamics – Electric Boat. They apply to all Purchase Orders received from Seemann Composites LLC that reference **US GOVERNMENT PRIME CONTRACT # / EB-PO 1000056346** in addition to the FARS and DFARS that have been flowed down.

You can access the specific text of each flowdown by visiting General Dynamics – Electric Boat iSupplier Portal at <https://www.gdeb.com/suppliers/stdcls/> and searching by the clause number.

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Terms and Conditions**Terms and Conditions****EB-VF5 Non-Commercial Addendum Final****ELECTRIC BOAT CORPORATION****TERMS AND CONDITIONS****EB-VF5 Rev 2 (Dec 2019)****To be used in conjunction with EB-2NC Non-Commercial Terms and Conditions.**

EB-VF5 REVISIONS	
REVISION	DATE
EB-VF5 Rev 0 (Feb 2017)	2/8/2017
EB-VF5 Rev 1 (Mar 2017)	3/21/2017
EB-VF5 Rev 2 (Dec 2019)	12/18/19

CONTRACT SPECIFIC REQUIREMENTS**1.SPECIFICALLY NEGOTIATED LICENSE RIGHTS IN NONCOMMERCIAL COMPUTER SOFTWARE, NONCOMMERCIAL COMPUTER SOFTWARE DOCUMENTATION, AND TECHNICAL DATA PERTAINING TO NONCOMMERCIAL ITEMS**

Pursuant to paragraph (b)(4) of both the DFARS 252.227-7013, "Rights in Technical Data-- Noncommercial Items (Feb 2014)" and the DFARS 252.227-7014, "Rights in Noncommercial Computer Software Documentation (Feb 2014)" clauses invoked in this Purchase Order, by acceptance of this Purchase Order or commencement of work hereunder, if SELLER has not taken prior written exception pertaining to this Purchase Order, the SELLER agrees with the BUYER that the following shall be "specifically negotiated special license rights" in noncommercial computer software, noncommercial computer software documentation, and technical data pertaining to noncommercial items as used in these DFARS clauses. The parties hereby agree that the Government shall have the same license rights under this contract that it would have been granted under the clause entitled "Rights in Technical Data and Computer Software (OCT 1988)", formerly found at DFARS 252.227-7013 and prescribed for use in contracts resulting from solicitations issued prior to 29 September 1995.

2.UNLIMITED RIGHTS IN TECHNICAL DATA – NUCLEAR PROPULSION PLANT

SYSTEMS (Based on NAVSEA 5252.227-9114, NOV 1996, MODIFIED)

- a. Pursuant to subparagraph (b) (1) of the clauses entitled "Rights in Technical Data--Noncommercial Items" (DFARS 252.227-7013) and "Rights in Noncommercial Computer Software Documentation" (DFARS 252.227-7014) invoked in this Purchase Order, by acceptance of this Purchase Order or commencement of work hereunder, the SELLER agrees with the BUYER that the following is to be "specifically negotiated license rights" as used in these DFARS clauses.
 - b. It is agreed that all technical data pertaining to nuclear propulsion plant systems under the technical cognizance of the Deputy Commander, Nuclear Propulsion Directorate, Naval Sea Systems Command (SEA 08), which is specified to be delivered pursuant to this contract, shall be delivered with unlimited rights, provided, however, that nothing in the clause shall be deemed to require any subcontractor of any tier under this contract to deliver or furnish with unlimited rights any technical data which he is entitled to deliver with other than unlimited rights pursuant to said "Rights in Technical Data – Noncommercial Items" or "Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation" clauses.
 - c. It is further agreed that promptly after completion or after any termination of all work under this Purchase Order, the SELLER shall submit a letter report to the BUYER listing and providing a brief description of all items of technical data pertaining to the reactor plant(s) of the vessel(s) in BUYER's prime contract developed or prepared under this Purchase Order which were not specified to be delivered pursuant to this Purchase Order. The SELLER shall furnish in the SELLER's format and at the cost of reproduction, with unlimited rights, copies of items of technical data so reported or which should have been reported, as the Government may require from time to time and at any time. However, nothing in this requirement shall require the SELLER to retain any item of such technical data beyond the period provided in this contract, including the specifications, and other documents incorporated by reference, applicable to the item or type of technical data involved.
- 3. NAVSEA 5252.227-9113, GOVERNMENT-INDUSTRY DATA EXCHANGE PROGRAM (Apr 2015) (Modified)** (Applies if this Purchase Order exceeds \$500,000.)
- a. The Subcontractor shall participate in the appropriate interchange of the Government-Industry Data Exchange Program (GIDEP) in accordance with GIDEP PUBLICATION 1 dated April 2008. Data entered is retained by the program and provided to qualified participants. Compliance with this requirement shall not relieve SELLER from complying with any other requirement of this Purchase Order.
 - b. DELETED as not applicable.
 - c. GIDEP materials, software and information are available without charge from:

GIDEP Operations Center, P.O. Box 8000, Corona, California 92878-8000 (951) 898-3207 (Ph.) (951) 898-3250 (Fax) Internet: <http://www.gidep.org>.

- 4. SPECIAL AGREEMENT REGARDING SWITCHBOARD SUBCONTRACTS (NAVSEA) (Apr 2015) (Modified)**

- a. The Government has an interest in maintaining a competitive market for switchboards to be used on U.S. Naval vessels. The requirements of 10 USC 2534 result in a major component of certain switchboards (i.e. air circuit breakers) being available from a single domestic source who is also a competitor for such switchboards. Therefore, the Subcontractor shall evaluate lower-tier subcontract proposals for such switchboards exclusive of air circuit breaker content or on some other basis that ensures an equitable switchboard competition.
- b. The SELLER shall, in all cases involving subcontracts which contain air circuit breakers for switchboards, give advance notification to and obtain written consent of the BUYER and, when required, the BUYER's Contracting Officer via BUYER prior to placing any such subcontract.

5. LOGISTIC SUPPORT REQUIREMENT/MANUFACTURE OF REPAIR PARTS

- a. This requirement 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. However, this clause is not applicable to those items commercially developed and is only applicable in those instances where the Government has government purpose rights in the item or its design.
- b. With respect to ship components or equipments manufactured in locations other than in the United States or 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 BUYER and approved by the Government for the manufacturing of repair parts in the United States or Canada. For the purposes of this requirement, "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 all 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 the BUYER's prime contract and this subcontract.
- c. In order to satisfy the requirements of paragraph (b), above, unless the supplier of the ship components or equipments has made arrangements satisfactory to the BUYER and approved by the BUYER's Contracting Officer, for the manufacture of such repair parts in the United States or Canada, the SELLER shall include in all subcontracts for the purchase of ship components or equipments, except for those items excluded in paragraph (a) above for foreign sources a clause, acceptable to the BUYER's Contracting Officer, granting to the United States Government for a period of seven (7) years, "Government Purpose Rights" (as defined in DFARS 252.227-7013 - "RIGHTS IN TECHNICAL DATA – NONCOMMERCIAL ITEMS" in all technical data necessary to manufacture spare and repair parts for such components or equipment.

6. ASSIGNMENT AND USE OF NATIONAL STOCK NUMBERS (NAVSEA) (May 1993) Modified

- a. To the extent that National Stock Numbers (NSNs) or preliminary NSNs are assigned by the Government for the identification of parts, pieces, items, subassemblies or assemblies to be furnished under this Purchase Order,

the 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 of this Purchase Order or as required by orders for spare and repair parts. When NSNs or preliminary NSNs are required to be assigned, Seller shall request them in writing. The Buyer's cognizant Government Contract Administration Office shall be responsible for providing the Seller such NSNs or preliminary NSNs which may be assigned and which are not already in the possession of the Seller. such components or equipment.

7. COMPUTER SOFTWARE AND/OR COMPUTER DATABASE(S) DELIVERED TO AND/OR RECEIVED FROM THE GOVERNMENT (NAVSEA)(APR 2004)

- a. The 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. The Seller warrants that any such computer software and/or computer database will be free of viruses when delivered.
- b. The Seller agrees to test any computer software and/or computer database(s) received from the Buyer or the Government for viruses prior to use under this contract.
- c. Unless otherwise agreed in writing, any license agreement governing the use of any computer software to be delivered as a result of this subcontract/Purchase 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 subcontract/Purchase 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 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 subcontract/Purchase Order to restrict or limit the Buyer (when used for purposes of Buyer's performance of its prime contract) or the Buyer's Customer (i.e., 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 the Seller to the Buyer or by the Buyer to its Customer (i.e., 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, the Buyer in performance of its higher-tier contract 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 the 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.

FAR/DFARS CLAUSES/PROVISIONS INCORPORATED BY REFERENCE

INCORPORATION OF APPLICABLE CLAUSES, PROVISIONS, AND OTHER REQUIREMENTS

- a. The Federal Acquisition Regulation (FAR) and Defense Federal Acquisition Regulation Supplement (DFARS) clauses cited below are incorporated by reference as if set forth in full text, and are applicable, including any notes or other language following the clause citation, to this subcontract. The full text of all clauses incorporated by reference is available at <http://www.acquisition.gov/>. If so identified, this Order is a "rated order" certified for national defense use and Seller shall follow all the requirements of the Defense Priorities and Allocation System (DPAS) Regulation (15 C.F.R. Part 700).
- b. Unless the text in these clauses clearly reserves rights in the Government only or as otherwise noted, the terms:
 - i. "Purchase Order" shall be substituted for "Contract";
 - ii. "Purchaser" or "BUYER" for "Government" or "Contracting Officer" or equivalent phrases;
 - iii. "SELLER" for "Contractor"; and
 - iv. "SELLER's lower-tier subcontractor" for "Subcontractor" when it can so reasonably be interpreted, and it is not obvious that the words refer to BUYER's prime contract, the Government or Contracting Officer, the BUYER, or the SELLER itself.
- c. **Flow Down Requirement** - SELLER agrees to flow down the FAR and DFARS clauses as well as those clauses and provisions contained in this document to its lower-tier subcontractors and to also require further flow down, where applicable.
- d. **EB Identification of applicable clause thresholds and further flow down requirements is informational only and is not to be construed as determinative. SELLER remains responsible for determining and complying with all clause flow down requirements.**
- e. When the materials or products furnished are for use in connection with a U.S. Government contract or subcontract, in addition to Electric Boat's (EB) General Terms & Conditions and Special Provisions, the following clauses shall apply, as required by the terms of the prime contract, or by operation of law or regulation. Otherwise, EB's General Terms and Conditions shall govern in the event of a conflict between these FAR and DFARS clauses and EB's clauses.
- f. The following clauses set forth in the FAR and DFARS in effect as of the date of the prime contract are incorporated herein by reference with the same force and effect as if they were in full text.

- g. Clauses in this document may not be applicable to specific orders due to the type of subcontract/purchase order to be issued, dollar thresholds under requirements of the FAR, DFARS or Public Law or Mandatory Flow Down requirements of a particular prime contract. Clauses that are not applicable are deemed self-deleting, shall not be removed from this document, and will be considered by all parties to be without force and effect. It is the Seller's obligation to contact EB regarding any confusion, ambiguity, or questions the Seller may have regarding applicability of the following clauses.

DFARS/FAR Clause Reference Number	Applicable Threshold (S.A.T. = Simplified Acquisition Threshold in FAR Part 2.101)	DFARS/FAR Clause Title	Applicable Revision
252.203-7000	All	Requirements Related to Compensation of Former DoD Officials	Sep-11
252.203-7001	> S.A.T. except those for commercial items or components	Prohibition on Persons Convicted of Fraud or Other Defense-Contract Related Felonies Applies less paragraph (g) if this order exceeds the S.A.T., except those for commercial items or components.)	Dec-08
252.203-7002	All	Requirement to Inform Employees of Whistleblower Rights	Sep-13
252.203-7003	All	Agency Office of Inspector General	Dec-12
252.203-7004	>\$5.5 million	Display of Fraud Hotline Posters	Oct-16
252.204-7000	All	Disclosure of Information	Oct-16
252.204-7005	All	Oral Attestation of Security Responsibilities	Nov-01
252.204-7010	All	Requirement for Contractor to Notify DoD if the Contractor's Activities are Subject to Reporting Under the U.S. International Atomic Energy Agency Additional Protocol	Jan-09
252.204-7012	All	Safeguarding Covered Defense Information and Cyber Incident Reporting When this clause applies, Subcontractors are required to rapidly report cyber incidents in accordance with the requirements of this clause. Further flow down is required.	Oct-16
252.204-7015	All	Notice of Authorized Disclosure of Information for Litigation Support	May-16
252.211-7000	> \$1.5 million	Acquisition Streamlining	Oct-10

252.211-7003	All (with exceptions)	Item Unique Identification and Valuation	Mar-16
252.211-7007	All	Item Unique Identification of Government Property	Aug-12
252.211-7008	All	Use of Government-Assigned Serial Numbers	Sep-10
252.215-7000	All in which any of the clauses at FAR 52.215-11; 52.215-12; or 52.215-13 are invoked and apply. (See Notes 2 & 4)	Pricing Adjustments	Dec-12
252.219-7003	Applies whenever FAR 52.219-9 applies.	Small Business Subcontracting Plan (DoD Contracts)	Apr-18
252.222-7006		Restrictions On the Use of Mandatory Arbitration Agreements	Dec-10
252.225-7001	All	Buy America Act and Balance of Payments Program - Basic	Dec-17
252.225-7004	>\$700,000	Report of Intended Performance Outside the United States and Canada – Submission After Award In order to facilitate Buyer's reporting requirements under this clause, Seller agrees to promptly notify the EB Buyer in writing if any part of this subcontract to the Seller will be performed outside the United States and Canada that – (1) exceeds USD \$700,000 in value; and (2) could be performed inside the United States or Canada.	Oct-15
252.225-7008	All	Restriction on Acquisition of Specialty Metals	Mar-13
252.225-7009	All containing specialty metals	Restriction on Acquisition of Certain Articles Containing Specialty Metals	Oct-14
252.225-7012	All	Preference for Certain Domestic Commodities	Dec-17
252.225-7013	All	Duty-Free Entry - Basic (When a shipment is eligible for duty-free entry under this clause, SELLER is to request in writing duty-free entry eligibility via BUYER and to request that BUYER provide the information required by the clause to allow SELLER to comply. BUYER will, upon approval to disclose, provide SELLER with the information required. Special marking, labeling, and packaging apply. Further	May-16

		flow down may be required. In addition, when this clause applies, SELLER is to include the BUYER's prime contract number on all shipping documents submitted to U.S. Customs for which duty-free entry is being claimed pursuant to this clause.)	
252.225-7015	All	Restriction on Acquisition of Hand or Measuring Tools	Jun-05
252.225-7016	All	Restriction on Acquisition of Ball and Roller Bearings (Applies at every tier unless items acquired are: (1) Commercial items; or (2) Items that do not contain ball or roller bearings.)	Jun-11
252.225-7019	All	Restriction on Acquisition of Anchor and Mooring Chain (Applies at every tier for items acquired containing welded shipboard anchor and mooring chain, four inches or less in diameter)	Dec-09
252.225-7025	All	Restriction of Acquisition of Forgings (Applies if this subcontract is for forging items or for other items that contain forging items.)	Dec-09
252.225-7033	Any UK purchase >\$1 million	Waiver of United Kingdom Levies	Apr-03
252.225-7036	All	Buy American – Free Trade Agreements – Balance of Payments Program – Basic	Dec-17
252.225-7038	All	Restriction on Acquisition of Air Circuit Breakers	Jun-05
252.225-7048	All	Export-Controlled Items	Jun-13
252.226-7001	> \$500K	Utilization of Indian Organizations and Indian-Owned Economic Enterprises and Native Hawaiian Small Business Concerns	Sep-04
252.227-7013	All	Rights in Technical Data - Noncommercial Items	Feb-14
252.227-7013 Alt II	All	Rights in Technical Data – Noncommercial Items	Mar-11
252.227-7014	All	Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation	Feb-14
252.227-7015 Alt I	All	Technical Data – Commercial Items	Feb-14/Dec-11
252.227-7016	All	Rights in Bid or Proposal Information ("BUYER to include its parent, subsidiaries, and affiliates" is substituted for "Government.")	Jan-11
252.227-7019	All contracts furnishing computer	Validation of Asserted Restrictions – Computer Software	Sep-16

	software		
252.227-7025	All	Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends	May-13
252.227-7027	All	Deferred Ordering of Technical Data or Computer Software	Apr-88
252.227-7030	All	Technical Data - Withholding of Payment	Mar-00
252.227-7037	All	Validation of Restrictive Markings on Technical Data (Applies in this subcontract and in all contracts, purchase orders, and other similar instruments with subcontractors or suppliers at any tier requiring the delivery of technical data.)	Jun-13
252.227-7038	All	Patent Rights – Ownership by the Contractor (Large Business) (Applies to all subcontracts for Experimental, Developmental, or Research (EDR) work to <u>other than</u> small businesses or nonprofits unless a different patent rights clause is required by FAR 27.303. FAR 52.227-11 applies in lieu of this DFARS clause in all subcontracts for E, D, or R to be performed by a small business concern or a nonprofit organization. All references to "Government" shall remain and the subcontractor (SELLER) shall have all the rights and obligations provided to the Contractor in the clause.)	Jun-12
252.231-7000	All	Supplemental Cost Principles	Dec-91
252.234-7004	>\$50 million	Cost and Software Data Reporting System – Basic	Nov-14
252.235-7003	All	Frequency Authorization	Mar-14
252.243-7001	All	Pricing of Contract Modifications	Dec-91
252.243-7002	REAs > the S.A.T.	Requests for Equitable Adjustments (REA) (Modified as necessary to reflect the relationship of the parties.)	Dec-12
252.244-7000	All	Subcontracts for Commercial Items and Commercial Components (DoD Contracts) (When this clause applies to a subcontract, flow down of additional clauses will be required.)	Jun-13
252.246-7003	All	Notification of Potential Safety Issues	Jun-13
252.246-7007	All	Contractor Counterfeit Electronic Part Detection and Avoidance System	Aug-16
252.246-7008	All	Sources of Electronic Parts	May-18
252.247-7023	All	Transportation of Supplies by Sea (Paragraphs (f) and (g) do not apply to orders at or below the S.A.T.)	Apr-14
252.249-7002	≥\$650K	Notification of Anticipated Contract Termination or Reduction	Oct-15
252.251-7000	All	Ordering From Government Supply Sources	Aug-12
52.203-6	> the S.A.T.	Restrictions on Subcontractor Sales to the Government (Applies if this order exceeds the simplified acquisition threshold. Note: Further flow down is required.)	Sep-06
52.203-7	> \$150K	Anti-Kickback Procedures (Modified)	May-14

		(Applies, less paragraph (c)(1), if this order exceeds \$150,000, suitably modified to reflect the relationship of the Parties. Further flow down is required. SELLER agrees to indemnify and hold BUYER harmless to the full extent of any loss, damage, or expense (including reasonable attorney's fees), including but not limited to, any amount withheld from the BUYER's prime contract resulting from a violation or alleged violation of this clause or any law or regulation by SELLER or its subcontractors at any tier.)	
52.203-10	All	Price or Fee Adjustment for Illegal or Improper Activity (Modified) (This clause applies with the following additional changes of parties: Replace the word "Government" with "Government and/or EB" wherever it appears and replace "prime contractor's price or fee" in paragraph (c) with "Seller's price or fee.")	May-14
52.203-12	> \$150K	Limitation on Payments to Influence Certain Federal Transactions (This clause applies if this order exceeds \$150,000.)	Oct-10
52.203-13	>\$5.5 million and performance of more than 120 days	Contractor Code of Business Ethics and Conduct	Oct-15
52.203-19	All	Prohibition on Requiring Certain Internal Confidentiality Agreement or Statements	Jan-17
52.204-2	All	Security Requirements (Modified) (Applies to this order and to all lower-tier subcontracts that involve access to classified information. All references to the "Changes" clause are excluded. "Government" in paragraph (c) does not change to "BUYER".)	Aug-96
52.204-9	All	Personal Identity Verification of Contractor Personnel	Jan-11
52.204-10	All	Reporting Executive Compensation and First-Tier Subcontract Awards	Oct-16
52.204-13	All	System for Award Management Maintenance	Oct-16
52.204-19	All	Incorporation by Reference of Representations and Certifications	Dec-14
52.204-21	All	Basic Safeguarding of Covered Contractor Information Systems	Jun-16
52.204-23	All	Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities	Jul-18
52.204-25	All	Prohibition On Contracting For Certain Telecommunications and Video Surveillance Services or Equipment	Aug-19
52.209-6	All	Protecting the Government's Interest When Subcontracting With Contractors Debarred, Suspended, or Proposed for Debarment (Modified) (Delete "in excess of \$35,000" in para. (b), and add to the end of the sentence "without requesting and obtaining prior written approval of the BUYER and, when required, the Government via the BUYER". Revise paragraph (c) in its entirety to read as follows:	Oct-15

		<p>"The SELLER shall disclose to the BUYER, in writing, whether as of the time of award of this subcontract, the SELLER, or any of its principals, is or is not debarred, suspended, or proposed for debarment by the Federal Government."</p> <p>In paragraph (d), add the following wording at the beginning of the first sentence: "If the SELLER intends to request the BUYER's approval to subcontract with a subcontractor that is debarred, suspended, or proposed for debarment, ..." and replace "Contracting Officer" with "BUYER".</p> <p>Change paragraph (e)(1) to reflect "Is of any amount, and"</p> <p>All exceptions to this clause as modified require prior EB and Government approval.)</p>	
52.210-1	All	Market Research	Apr-11
52.211-5	All	Material Requirements	Aug-00
52.211-15	All	Defense Priority and Allocation Requirements	Apr-08
52.215-2	> S.A.T.	Audit & Records - Negotiation (This clause applies if this order exceeds the S.A.T. and: (1) is a cost reimbursement, incentive, time-and-material, labor hour, or price re-determinable type or any combination of these; or (2) is an order for which cost or pricing data are required; or (3) is an order that requires the SELLER to furnish reports as discussed in paragraph (e) of this clause. In paragraphs (b), (c), and (e), change "Contracting Officer" to "BUYER and the Contracting Officer". Further flow down may be required.)	Oct-10
52.215-10		Price Reduction for Defective Cost or Pricing Data	Aug-11
52.215-12	> the threshold for submission of cost or pricing data.	Subcontractor Certified Cost or Pricing Data	Oct-10
52.215-14 & Alt. 1	All	Integrity of Unit Prices	Oct-10 & Oct-97
52.215-15	All	Pension Adjustments & Asset Reversions (This clause applies to solicitations and orders meeting the applicability requirements of FAR 15.408(g). Further flow down is required.)	Oct-10
52.215-18	All	Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other Than Pensions (This clause applies to solicitations and orders meeting the applicability requirements of FAR 15.408(j) Further flow down is required.)	Jul-05
52.215-19		Notification of Ownership Changes	Oct-97
52.215-21, Alt II & Alt III	> the threshold for submission of cost or pricing data.	Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data - Modifications (This clause applies, unless an exception applies, if this order exceeds the applicable threshold for submission of cost or pricing data on the date of	Oct-10, Oct-97 & Oct-97

		agreement on price or the date of award, whichever is later. However, if the SELLER is not granted an exception from the requirements to submit cost or pricing data, the SELLER shall submit cost or pricing data and supporting attachments in accordance with table 15-2 of FAR 15.408. In addition, as soon as practicable after agreement on price, but before award (except for unpriced actions), the SELLER shall submit a Certificate of Current Cost or Pricing Data, as prescribed by FAR 15.406-2.)	
52.215-23 & Alt I	All	Limitations on Pass-Through Charges. (Further flow down may be required.)	Oct-09 & Oct-09
52.219-8	All	Utilization of Small Business Concerns (Applies to all solicitations and orders that offer further subcontracting opportunities.)	Nov-16
52.219-9 ALT II (Dev)	> \$700,000 (except to small businesses)	Small Business Subcontracting Plan (Deviation 2016-O0009) – Alternate II(Applies to all solicitations and subcontracts/orders, except those to small business concerns > \$700,000 (\$1,500,000 for construction of any public facility),.	Jan- 17
52.219-16	Applies when FAR 52.219-9 applies.	Liquidated Damages - Subcontracting Plan (Modified) (Incorporated by Reference, less paragraphs (d) and (e). SELLER agrees that the BUYER may withhold or recover from SELLER such sums as the BUYER's Contracting Officer withholds or recovers from BUYER pertaining to SELLER's or its subcontractor's compliance or noncompliance with the requirements of FAR 52.219-8, FAR 52.219-9, or this clause as well as costs and expenses incurred by BUYER (including reasonable attorney's fees) as a result of SELLER's or its subcontractor's compliance or noncompliance with the requirements of these clauses.)	Jan-99
52.222-2	All	Payment for Overtime Premiums (Modified) EB uses its own clause in EB-2NC Non-Commercial Terms and Conditions (Orders to which the Cost Principles at FAR Part 31 Apply) which is heavily based on this clause 52.222-2 modified.	Jul-90
52.222-19	All	Child-Labor Cooperation with Authorities and Remedies	Oct-19
52.222-20	> \$15K	Contracts for Materials, Supplies, Articles, and Equipment Exceeding \$15,000	May-14
52.222-21	All	Prohibition of Segregated Facilities	Apr-15
52.222-26	All	Equal Opportunity SELLER shall include the terms and conditions of this clause in every lower-tier subcontract or purchase order that is not exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor.)	Sep-16
52.222-35		Equal Opportunity For Veterans	Oct-15
52.222-37	>/= \$150,000	Employment Reports on Veterans	Feb-16

52.222-40	>\$10,000 unless exempted	Notification of Employee Rights Under the National Labor Relations Act	Dec-10
52.222-50	All	Combating Trafficking in Persons	Mar-15
52.223-3	All	Hazardous Material Identification and Material Safety Data	Jan-97
52.223-11	All	Ozone-Depleting Substances	Jun-16
52.223-18	All	Encouraging Contractor Policies To Ban Text Messaging While Driving	Aug-11
52.225-13	All	Restrictions on Certain Foreign Purchases (Further flow down is required.)	Jun-08
52.227-1	> S.A.T.	Authorization and Consent When used in this clause, the word "Government" retains its original meaning as the "U.S. Government" ; except in paragraph (a)(1) where the phrase "... accepted by the Government under this contract; ..." is changed to read "... accepted by the BUYER under this subcontract or by the Government under the prime contract; ...". (Further flow down required.)	Dec-07
52.227-2	> S.A.T.	Notice and Assistance Regarding Patent and Copyright Infringement (Applies if this order is expected to exceed the S.A.T. Further flow down is required.)	Dec-07
52.227-10	All	Filing of Patent Applications - Classified Subject Matter (Applies if this order covers or is likely to cover classified subject matter. Paragraph (a) is changed from 30 to 45 days.) (Further flow down is required.)	Dec-07
52.227-11	Small businesses and nonprofit organizations only	Patent Rights - Ownership by the Contractor (Short Form) Applies if this subcontract/purchase order is for Experimental, Developmental, or Research (EDR) work to be performed by a small business concern or nonprofit organization. All references to "Government" shall remain and the subcontractor (SELLER) shall have all the rights and obligations provided to the Contractor in the clause. This clause does not apply for work in connection with the nuclear propulsion plant and its associated components and systems which are under the cognizance of NAVSEA 08. For such orders FAR 52.227-13, Patent Rights – Ownership by the Government, applies. Note: In lieu of FAR 52.227-11, DFARS 252.227-7038, Patent Rights – Ownership by the Contractor (Large Business), applies to all subcontracts for Experimental, Developmental, or Research (EDR) work to <u>other than small business concerns or nonprofit organizations</u> unless a different patent rights clause is required by FAR 27.303.	May-14
52.229-4	All	Federal, State, & Local Taxes	Feb-13
52.230-2		Cost Accounting Standards Deviation 2018-O0015	May-18
52.230-6	> \$750K	Administration of Cost Accounting Standards	Jun-10

	when CAS applies		
52.232-17	All	Interest	May-14
52.232-20	All	Limitation of Costs	Apr-84
52.232-22	All	Limitation of Funds	Apr-84
52.232-39	All	Unenforceability of Unauthorized Obligations	Jun-13
52.232-40	All	Providing Accelerated Payments to Small Business Subcontractors	Dec-13
52.233-3 & Alt I	All & CR	Protest after Award	Aug-96 & Jun-85
52.234-1	All	Industrial Resources Developed Under Title III, Defense Production Act	Sep-16
52.242-1	All CR, FPI, or Price Re-determinable	Notice of Intent to Disallow Costs	Apr-84
52.242-3	> the threshold for submission of cost or pricing data.	Penalties for Unallowable Costs	May-14
52.242-15 & Alt I	All	Stop-Work Order and Stop Work Order – Alternate I	Aug-89 & Apr-84
52.244-6	All	Subcontracts for Commercial Items	Jan-17
52.245-1	All	Government Property	Jan-17
52.245-9	All	Use and Charges	Apr-12
52.246-11	All subcontracts for critical and complex items or when the technical requirements require such control	Higher-Level Contract Quality Requirement	Dec-14
52.247-63	All	Preference For U.S. Flag Air Carriers	Jun-03
52.248-1	> the S.A.T	Value Engineering (Deviation: (Add the following: "(n) this clause does not apply to any work under this contract in connection with the nuclear propulsion plant, its associated components and systems which are under the technical cognizance of NAVSEA 08.")	Oct-10

52.250-1 & Alt 1	Upon U.S. Government Approval	Indemnification Under Public Law 85-804 <i>SELLER may request Indemnification under Public Law-804 for Nuclear or Unusually Hazardous Risks in accordance with FAR 52.250-1. Any such properly asserted request by the SELLER shall be transmitted to the customer by the BUYER for disposition. Submission of such request does not constitute approval, as the U.S. Government maintains the sole authority to approve or deny such requests. See *Note.</i>	Apr-84
<u>FIXED-PRICE</u>			
52.242-17	All FP	Government Delay of Work (Applies, suitably modified to reflect the relationship of the Parties, if the Government causes a delay at the prime contract level which impacts SELLER's performance of this purchase order. Applies when a fixed-price subcontract is anticipated for supplies other than commercial or modified-commercial items and when a fixed-price subcontract is contemplated for services.)	Apr-84
52.243-1	All FP	Changes- Fixed Price Insert 45 days where 30 is written.	Aug-87
52.246-2	All FP	Inspection of Supplies – Fixed Price	Aug-96
52.246-4	All FP	Inspection Of Services – Fixed Price	Aug-96
52.249-2 (Mod)	All FP	Termination For Convenience of the Government or BUYER (Fixed Price) (Modified) (This clause is incorporated herein by reference modified as shown below such that BUYER shall have the right to terminate this Purchase Order for convenience of either the Government or the BUYER. Revised to apply to all fixed-price orders.) <ul style="list-style-type: none"> • Revise the title to read "Termination for Convenience of the Government or BUYER (Fixed Price)" in lieu of "Termination for Convenience of the Government (Fixed-Price)"; and • Revise the language to reflect the relationship of the parties as described in language "Clauses/Provisions Incorporated by Reference"; and • In paragraph (a), revise "... if the Contracting Officer determines that a termination is in the Government's interest." to "... if the BUYER determines that a termination is in the BUYER's or Government's interest."; and • In paragraph (b)(8), revise "Government" to "BUYER or the Government"; and • In paragraph (c), "120 days"" is changed to "60 days" and paragraph (e) is changed from "one year" to "six months"; and 	Apr-12

		<ul style="list-style-type: none"> • Delete paragraph (j) in its entirety; and • In paragraph (n), "Government" is changed to "Government and the BUYER". 	
<u>COST-REIMBURSEMENT</u>			
52.216-7	All CR	Allowable Cost and Payment Applies if this solicitation and/or order is/are contemplated to be a cost-reimbursement subcontract or a time-and-materials subcontract (other than a subcontract for a commercial item.). If this subcontract is a time-and-materials subcontract, this clause applies only to the portion of the subcontract that provides for reimbursement of materials (as defined in the clause) at actual cost.	Jun-13
52.216-8	All CR	Fixed Fee (Modified) (This clause applies, less the final two sentences of paragraph (b), if this solicitation and/or order is contemplated to be a cost-plus-fixed-fee subcontract (other than a construction subcontract).) In paragraph (a), the word "Schedule" shall mean this letter contract or purchase order.	Jun-11
52.232-20	All CR	Limitation of Costs (Except that "60 days" is changed to "75 days" in paragraph (b)(1).) (Applies if a fully funded cost-reimbursement contract is contemplated, except those for consolidated facilities, facilities acquisition, or facilities use, whether or not the contract provides for payment of a fee.)	Apr-84
52.232-22	All CR	Limitation of Funds (Except that "60 days" is changed to "75 days" in paragraph (c)(1).) (Applies if an incrementally funded cost-reimbursement contract is contemplated.)	Apr-84
52.243-2 & Alt II	All CR	Changes	Aug-87 & Apr-84
52.246-3	All CR	Inspection of Supplies - Cost Reimbursement	May-01
52.246-5	All CR	Inspection of Services - Cost Reimbursement	Apr-84
52.249-6	All CR, T&M, or LH	Termination (Cost Reimbursement) - (Except that paragraph (d) is changed from "120 days" to 60 "days" and paragraph (f) is changed from "one year" to "six months". Delete Section (j) and use Alt. IV for Time & Material or Labor Hour Contracts.)	May-04 and (T&M and LH) ALT IV (Sep-96) (Modified)

FAR/DFARS CLAUSES MODIFIED TO READ AS SHOWN AND INCORPORATED IN FULL TEXT

8. 52.215-11, PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA – MODIFICATIONS (AUG 2011)

(Modified to read as shown below)

(Applies if this order exceeds the applicable threshold for submission of cost or pricing data (FAR 15.403-4, see * Note above) on the date of agreement on price or the date of award, whichever is later; and Seller and/or its subcontractor(s) are required by law or regulation to submit cost or pricing data in the form required by FAR Part 15; and to execute a "Certificate of Current Cost or Pricing Data" in the format required by FAR Part 15.406-2 (entitled "Certificate of Current Cost or Pricing Data")).

In addition to any remedies provided by law, Seller agrees that if Buyer is subjected to any liability as a result of Seller's or its subcontractor's failure to comply with this requirement or the requirements in the applicable clauses invoked herein entitled "Subcontractor Cost or Pricing Data" and "Subcontractor Cost or Pricing Data - Modifications", then Seller agrees to indemnify and hold Buyer harmless to the full extent of any loss, damage, or expense (including reasonable attorney's fees but excluding Buyer's overhead and profit) resulting from such failure.)

For purposes hereunder, the term "contract" shall include letter contracts, purchase order, delivery order or task order, or any other contractual vehicle between the Buyer (EB) and the Seller.

(a) This clause shall become operative only for any supplement or other modification to this contract involving a pricing adjustment expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4, except that this clause does not apply to any modification if an exception under FAR 15.403-1 applies.

(b) If any price, including profit or fee, negotiated in connection with any modification under this clause, or any cost reimbursable under this contract, was increased by any significant amount or if the Buyer incurs costs, expenses (including reasonable attorney's fees), and/or penalties that the Buyer would not otherwise have been liable for because (1) the Seller or a lower-tier subcontractor furnished cost or pricing data that were not complete, accurate, and current as certified in its Certificate of Current Cost or Pricing Data, (2) a lower-tier subcontractor or prospective lower-tier subcontractor furnished the Seller cost or pricing data that were not complete, accurate, and current as certified in the Seller's Certificate of Current Cost or Pricing Data, or (3) any of these parties furnished data of any description that were not accurate, the price or cost shall be reduced accordingly and the contract shall be modified to reflect the reduction. This right to a price reduction is limited to that resulting from defects in data relating to modifications for which this clause becomes operative under paragraph (a) of this clause.

(c) Any reduction in the contract price under paragraph (b) of this clause due to defective data from a prospective lower-tier subcontractor that was not subsequently awarded the lower-tier subcontract shall be limited to the amount, plus applicable overhead and profit markup, by which—

(1) The actual lower-tier subcontract; or

(2) The actual cost to the Seller, if there was no lower-tier subcontract, was less than the prospective lower-tier subcontract cost estimate submitted by the Seller; provided, that the actual lower-tier subcontract price was not itself affected by defective cost or pricing data.

(d)(1) If the Buyer's Contracting Officer determines under paragraph (b) of this clause that a price or cost reduction should be made to Buyer's prime contract and Buyer determines under paragraph (b) of this clause that a price or cost reduction should be made to this contract, the Seller agrees not to raise the following matters as a defense:

(i) The Seller or lower-tier subcontractor was a sole source supplier or otherwise was in a superior bargaining position and thus the price of the contract would not have been modified even if accurate, complete, and current cost or pricing data had been submitted.

(ii) The Buyer should have known that the cost or pricing data in issue were defective even though the Seller or lower-tier subcontractor took no affirmative action to bring the character of the data to the attention of the Buyer.

(iii) The contract was based on an agreement about the total cost of the contract and there was no agreement about the cost of each item procured under the contract.

(iv) The Seller or lower-tier subcontractor did not submit a Certificate of Current Cost or Pricing Data.

(2)(i) Except as prohibited by paragraph (d)(2)(ii) of this clause, an offset in an amount determined appropriate by the Buyer based upon the facts shall be allowed against the amount of a contract price reduction if—

(A) The Seller certifies to the Buyer that, to the best of the Seller's knowledge and belief, the Seller is entitled to the offset in the amount requested; and

(B) The Seller proves that the cost or pricing data were available before the "as of" date specified on its Certificate of Current Cost or Pricing Data, and that the data were not submitted before such date.

(ii) An offset shall not be allowed if—

(A) The understated data were known by the Seller to be understated before the "as of" date specified on its Certificate of Current Cost or Pricing Data; or (B) The Buyer or the Government proves that the facts demonstrate that the contract price would not have increased in the amount to be offset even if the available data had been submitted before the "as of" date specified on its Certificate of Current Cost or Pricing Data.

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

(1) Interest compounded daily, as required by 26 U.S.C. 6622, on the amount of such overpayment to be

computed from the date(s) of overpayment to the Seller to the date the Buyer is repaid by the Seller at the applicable underpayment rate effective for each quarter prescribed by the Secretary of the Treasury under 26 U.S.C. 6621(a)(2); and (2) A penalty equal to the amount of the overpayment, if the Seller or lower-tier subcontractor knowingly submitted cost or pricing data that were incomplete, inaccurate, or noncurrent.

- 9. 52.222-54, EMPLOYMENT ELIGIBILITY VERIFICATION("E-Verify") (OCT2015)** (Modified to read as shown below.) This purchase order is a subcontract under a U.S. Government prime contract.
- a. Applicability: This clause applies, appropriately modified for identification of the parties, in each subcontract/letter contract/purchase order that—
- i. Is for—
 1. Commercial or noncommercial services (except for commercial services that are part of the purchase of a COTS item (or an item that would be a COTS item, but for minor modifications), performed by the COTS provider, and are normally provided for that COTS item); or
 2. Construction;
 - ii. Has a value of more than U.S. \$3,500; and
 - iii. Includes work performed in the United States
 - b. When this clause applies, it requires enrollment as a "voluntary employer" or as a U.S. Federal Contractor in the E-Verify program within the specified period of time.
 - c. Verification of Enrollment:SELLER is to provide the EB BUYER with a copy (printout or print screen image) of its company administration screen in E-verify in order to verify subcontractor compliance. Note: It is the screen which shows that the company is a registered participant in E-verify and indicates whether it is participating as a "voluntary employer" or as a "federal contractor".)
 - d. Definitions. As used in this clause—
 - i. "Commercially available off-the-shelf (COTS) item"—
 1. Means any item of supply that is—
 - a. A commercial item (as defined in paragraph (1) of the definition at 2.101);
 2. Sold in substantial quantities in the commercial marketplace; and
 3. Offered to the Government, without modification, in the same form in which it is sold in the commercial marketplace; and
 4. Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum

products. Per 46 CFR 525.1 (c)(2), "bulk cargo" means cargo that is loaded and carried in bulk onboard ship without mark or count, in a loose unpackaged form, having homogenous characteristics. Bulk cargo loaded into intermodal equipment, except LASH or Seabee barges, is subject to mark and count and, therefore, ceases to be bulk cargo.

- ii. "Employee assigned to the contract" means an employee who was hired after November 6, 1986 (after November 27, 2009 in the Commonwealth of the Northern Mariana Islands), who is directly performing work, in the United States, under a contract that is required to include the clause prescribed at 22.1803. An employee is not considered to be directly performing work under a contract if the employee—
 - 1. Normally performs support work, such as indirect or overhead functions; and
 - 2. Does not perform any substantial duties applicable to the contract.
- iii. "Subcontract" means any contract, as defined in 2.101, entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract. It includes but is not limited to purchase orders, and changes and modifications to purchase orders.
- iv. "Subcontractor" means any supplier, distributor, vendor, or firm that furnishes supplies or services to or for a prime Contractor or another subcontractor.
- v. "United States", as defined in [8 U.S.C. 1101\(a\)\(38\)](#), means the 50 States, the District of Columbia, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands and the U.S. Virgin Islands.
- e. **Enrollment and verification requirements.** (1) If the SELLER is not enrolled as a Federal Contractor in E-Verify at time of subcontract award, the SELLER shall—
 - i. Enroll. Enroll as a Federal Contractor in the E-Verify program within 30 calendar days of this subcontract award;
 - ii. Verify all new employees. Within 90 calendar days of enrollment in the E-Verify program, begin to use E-Verify to initiate verification of employment eligibility of all new hires of the SELLER, who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire (but see paragraph (b)(3) of this section); and
 - iii. Verify employees assigned to the contract. For each employee assigned to this subcontract, initiate verification within 90 calendar days after date of enrollment or within 30 calendar days of the employee's assignment to the subcontract, whichever date is later (but see paragraph (b)(4) of this section).
 - iv. If the SELLER is enrolled as a Federal Contractor in E-Verify at time of subcontract award, the SELLER shall use E-Verify to initiate verification of employment eligibility of—
 - v. All new employees. (A) Enrolled 90 calendar days or more. The SELLER shall initiate verification of all new hires of the SELLER, who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire (but see paragraph (b)(3) of this section); or
 - vi. Enrolled less than 90 calendar days. Within 90 calendar days after enrollment as a Federal Contractor in E-Verify, the SELLER shall initiate verification of all new hires of the SELLER, who are working in the United

States, whether or not assigned to the subcontract, within 3 business days after the date of hire (but see paragraph (b)(3) of this section); or

- vii. Employees assigned to the contract. For each employee assigned to the subcontract, the SELLER shall initiate verification within 90 calendar days after date of subcontract award or within 30 days after assignment to the subcontract, whichever date is later (but see paragraph (b)(4) of this section).
- viii. If the SELLER is an institution of higher education (as defined at [20 U.S.C. 1001\(a\)](#)); a State or local government or the government of a Federally recognized Indian tribe; or a surety performing under a takeover agreement entered into with a Federal agency pursuant to a performance bond, the SELLER may choose to verify only employees assigned to the subcontract, whether existing employees or new hires. The SELLER shall follow the applicable verification requirements at (b)(1) or (b)(2) respectively, except that any requirement for verification of new employees applies only to new employees assigned to the subcontract.
- ix. Option to verify employment eligibility of all employees. The SELLER may elect to verify all existing employees hired after November 6, 1986 (after November 27, 2009, in the Commonwealth of the Northern Mariana Islands), rather than just those employees assigned to the subcontract. The SELLER shall initiate verification for each existing employee working in the United States who was hired after November 6, 1986 (after November 27, 2009, in the Commonwealth of the Northern Mariana Islands), within 180 calendar days of—
 - 1. Enrollment in the E-Verify program; or
 - 2. Notification to E-Verify Operations of the SELLER's decision to exercise this option, using the contact information provided in the E-Verify program Memorandum of Understanding (MOU).
- f. The SELLER shall comply, for the period of performance of this contract, with the requirements of the E-Verify program MOU.
- g. The Department of Homeland Security (DHS) or the Social Security Administration (SSA) may terminate the SELLER's MOU and deny access to the E-Verify system in accordance with the terms of the MOU. In such case, the SELLER will be referred to a suspension or debarment official.
- h. During the period between termination of the MOU and a decision by the suspension or debarment official whether to suspend or debar, the SELLER is excused from its obligations under paragraph (b) of this clause. If the suspension or debarment official determines not to suspend or debar the SELLER, then the SELLER must re-enroll in E-Verify.
- i. **Web site.** Information on registration for and use of the E-Verify program can be obtained via the Internet at the Department of Homeland Security Web site: <http://www.dhs.gov/E-Verify>.
- j. **Individuals previously verified.** The SELLER is not required by this clause to perform additional employment verification using E-Verify for any employee—
 - i. Whose employment eligibility was previously verified by the SELLER through the E-Verify program;
 - ii. Who has been granted and holds an active U.S. Government security clearance for access to confidential,

secret, or top secret information in accordance with the National Industrial Security Program Operating Manual; or

- iii. Who has undergone a completed background investigation and been issued credentials pursuant to Homeland Security Presidential Directive (HSPD)-12, Policy for a Common Identification Standard for Federal Employees and Contractors.

Subcontracts. The SELLER shall include the requirements of this clause, including this paragraph (appropriately modified for identification of the parties), in each subcontract that

(1) Is for—

- (i) Commercial or noncommercial services (except for commercial services that are part of the purchase of a COTS item (or an item that would be a COTS item, but for minor modifications), performed by the COTS provider, and are normally provided for that COTS item); or
- (ii) Construction;
- (2) Has a value of more than \$3,500; and
- (3) Includes work performed in the United States.

10. DFARS 252.209-7004, SUBCONTRACTING WITH FIRMS THAT ARE OWNED OR CONTROLLED BY THE GOVERNMENT OF A COUNTRY THAT IS A STATE SPONSOR OF TERRORISM (Oct 2015, Modified to read as shown below.)

- a. Unless the BUYER and the Government determines that there is a compelling reason to do so, the SELLER or a lower-tier subcontractor at any tier shall not enter into any subcontract **of any amount** with a firm, or a subsidiary of a firm, that is identified, in the Excluded Parties List System as being ineligible for the award of Defense contracts or subcontracts because it is owned or controlled by the government of a terrorist country.
- b. A corporate officer or a designee of the SELLER shall notify the BUYER's Contracting Officer via BUYER, in writing, before entering into a subcontract with a party that is identified, on the List of Parties Excluded from Federal Procurement and Non-procurement Programs, as being ineligible for the award of Defense contracts or subcontracts because it is owned or controlled by the government of a terrorist country. The notice must include the name of the proposed subcontractor and the compelling reason(s) for doing business with the subcontractor notwithstanding its inclusion on the List of Parties Excluded from Federal Procurement and Non-procurement Programs.

FAR/DFARS CLAUSES MODIFIED AND INCORPORATED IN FULL TEXT – FIXED PRICE

11. 52.243-1, CHANGES – FIXED PRICE (Aug 1987) & ALT II (Apr 1984) (Modified to read as shown below.)

- a. The BUYER may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this Purchase Order in any one or more of the following:
 - i. Drawings, designs, or specifications when the supplies to be furnished are to be specially manufactured for the

BUYER or the Government in accordance with the drawings, designs, or specifications.

- ii.** Method of shipment or packing.
 - iii.** Place of delivery.
 - iv.** Inspection Standards.
 - v.** Place or time of inspection.
- b. If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, the BUYER shall make an equitable adjustment in the Purchase Order price, the delivery schedule, or both, and shall modify the Purchase Order.
 - c. The SELLER must assert its right to an adjustment under this clause within 20 days from the date of receipt of the written order. However, if the BUYER decides that the facts justify it, the BUYER may receive and act upon a proposal submitted before final payment of the Purchase Order.
 - d. If the SELLER's proposal includes the cost of property made obsolete or excess by the change, the BUYER shall have the right to prescribe the manner of the disposition of the property.
 - e. Failure to agree to any adjustment shall be a dispute under the Disputes clause of this Purchase Order. However, nothing in this clause shall excuse the SELLER from proceeding with the contract as changed.
 - f. Alternate I (Apr 1984). If the requirement is for services, other than architect-engineer or other professional services, and no supplies are to be furnished, substitute the following paragraph (a) for paragraph (a) of the basic clause:
 - i.** The BUYER may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this Purchase Order in any one or more of the following:
 1. Description of services to be performed.
 2. Time of performance (i.e., hours of the day, days of the week, etc.).
 3. Place of performance of the services.
 - g. Alternate II (Apr 1984). If the requirement is for services (other than architect-engineer services, transportation, or research and development) and supplies are to be furnished, substitute the following paragraph (a) for paragraph (a) of the basic clause:
 - i.** The BUYER may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this Purchase Order in any one or more of the following:
 1. Description of services to be performed.
 2. Time of performance (i.e., hours of the day, days of the week, etc.).

3. Place of performance of the services.
 4. Drawings, designs, or specifications when the supplies to be furnished are to be specially manufactured for the BUYER or the Government, in accordance with the drawings, designs, or specifications.
 5. Method of shipment or packing of supplies.
 6. Place of delivery.
 7. Inspection Standards
 8. Place or time of inspection.
- 12. 52.246-2 INSPECTION OF SUPPLIES - FIXED PRICE** (Aug 1996, Modified to read as shown below.)
- a. Definition. "Supplies," as used in this clause, includes but is not limited to raw materials, components, intermediate assemblies, end products, and lots of supplies.
 - b. Inspection System & Inspection.The SELLER and its suppliers shall establish and maintain an inspection system acceptable to the BUYER and the Government covering supplies under this Purchase Order.SELLER shall tender to the BUYER for acceptance only supplies that have been inspected in accordance with the inspection system and have been found by the SELLER to be in conformity with Purchase Order requirements. As part of the system, the SELLER shall prepare records evidencing all inspections made under the system and the outcome. These records shall be kept complete and made available to the BUYER and/or the Government during Purchase Order performance and for as long afterwards as the Purchase Order requires. The BUYER or the Government may perform reviews and evaluations as reasonably necessary to ascertain compliance with this paragraph. These reviews and evaluations shall be conducted in a manner that will not unduly delay the Purchase Order work. The right of review, whether exercised or not, does not relieve the SELLER of the obligations under the Purchase Order.
 - c. BUYER and/or the Government have the right to inspect and test all supplies called for by the Purchase Order, to the extent practicable, at all places and times, including the period of manufacture, and in any event before acceptance. BUYER and/or the Government shall perform inspections and tests in a manner that will not unduly delay the work. BUYER assumes no contractual obligation to perform any inspection and test for the benefit of the SELLER unless specifically set forth elsewhere in this Purchase Order. SELLER, at its own expense, shall promptly rectify any defects discovered during any inspection or test.
 - d. If the BUYER or the Government performs inspection or test on the premises of the SELLER or a subcontractor, the SELLER shall furnish, and shall require subcontractors to furnish, at no increase in Purchase Order price, all reasonable facilities and assistance for the safe and convenient performance of these duties. Except as otherwise provided in the Purchase Order, BUYER and/or the Government shall bear the expense of inspections or tests made by either of them at other than the SELLER's or subcontractor's premises; provided, that in case of rejection, BUYERand/or the Government shall not be liable for any reduction in the value of inspection or test samples.
 - e. When supplies are not ready at the time specified by the SELLER for inspection or test, SELLER shall bear the additional cost of inspection or test.

- f. BUYER may charge the SELLER any additional cost of inspection or test when prior rejection makes re-inspection or retest necessary.
- g. If this Purchase Order provides for the performance of BUYER or Government quality assurance at source, and if requested by BUYER or Government, SELLER shall furnish advance notification of the time (i) when SELLER inspection or tests will be performed in accordance with the terms and conditions of the Purchase Order and (ii) when the supplies will be ready for BUYER and/or Government inspection.
- h. The BUYER and/or Government's request shall specify the period and method of the advance notification and BUYER or Government representative to whom it shall be furnished. Requests shall not require more than 2 workdays of advance notification if the BUYER or Government representative is in residence in the SELLER's plant, nor more than 7 workdays in other instances.
- i. Any rejection of supplies will be handled in accordance with the "Rejection" clause above.
- j. Inspections and tests by the BUYER and/or Government do not relieve the SELLER of responsibility for defects or other failures to meet Purchase Order requirements discovered before acceptance. No inspection, test, delay, failure to inspect or test, or failure to discover any defect or other nonconformance shall relieve SELLER of any of its obligations under this purchase order or impair any rights or remedies of Purchaser or Purchaser's customers. Acceptance shall be conclusive, except for latent defects, fraud, gross mistakes amounting to fraud, or as otherwise provided in the Purchase Order. Payments made shall not be conclusive of acceptance.
- k. If acceptance is not conclusive for any of the reasons in paragraph (j) hereof, BUYER, in addition to any other rights and remedies provided by law, or under other provisions of this Purchase Order, shall have the right to require SELLER:
 - a. at no increase in Purchase Order price, to correct or replace the defective or nonconforming supplies at the original point of delivery or at SELLER's plant at BUYER's election, and in accordance with a reasonable delivery schedule as may be agreed upon between SELLER and BUYER; provided, that BUYER may require a reduction in Purchase Order price if the SELLER fails to meet such delivery schedule, or
 - b. within a reasonable time after receipt by the SELLER of notice of defects or nonconformance, to repay such portion of the Purchase Order price as is equitable under the circumstances if BUYER elects not to require correction or replacement.

When supplies are returned to SELLER, SELLER shall bear the transportation cost from the original point of delivery to SELLER's plant and return to the original point when that point is not the SELLER's plant. If SELLER fails to perform or act as required in (1) or (2) above and does not cure such failure within a period of 10 days (or such longer period as BUYER may authorize in writing) after receipt of notice from BUYER specifying such failure, BUYER shall have the right by contract or otherwise to replace or correct such supplies and charge to SELLER the cost occasioned BUYER thereby.

13. 52.246-4 INSPECTION OF SERVICES - FIXED PRICE (Aug 1996, Modified to read as shown below.)

- a. Definitions. "Services," as used in this clause, includes services performed, workmanship, and material furnished or utilized in the performance of services.

- b. The SELLER shall provide and maintain an inspection system acceptable to the BUYER covering the services under this Purchase Order. Complete records of all inspection work performed by the SELLER shall be maintained and made available to the BUYER and/or the Government during Purchase Order performance and for as long afterwards as the Purchase Order requires.
- c. The BUYER and/or the Government shall have the right to inspect and test all services called for by the Purchase Order, to the extent practicable, at all times and places during the term of the Purchase Order. The BUYER and/or the Government shall perform inspections and tests in a manner that will not unduly delay the work. SELLER, at its own expense, shall promptly rectify any defects discovered during any inspection or test.
- d. If the BUYER or the Government performs inspections or tests on the premises of the SELLER or a subcontractor, the SELLER shall furnish, and shall require subcontractors to furnish, at no increase in contract price, all reasonable facilities and assistance for the safe and convenient performance of these duties.
- e. See Rejection clause.

FAR/DFARS CLAUSES MODIFIED AND INCORPORATED IN FULL TEXT –

COST REIMBURSEMENT; TIME AND MATERIALS; OR LABOR HOUR

14. 52.243-2, CHANGES – COST REIMBURSEMENT (Aug 1987) & ALT II (Apr 1984)

(Modified to read as shown below.)

- a. The BUYER may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this Purchase Order in any one or more of the following:
 - i. Drawings, designs, or specifications when the supplies to be furnished are to be specially manufactured for the BUYER or the Government in accordance with the drawings, designs, or specifications.
 - ii. Method of shipment or packing.
 - iii. Place of delivery.
 - iv. Inspection Standards.
 - v. Place or time of Inspection.
- b. If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the work under this Purchase Order, whether or not changed by the order, or otherwise affects any other terms and conditions of this Purchase Order, the BUYER shall make an equitable adjustment in the—
 - i. Estimated cost, delivery or completion schedule, or both.
 - ii. Amount of any fixed fee; and

- iii. Other affected terms and shall modify the Purchase Order accordingly.
- c. The SELLER must assert its right to an adjustment under this clause within 20 days from the date of receipt of the written order. However, if the BUYER decides that the facts justify it, the BUYER may receive and act upon a proposal submitted before final payment of the Purchase Order.
- d. Failure to agree to any adjustment shall be a dispute under the Disputes clause of this Purchase Order. However, nothing in this clause shall excuse the SELLER from proceeding with the Purchase Order as changed.
- e. Notwithstanding the terms and conditions of paragraphs (a) and (b) of this clause, the estimated cost of this Purchase Order and, if this Purchase Order is incrementally funded, the funds allotted for the performance of this Purchase Order, shall not be increased or considered to be increased except by specific written modification of the Purchase Order indicating the new Purchase Order estimated cost and, if this Purchase Order is incrementally funded, the new amount allotted to the Purchase Order. Until this modification is made, the SELLER shall not be obligated to continue performance or incur costs beyond the point established in the Limitation of Cost or Limitation of Funds clause of this Purchase Order.
- f. Alternate II (Apr 1984). If the requirement is for services and supplies are to be furnished, substitute the following paragraph (a) for paragraph (a) of the basic clause:
 - i. The BUYER may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in any one or more of the following:
 1. Description of services to be performed.
 2. Time of performance (i.e., hours of the day, days of the week, etc.).
 3. Place of performance of the services.
 4. Drawings, designs, or specifications when the supplies to be furnished are to be specially manufactured for the BUYER or the Government in accordance with the drawings, designs, or specifications.
 5. Method of shipment or packing of supplies.
 6. Place of delivery.
 7. Inspection Standards
 8. Place or time of inspection.
- 15. **52.243-3, CHANGES – TIME-AND-MATERIALS OR LABOR HOURS** (May 2001, Modified to read as follows.)
 - a. The BUYER may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this Purchase Order in any one or more of the following:
 - i. Description of services to be performed.

- ii. Time of performance (i.e., hours of the day, days of the week, etc.).
 - iii. Place of performance of the services.
 - iv. Drawings, designs, or specifications when the supplies to be furnished are to be specially manufactured for the BUYER or the Government in accordance with the drawings, designs, or specifications.
 - v. Method of shipment or packing of supplies.
 - vi. Place of delivery.
 - vii. Amount of Government-furnished property.
 - viii. Inspection Standards
 - ix. Place or time of inspection.
- b. If any change causes an increase or decrease in any hourly rate, the ceiling price, or the time required for performance of any part of the work under this Purchase order, whether or not changed by the order, or otherwise affects any other terms and conditions of this Purchase Order, the BUYER will make an equitable adjustment in any one or more of the following and will modify the Purchase Order accordingly:
- i. Ceiling price.
 - ii. Hourly rates.
 - iii. Delivery schedule.
 - iv. Other affected terms.
- c. The SELLER shall assert its right to an adjustment under this clause within 20 days from the date of receipt of the written order. However, if the BUYER decides that the facts justify it, the BUYER may receive and act upon a proposal submitted before final payment of the Purchase Order.
- d. Failure to agree to any adjustment will be a dispute under the Disputes clause of this Purchase Order. However, nothing in this clause excuses the SELLER from proceeding with the Purchase Order as changed.

***NOTE:** FAR 52.250-1 entitled "INDEMNIFICATION UNDER PUBLIC LAW 85-804" and the clause with its "ALTERNATE I", the following definitions, from the Secretary of the Navy's MEMORANDUM OF DECISION UNDER PUBLIC LAW 85-804 dated 30 September 2019, are added to the clauses as paragraph (i) and (j), respectively, as follows:

"(i) or (j) For purposes of this clause:

(i) "Nuclear risks" are those risks attributable to the radioactive, toxic, explosive, or other hazardous

properties of "special nuclear material," "by-product material" or "source material," as such materials are defined in the Atomic Energy Act of 1954, as amended.

(ii) "Unusually hazardous risks" are the risks of explosion, detonation, burning or propulsion attributable to the utilization of high energy propellants in (i) POLARIS, POSEIDON, or TRIDENT, or of any component thereof, or (ii) propellant-powered POLARIS, POSEIDON, or TRIDENT or of any component thereof, or (iii) any other component or subcomponent of the POLARIS, POSEIDON, or TRIDENT weapon systems which uses high energy propellants."

(end)

EBC General Provisions of Purchase Orders Feb 2023

EBC General Provisions REVISIONS			
REVISION	DATE	Clause No(s).	DESCRIPTION
EBC General Provisions Rev. 0	10/2023		Basic Issue
EBC General Provisions Rev. 1	2/16/2023	46	Added subparagraph (d) to Audit

DEFINITIONS

1. Definitions

- a. The following terms, as used herein, shall have the following meanings, unless the parties agree in writing to a different definition, or the term is otherwise defined by Federal Acquisition Regulations ("FAR") or Defense Federal Acquisition Regulations Supplement ("DFARS"):
 - i. "Terms and Conditions" means the rules, regulations, requirements, and expectations governing the Purchase Order including the General Provisions for Orders under U.S. Government Contracts.
 - ii. "BUYER", "EB", or "Purchaser", means Electric Boat Corporation, having its principal place of business at 75 Eastern Point Road, Groton, CT 06340.

- iii. "BUYER's Parent Company" shall mean General Dynamics Corporation.
- iv. "BUYER's Procurement Representative" is the individual person employed by BUYER responsible for issuing and administering the Purchase Order.
- v. "Contracting Officer" means the person with authority to enter into, administer, and/or terminate BUYER's Prime Contract with the U.S. Government, and includes such person's successor or any duly authorized representative of the Contracting Officer acting within the limits of his or her authority, as delegated by the Contracting Officer.
- vi. "Government" or "Federal" as used herein refers to the "United States of America", unless stated otherwise.
- vii. "Lower-tier Subcontract" means any agreement to procure goods or services entered into by the SELLER or SELLER's subcontractor(s) in furtherance of the performance of a Purchase Order.
- viii. "Parties" shall mean the BUYER and SELLER entities entering into this Purchase Order Agreement; "Party" may refer to either BUYER or SELLER.
- ix. "Prime Contract" means a written instrument issued by the U.S. Government for the acquisition of products or services.
- x. "Purchase Order" or "Order" is the legally binding written instrument setting forth BUYER's procurement requirements for goods and/or services from SELLER, and the respective obligations of each Party in performance thereunder.
- xi. "SELLER", or "Contractor" means the entity (i.e. person, firm, agency, company, corporation etc.) to whom a Purchase Order (or Letter Contract etc.) is awarded.
- xii. "Work" means all required articles, materials, supplies, goods, products, services and performance requirements constituting the subject matter of a Purchase Order under this Agreement.

GENERAL TERMS

2. Headings

- a. Headings used herein are for convenience only and shall not limit in any way the scope or interpretation of any part, clause, term, requirement, or condition. SELLER shall bring any question regarding applicability of a particular part, clause, term, condition and/or requirement to the attention of BUYER's Procurement Representative.

3. Acceptance of Order

- a. SELLER's acknowledgement, acceptance of payment, commencement of performance, or delivery of goods/services shall constitute acceptance of a Purchase Order as written.
- b. Acceptance of the Purchase Order based upon terms and conditions that purport to modify,

supersede, or otherwise alter the Terms and Conditions of the Purchase Order shall not be binding upon BUYER.

- c. Each Party agrees that the Parties may electronically sign the Purchase Order, and that such electronic signatures are intended to authenticate this writing and to have the same force and effect as manual signatures.
- d. All contractual requirements, terms, and conditions to which SELLER has not taken exception in writing are accepted "as-is" without alteration.
- e. The Terms and Conditions, the Purchase Order, and all references, attachments, and supplements thereto, constitutes the entire agreement between the Parties, superseding all prior or contemporaneous communications, representations, agreements, and understandings, oral or written, between the Parties. Except for SELLER's certifications and representations most recently filed with BUYER, which form a part of the Purchase Order whether or not so stated on the Purchase Order, the Parties shall not be bound by any other statements or understandings not set forth in the Terms and Conditions, the Purchase Order, and all references, attachments, and supplements thereto, unless they are in writing and approved by a duly authorized representative of both Parties.

4. Department of Defense ("DoD") Priority Rated Order

- a. SELLER is required to follow the requirements of the Defense Priorities and Allocation System ("DPAS") regulation (15 CFR Part 700).
- b. SELLER shall notify BUYER immediately if it believes it has encountered a DPAS conflict impacting the Order. If SELLER believes it is required to re-prioritize Work hereunder due to such a conflict, SELLER shall consult BUYER prior to shifting any delivery date.
- c. **Flow-down Requirement:** SELLER shall include the substance of this provision in all Lower-tier Subcontracts SELLER places in support of this Order.

5. Independent Contractor

- a. SELLER is an independent contractor and not an agent or employee of BUYER either expressly or impliedly. The employees used by SELLER to perform Work under this Order shall be SELLER's employees exclusively, without any relation whatsoever to BUYER.
- b. Except as otherwise set forth herein, nothing in these Terms and Conditions nor the Purchase Order to which these Terms and Conditions form a part, shall create or imply an agency relationship, joint venture, teaming agreement/arrangement, or partnership between the Parties hereto.
- c. Nothing in these Terms and Conditions, nor the Purchase Order to which these Terms and Conditions form a part, grants SELLER the right to make commitments of any kind for, or on behalf of, BUYER.

6. Order of Precedence

- a. Contractual Order of Precedence:
 - i. If there is any conflict or inconsistencies in the Purchase Order, such shall be resolved in the following order:
 - 1. Dispositioned VIRs;
 - 2. The Purchase Order, exclusive of appendices, exhibits, attachments, drawings, specifications and other plans or documents, and the Terms and Conditions invoked therein;

3. The Terms and Conditions;
 4. Purchase Order appendices, exhibits, attachments, drawings, and specifications, or other plans or documents referenced in the Order.
- b. Technical Order of Precedence:
- i. If there is any conflict or inconsistencies in any of the technical requirements of the Purchase Order, such shall be resolved in the following order:
 1. Dispositioned VIRs;
 2. The Purchase Order, exclusive of appendices, exhibits, attachments, drawings, specifications, and other plans or documents;
 3. Order of precedence amongst and between technical requirements not provided by VIR disposition or appearing on the face of the Purchase Order shall be as specified within the technical requirements themselves.
 - c. SELLER shall immediately bring any inconsistencies, whether in the Purchase Order requirements or technical requirements, to the attention of the BUYER in writing.

7. Survival Upon Termination or Cancellation and Severability

- a. Clauses regarding release of information, proprietary information, indemnity, Naval Nuclear Propulsion Information ("NNPI"), import and export control/compliance, data and software rights, warranty, choice of law, and any other clause that expressly identifies survival, shall survive the completion, termination or cancellation of the Order.
- b. If any clause, term, condition, or requirement of the Purchase Order contravenes any law having jurisdiction over the Purchase Order, that clause, term, condition, or requirement shall be inoperative in that jurisdiction, and the validity of the remaining portions or provisions shall not be affected thereby.

8. Choice of Law

- a. This provision shall apply to the Order regardless of whether SELLER is a United States entity or a foreign entity, and regardless of place of performance of the Order, (whether such will be performed, in whole or in part, outside the United States).
- b. The Purchase Order and all matters arising from or related to it shall be construed in accordance with and shall be governed by the United States Federal laws of Government contracts (as found in appropriate Federal statutes, regulations, and decisions by the United States Federal Courts and Federal Boards of Contract Appeals), except to the extent such Government contract law does not cover an issue in dispute hereunder. In such event, the issue shall be governed by and construed in accordance with and resolved under the laws of the State of Connecticut, USA, without regard of the principles of conflicts of law and the venue shall be the applicable state or federal court in the State of Connecticut, USA.
- c. The Contracts Disputes Act shall have no application to the Purchase Order.
- d. Any reference to a Disputes clause shall mean the Disputes clause of the Purchase Order.
- e. The provisions of the "United Nations Convention on Contracts for the International Sales of Goods" shall not apply to the Purchase Order.

SELLER REQUIREMENTS, ELIGIBILITY

9. Business Conduct and Ethics

- a. The BUYER maintains a robust Business Ethics and Conduct policy ("BUYER's Policy") with which SELLER shall be familiar. BUYER's Policy is available at this website: <http://gdeb.com/suppliers>.
- b. SELLER shall have management systems in place to support compliance with all applicable laws, regulations, and the expectations addressed in BUYER's Policy.
- c. Neither SELLER nor any of its employees, agents, or representatives shall give or offer any gift or gratuity to BUYER, BUYER's employees, their families, customers or representatives.
- d. SELLER shall support free and fair competition, and shall not unfairly limit trade or exclude competitors from the marketplace, or work to fix or control prices.
- e. If any cost paid by BUYER is found to have been presented to/by SELLER in error, SELLER shall notify BUYER and refund such overpayment.

10. SELLER Eligibility and Restrictions

- a. SELLER, and the parties with which SELLER subcontracts, shall not be debarred, suspended, proposed for debarment, or otherwise ineligible to receive a U.S. Government contract or subcontract.
- b. SELLER must satisfy and maintain the following throughout the performance of the Purchase Order:
 - i. Current business information on file with BUYER, and applicable certifications and representations as required by the BUYER;
 - ii. If a manufacturer, exporter, temporary importer and/or broker of defense articles, or if a furnisher of defense services, as those terms are defined in the International Traffic in Arms Regulation ("ITAR") part 120, registration with the Directorate of Defense Trade Controls ("DDTC") as described in ITAR part 122 (part 129 for brokers);
 - iii. A written Access Control Plan/Technology Control Plan ("ACP"/"TCP") and certification under the Joint Certification Program ("JCP"), if access to export-controlled equipment, technical data or information is required; and
 - iv. U.S. State Department approvals and/or licenses, as required for access to export-controlled hardware, technical data, software, and information.

11. Government-Industry Data Exchange Program ("GIDEP")

- a. If this Purchase Order exceeds \$500,000, and SELLER is a U.S. or Canadian entity, and SELLER is directly engaged in research, design, development, engineering, acquisition, production, logistics support, test and evaluation, or procurement (including procurement of spares and supply items) of mission-related material, or if otherwise requested by BUYER, SELLER shall participate in GIDEP. For information on registration and participation, see <http://www.giddep.org>. Compliance with this requirement shall not relieve SELLER from complying with any other requirements of this Order.

12. Compliance with Laws

- a. In performing Work under the Purchase Order, SELLER shall comply with all applicable foreign and domestic laws, orders, rules, ordinances, executive orders, and regulations.

- b. Foreign Corrupt Practices Act and Anti-Bribery Laws: SELLER agrees to comply with the Foreign Corrupt Practices Act, the UK Bribery Act of 2010, and all applicable anti-bribery laws. SELLER specifically represents and warrants that, in connection with the performance of its activities under this Order, neither it, nor anyone acting on its behalf, has or will, directly or indirectly, offer, pay, promise to pay, or authorize the giving of, any money or thing of value to any Government Official or to any person, while knowing that all or a portion of such money or thing of value will be offered, given or promised, directly or indirectly, to a Government Official, for the purpose of influencing any act or decision of such Government Official, including any act or decision to fail to perform his/her lawful duty, or for the purpose of inducing such Government Official to use his/her influence with any government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality to obtain or retain business for any person. "Government Official" means any officer, employee, agent, representative, or any other person acting in an official capacity for or on behalf of a government, government-owned or –controlled entity or instrumentality, public international organization, political party, party official or political candidate.

13. Equal Employment Opportunities

- a. To the extent not exempt, SELLER shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ, and advance in employment, individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status, or disability. In addition, SELLER will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant.
- b. To the extent not exempt, SELLER shall also abide by the requirements of 29 CFR Part 471, Appendix A to Subpart A.

14. Access to BUYER's Electronic Information Systems

- a. For purposes of this provision, the term "User" shall mean SELLER's individual employee accessing BUYER's information system(s).
- b. Information Safeguarding
- i. SELLER understands and agrees that Users are acting on behalf of SELLER while accessing any BUYER information system(s), and that SELLER is responsible for User actions within the system and with respect to any information which may be accessed from the system.
 - ii. All information accessed from BUYER's information system(s) ("information") shall be considered sensitive and shall be safeguarded from inadvertent disclosure.
 - iii. SELLER shall be responsible for safeguarding information accessed within BUYER's information system(s) in accordance with all applicable laws, regulations and contractual requirements which may be in effect at time of access, and understands that the safeguards address all aspects of information and system safeguarding – including, but not limited to, usage rights and restrictions, direct disclosure requirements and limitations, network requirements, and handling protocols including storage, marking, destruction, transmission,

and retention.

- iv. SELLER understands that information accessed may contain markings indicative of specific safeguarding requirements and protocols; for example, copyright or export control markings, and agree it is the responsibility of each User accessing information to be aware of all markings on information accessed, to understand the implications of each of the markings, and to adhere to the protocols and requirements imposed by the marking(s).
- v. SELLER (and its Users) understand that NNPI, specifically, may only be accessed from SELLER's systems and assets authorized by NAVSEA 08 to allow processing of NNPI.
- vi. SELLER agrees that information accessed on BUYER's information system(s) will not be shared outside of its organization, with the understanding that the SELLER's organization is limited to the legal entity forming the company, and that such information shall not be shared with any affiliates, partners, subsidiaries, owning entities, or "sister" companies.
- vii. SELLER (and its Users acting on its behalf) agrees to limit disclosure of information accessed from BUYER's information system(s) within the company, and to only share with other employees on a need-to-know basis.
- viii. SELLER (and its Users) understand and agree that any internal sharing of information deemed necessary for the purpose shall comply with all legal, regulatory and contractual safeguarding restrictions applicable to such information, including, but not limited to, those related to classification of information, and export control regulations.
- ix. SELLER is responsible to ensure that Users and employees with whom Users share information accessed on BUYER's information system(s) are aware of this Term and the requirements detailed herein to safeguard information accessed on any BUYER information system(s).
- x. SELLER agrees that in no event shall classified information be transmitted over the internet.

c. Reporting

- i. SELLER agrees to report (1) any compromise of information, including inadvertent disclosure, (2) access compromises or violations of the access conditions herein, and (3) violations of the safeguarding and disclosure conditions and requirements, to BUYER's Information Security Operations Center, which can be reached as follows:

- 1. Telephone: 860-433-1553; 860-433-5708; 860-433-1825 or Email: cirt@gdeb.com.

d. Disclosures

- i. SELLER (and Users acting on its behalf) understand and agree as follows:

- 1. At any time, BUYER may examine/audit the content and use of any BUYER information system(s) by SELLER and Users acting on its behalf, and may retain the audit logs; and
- 2. At any time, without prior notice, and with or without cause, BUYER may remove access privileges of certain Users or of SELLER. SELLER agrees that in such event, the requirement to safeguard information accessed from BUYER's information

system(s) will continue; and

3. BUYER reserves the right to notify law enforcement of conduct which may be criminal in nature, or which it deems to require police involvement or protection; and
4. BUYER reserves the right to disclose user/access information to the Government, as a condition of Government security requirements.

15. European Union ("EU") Personal Information Privacy Notice

a. For purposes of this clause, "Personal Data" shall be as defined in Article 4(1) of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), OJ 2016 L 119/1.

b. To the extent that SELLER, or persons acting on its behalf, provides BUYER with Personal Data of any EU resident(s), SELLER shall ensure that such EU resident(s) are provided with a copy of BUYER's "EU Personal Information Privacy Notice." This privacy notice is located at: <http://www.gdeb.com/suppliers>.

SELLER INFORMATION & NOTIFICATIONS

16. Language and Currency

- a. All communications and submittals shall be in English and all payments, rebates, credits, and other financial transactions related to or referenced in the Purchase Order shall be in United States Dollars.

17. SELLER's Ownership Information

- a. SELLER represents that its business information in BUYER's procurement system, Oracle iSupplier, is current and accurate, and that such includes SELLER's company's ownership information (parent organization(s)), if any. SELLER agrees to maintain the accuracy of its information in BUYER's iSupplier system during performance of this Order.
- b. If SELLER is not registered in BUYER's iSupplier system, SELLER certifies that it has submitted current, accurate written certifications to BUYER including its general company information and company ownership information, and that it shall maintain current/accurate information on file with BUYER during performance of the Purchase Order.

18. Mergers, Acquisitions, Ownership and Legal Structure Changes

- a. If SELLER has been, or expects to be, merged with or acquired by another entity (foreign or domestic), SELLER's resulting organization and ownership must:
 - i. Be able to perform the required Work; and
 - ii. Be eligible to have access to the equipment and technical data necessary to perform, hereunder; and
 - iii. Be eligible to obtain, maintain, and retain all required licenses and approvals.
- b. If the SELLER experiences a change in its ownership or legal structure, or becomes aware that such is likely to occur, SELLER shall notify BUYER in writing within ten (10) working days of the effective date of the change or of becoming aware of the prospective change, whichever is earlier.

19. Change of Name

- a. In the event that the SELLER undergoes a change of name after the issuance of the Purchase Order, SELLER shall notify the BUYER and provide appropriate documentation within fifteen (15) days after change of name to record the new name with BUYER.

20. Notifications

- a. In addition to notification requirements invoked elsewhere in the Purchase Order, SELLER shall provide the following written notifications to BUYER:
 - i. Late Delivery: SELLER shall provide BUYER prompt written notice of any event(s) that will or could cause a delay in delivery or performance under the Purchase Order.
 - ii. Required Approvals: SELLER shall provide BUYER prompt written notice, including relevant information, when it has knowledge that any permits, licenses, or other approvals required for the performance of the Purchase Order to be obtained/maintained by SELLER are unable to be obtained or have expired, been cancelled, suspended, revoked, or otherwise rendered invalid.
 - iii. Labor Dispute: If the SELLER has knowledge that any actual or potential labor dispute is delaying, or threatens to delay, the timely performance of the Purchase Order, the SELLER shall immediately give written notice, including all relevant information, to the BUYER.
 - iv. Quality Deficiencies: SELLER shall promptly provide a written notice to BUYER's Procurement Representative identified on the face of the Purchase Order describing any deficiency arising during the performance of the Purchase Order or warranty period which could affect the delivery schedule, cost, quality or compliance of the purchased good/service. Notice shall include or be promptly followed by SELLER's plan to remedy the deficiency. For the purposes of this paragraph, a deficiency occurs when SELLER's goods or services fail to meet any of the performance obligations set forth in this Order. SELLER's notice shall in no way affect the rights and remedies of BUYER.
- b. Notifications provided by SELLER shall be informational only, and shall in no way affect the rights and remedies available to the BUYER.

21. Obsolescence and End of Life

- a. The SELLER shall provide written notification to the BUYER not later than twenty (20) business days after SELLER's identification of any equipment, assemblies, subassemblies, parts, components or items sold under the Order (for the purposes of this provision, each is considered a "good") that have the potential to, or are going out of production and will no longer be commercially available.
- b. SELLER shall provide BUYER a written "Last Time Buy Notice" no less than twelve (12) months prior to any discontinuation/final manufacturing of any good procured hereunder so as to afford BUYER the opportunity for a 'last-time' purchase.
- c. SELLER shall specifically identify the obsolescence or end of life items by name or title, part number(s), function, name, and location of vendor in any notification pursuant to paragraph a and/or b of this clause.

22. Bankruptcy

- a. In the event SELLER enters into proceedings relating to bankruptcy or insolvency, whether voluntary or involuntary, or the status of a proceeding changes, SELLER agrees to furnish to BUYER, by certified mail, written notification of the bankruptcy or insolvency proceeding. This notification shall be furnished within five (5) days of the initiation of such proceedings, and shall include the date of filing, the identity of the court in which the petition was filed, and a listing of all

of BUYER's orders against which final payment has not been made or under which deliverable items have not been delivered. This obligation remains in effect until final payment under the Purchase Order.

23. SELLER-Awarded Subcontracts

- a. If this is an undefinitized Purchase Order, SELLER shall provide the BUYER with written notice prior to the award of all Lower-tier Subcontracts placed by SELLER under the Purchase Order that are expected to equal or exceed \$500,000 or fifty percent (50%) of the value of the Purchase Order, whichever is lesser.
- b. No subcontract or modification thereof, at any tier, placed under the Purchase Order shall provide for payment on a cost-plus-a-percentage-of-cost basis, and any fee payable under a cost-reimbursement type subcontract shall not exceed fee limitations in FAR paragraph 15.404-4(c)(4)(i).
- c. **Flow-down Requirement:** SELLER agrees to include the restrictions/requirements of this paragraph (b) in Lower-tier Subcontracts it places hereunder, as applicable.

24. Notice of Prior Waivers and Deviations

- a. In the event the SELLER is providing to the BUYER an item: (i) that has previously been provided to the United States Navy for inclusion as Government Furnished Material (GFM) on a previous ship or class of ships, or (ii) that the SELLER is developing for the United States Navy under this or another Government program, the SELLER shall immediately notify BUYER in writing indicating any specification differences, waivers and/or deviations that were or are in effect for the item(s).

25. Notice of Suits or Other Actions

- a. SELLER shall provide BUYER immediate written notice of any action or suit filed, and prompt notice of any claim made against SELLER by third-party, that may result in litigation in any way related to the Purchase Order.

26. Commerciality

- a. To assess applicability of certain requirements, BUYER may need to evaluate whether certain products/services to be provided under this Order are considered "Commercial", as defined at FAR 2.101. In such event(s), SELLER agrees to provide supporting sales/marketing information as may be requested by BUYER.

27. Conflict Minerals Certification

- a. Pursuant to Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 and its implementing regulations, BUYER is required to identify the presence and source of Conflict Minerals (gold, tantalum, tin and tungsten) contained in BUYER's manufactured products. To the extent the Purchase Order is for delivery of goods, SELLER shall make all reasonable efforts to assist BUYER in identifying the presence and source of Conflict Minerals contained in the products sold by SELLER to BUYER.
- b. If this Order is for delivery of goods, SELLER agrees to provide the BUYER or Buyer's designee one of the following upon BUYER's request:
 - i. The Global E-Sustainability Initiative Conflict Minerals Reporting Template ("GeSI CMRT") available at <http://www.conflictreesourcing.org/conflict-minerals-reporting-template/>; with "Product" selected under the "Declaration Scope or Class" field; or
 - ii. Written documentation about the source of Conflict Minerals in the product(s) that provides substantively similar information to that requested by the GeSI CMRT.

MATERIALS

28. Counterfeit Parts and Suspect Counterfeit Parts

- a. "Counterfeit Parts" are unlawful or unauthorized reproductions, alterations, substitutions, or modifications that have been mismarked, misidentified, or misrepresented as authentic, new 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 or authorized reseller). This includes misrepresentations of quality, grade, serial number/lot number/date code, performance characteristics, and refurbished parts misrepresented as new.
- b. "Suspect Counterfeit Parts" are those for which credible evidence exists (including, but not limited to visual inspection or testing) which provides reasonable doubt that the part is authentic.
- c. SELLER shall not deliver Counterfeit Parts or Suspect Counterfeit Parts to BUYER under this Purchase Order, whether as the deliverable good or incorporated into any deliverable good. SELLER ensures and warrants that Counterfeit Parts and/or Suspect Counterfeit Parts are not incorporated into any products under the Purchase Order, and that such warranty shall survive any termination or completion of the Purchase Order. The intentional or unintentional use, incorporation, or delivery of Counterfeit Parts and/or Suspect Counterfeit Parts shall be considered a material breach of this Order.
- d. SELLER shall maintain and, upon request, provide to BUYER and/or the Government, documentation that authenticates traceability of parts throughout the supply chain to the applicable Original Equipment Manufacturer/Original Component Manufacturer ("OEM/OCM"). Documentation shall be maintained for a minimum of ten (10) years after the later of final delivery of all items on the Purchase Order or final payment of all items on the Purchase Order, whichever is later.
- e. If SELLER becomes aware or suspects that it has furnished Counterfeit/Suspect Counterfeit Parts, SELLER shall notify BUYER in writing immediately, but no later than ten (10) days after becoming aware/suspect.
- f. If BUYER determines, including as a result of alerts from the U.S. Government, that SELLER has supplied Counterfeit/Suspect Counterfeit Parts to BUYER, and so notifies SELLER, SELLER shall immediately replace Counterfeit/Suspect Counterfeit Parts with parts that meet the requirements of the Purchase Order, at no cost to the BUYER.
- g. Notwithstanding any other provision in the Purchase Order, SELLER shall be liable for all costs relating to the tendering or delivery of the Counterfeit/Suspect Counterfeit Parts including, without limitation, those associated with the removal, inspection, testing, investigation, retention, impoundment, and replacement of Counterfeit/Suspect Counterfeit Parts, as well as any testing necessitated by the reinstallation of Work after such parts have been exchanged.
- h. **Flow-down Requirement:** SELLER shall insert a clause containing the substance of parts one through four (1-4) of this provision in all subcontracts under this Order.

29. Counterfeit Electronic Part Detection and Avoidance

- a. If this Order is for electronic parts or assemblies containing electronic parts, DFARS 252.246-7007, Counterfeit Electronic Part Detection and Avoidance System, is applicable to this Purchase Order and is hereby invoked by reference with the same force and effect as if set forth in full text. DFARS 252.246-7007 applies to this Purchase Order excluding the introductory text, "The following paragraphs (a) through (e) ... as implemented in regulations found at 48 CFR 9903.201-1".
- b. BUYER reserves the right to quarantine/impound any and all Counterfeit Electronic Parts or Suspect Counterfeit Electronic Parts it receives, and to notify the BUYER'S customer, GIDEP, and other

relevant Government agencies. BUYER has the right to turn over the impounded Suspect/Counterfeit Electronic Parts to the appropriate authorities and to withhold payment for the parts pending the results of the investigation.

- c. **Flow-down Requirement:** SELLER shall insert this provision in all Lower-tier Subcontracts placed under this Order which require delivery of electronic parts or assemblies containing electronic parts.

30. Toxic Substances/Hazardous Material

- a. BUYER will not accept, store or dispose of any toxic substances or hazardous material except if and to the extent expressly agreed in writing by BUYER or unless the Purchase Order specifies the delivery of such items or items containing such substances. In particular, such substances/materials include:
 - i. Paints or primers on products required by the Purchase Order that contain the following components shall not be shipped without prior written approval of the BUYER: arsenic, mercury, methylene chloride, methyl ethyl ketone (MEK), lead, and chromium, their compounds, or organo-metallic material; and
 - ii. Materials known to be, or suspected of containing or coming in contact with, asbestos, polychlorinated biphenyls (PCBs), mercury or mercury containing compounds; and
 - iii. Materials which contain any of the toxic or hazardous substances specified by the Occupational Safety and Health Administration ("OSHA") regulation 29 CFR 1910.1001 – 1910.1052.
- b. SELLER shall not employ equipment or material(s) which are known or suspected of containing PCBs in the performance of radiological Work under this Purchase Order without the prior written approval of BUYER. "Radioactive PCB waste" is any waste which is radioactive, as that term is defined in NAVSEA 389-0288, "Radiological Controls for Shipyards" and which contains polychlorinated Biphenyls (PCBs) subject to disposal regulations of 40 CFR 761, promulgated under the Toxic Substances Control Act ("TSCA"). To the extent practicable, radioactive materials shall not be mixed or adulterated with products that could cause the resulting waste to be subject to the requirements of TSCA.
- c. For all material or items containing toxic or hazardous substances, SELLER shall provide all relevant information pursuant to OSHA regulation 29 CFR 1910.1200, including a completed Material Safety Data Sheet (MSDS) and the mandated labeling information.

31. Fasteners

- a. SELLER shall not use brass or copper black oxide coated threaded fasteners when installing or replacing threaded fasteners under the Purchase Order.

SHIPMENT AND DELIVERY

32. General Shipping and Labeling Instructions

- a. Shipping, labeling/marketing, traffic and routing, and shipment notification requirements are set forth in the Purchase Order and at http://www.gdeb.com/suppliers/6_purchase_order_info/shipping/. Additional packing and labeling requirements may be applicable by law or regulation (i.e. if material is being exported from, or imported into, the U.S.).
- b. The minimum packaging and packing requirements of any referenced military or federal specifications or standards apply unless otherwise specified in the Purchase Order. Failure to adhere to the requirements may cause delays in receipt and payment and such shall not constitute default by BUYER nor result in BUYER responsibility for any late payment fee, penalty or interest.
- c. SELLER shall be responsible for ensuring the proper packing and shipping of orders to BUYER in

accordance with detailed information contained in the Purchase Order. Except as noted herein, SELLER's normal commercial preservation and packaging shall be sufficient if it ensures acceptance by common carrier at lowest rate and affords protection against damage during shipment. Damage resulting from improper packaging will be charged to SELLER.

- d. When practicable, SELLER shall ship in packages or loose pieces for unloading by a standard 4000-pound forklift truck.
- e. SELLER's price shall include all charges for packaging, packing, and crating.
- f. At time of shipment, SELLER shall submit notice of shipment to BUYER ("Advance Shipment Notice"/"ASN") in BUYER's Oracle iSupplier system, for each shipment of goods to be made to BUYER.
- g. SELLER is required to provide a packing list with each physical shipment. The packing list shall include Purchase Order number, line item number, BUYER's part number, quantity and identification of any goods (i.e. loose/disassembled parts) not identified as a line item on the Purchase Order. If there is no BUYER part number, SELLER shall include SELLER's part number, and if there is no SELLER part number, SELLER shall include a detailed description of the items in the shipment.
- i. When documents and data are to be physically shipped to BUYER, such shall be enclosed in the first box of the shipment and such box shall be marked: **CERTIFICATES / TEST REPORTS ENCLOSED**.
- h. Toxic Substances and Hazardous Material Marking: For shipments of toxic or hazardous material/substances, or items containing toxic or hazardous material/substances, SELLER shall mark/label packages and paperwork as required by applicable state and federal laws and regulations, including as required by OSHA.
- i. Return of Containers: All containers, drums, carboys, etc. to be returned to SELLER shall be shipped to BUYER on a no-charge or consignment basis unless otherwise expressly agreed to in writing. SELLER shall provide BUYER with clear direction for their return.

33. Restricted Packing/Packaging Materials

- a. Failure to abide by the following restrictions shall result in rejection of shipment and return at SELLER's expense and/or delays in receiving payment by SELLER.
 - i. Styrofoam packing is prohibited; and
 - ii. Yellow plastic wrapping material is prohibited; and
 - iii. Use of Masonite as a protective, sealing or packaging material is prohibited; and
 - iv. Use of plywood, cardboard or other materials that will splinter/flake/crumble is prohibited as a protective covering for openings on fittings, valves and other components; and
 - v. Corrosion Resistant Steel (CRES) or aluminum sheet of .050 thickness or greater, or suitable plastic, are the only acceptable materials for capping, sealing, or protecting openings and machined surfaces, unless an alternate material is approved in writing by BUYER.

34. Heavy Material

- a. SELLER shall contact BUYER's Traffic Department at (860) 433-5935 prior to making any shipment over 10,000 pounds.

- a. Notwithstanding other instructions, material is to be packaged to facilitate forklift handling if less than 4,000 pounds per piece.
- b. SELLER shall mark **DELIVER ON FLATBED TRAILER** if any single article to be shipped exceeds 4,000 pounds or does not adapt to safe unloading with a standard fork lift truck (e.g., greater than seven (7) feet in length). Deliveries of such material made in open or closed top box trailers may be refused.
- c. Exemption from the foregoing instructions may be requested at least twenty four (24) hours prior to anticipated delivery by contacting BUYERS' Traffic Administrator (860 433-0716) or BUYER's Receiving Department (860-433-5240; or 401-268-2500, if delivery is to be made to Quonset Point, RI).

35. Domestic Barge Shipment

- a. SELLER shall coordinate all barge shipments to be made under the Purchase Order with BUYER. SELLER shall notify BUYER's Procurement Representative and BUYER's Traffic Administrator (860 433-0716) at least thirty (30) days prior to shipment by domestic barge.

36. Freight Charges, Carriers, Insurance, Value Declaration

- b. Unless otherwise expressly agreed in writing, if transportation is chargeable to BUYER, BUYER will pay freight charges and insurance.
- c. BUYER will not accept C.O.D. shipments unless expressly agreed in writing.
- d. Any goods/materials to be shipped freight-collect shall be shipped in accordance with BUYER's "Traffic Routing Guide" using a BUYER-preferred carrier identified therein. The Traffic Routing Guide may be accessed at the following location: http://www.gdeb.com/suppliers/6_purchase_order_info/shipping/eb_traffic_routing_guide.pdf.
- e. To request deviations to the instructions and requirements set forth by the Traffic Routing Guide, contact BUYER's Traffic Department (860) 433-0716.
- f. SELLER shall not insure for excess value via any mode of transportation. For shipments at BUYER's risk in which freight rates are based on *release value*, SELLER shall declare the lowest value on the bill of lading. For shipments at BUYER's risk via domestic air freight, air freight forwarder, and Parcel Post, SELLER shall insert the notation *NVD* (No Value Declared).

37. Delivery

- a. In all delivery and performance schedules established under the Purchase Order, time is of the essence. SELLER shall strictly adhere to all Purchase Order schedules. All delivery dates set forth on the Purchase Order are firm, unless otherwise stated herein. If expedited shipping is required in order for SELLER to meet its scheduled delivery date, or in the event the scheduled delivery date has already passed, SELLER will pay the differential between the method of shipping originally specified and the actual expedited rate incurred. SELLER shall be responsible for any additional charges resulting from deviation from the BUYER's routing instructions.
- b. Unless otherwise specified in the Purchase Order or approved by BUYER in writing, SELLER shall not:
 - i. Make partial shipments of individual line items; or
 - ii. Make shipments more than ninety (90) days in advance of the scheduled delivery date; or
 - iii. Ship quantities in excess of those specified in the Purchase Order.
- c. For shipments not meeting the requirements of this clause, BUYER, at its election, may:
 - i. Store early deliveries at SELLER's expense; or
 - ii. Return excess quantities and/or early deliveries to SELLER at SELLER's expense.
- d. BUYER shall have no obligation to pay for excess quantities, unless such has been authorized by the

BUYER and the price for such has been authorized in writing by the BUYER, nor shall BUYER have any obligation to pay for the return of any excess quantities of those specified in the Purchase Order.

38. Title

- a. Unless otherwise stated, title to goods/products/deliverables shall pass to BUYER upon final acceptance, regardless of when or where BUYER takes physical possession. Unless otherwise stated, if the Order is a cost-type order, BUYER takes title to all supplies, equipment and other items acquired for performance of the Order, including Purchase Order deliverables, upon final acceptance.

39. Risk of Loss

- a. Unless the Purchase Order specifically provides otherwise, risk of loss or damage to supplies shall remain with the SELLER until, and shall pass to the BUYER upon:
 - i. Delivery of the supplies to first carrier, if transportation is F.O.B Origin; or
 - ii. Delivery of the supplies to the destination specified in the Purchase Order, if transportation is F.O.B. Destination.
- b. This risk of loss provision shall not apply to supplies that so fail to conform to Purchase Order requirements as to give a right of rejection. The risk of loss of or damage to such nonconforming supplies remains with the SELLER until cure or acceptance. After cure or acceptance, this (above) risk of loss provision shall apply.

PROTECTION OF INFORMATION & RIGHTS TO DATA AND SOFTWARE

40. Release of Information

- a. SELLER shall obtain written BUYER consent prior to publishing, displaying, or releasing any of the following information to the general public:
 - i. Reference to Electric Boat Corporation, Buyer's Parent Company, or any of their officers, agents, and employees; or
 - ii. Information related to Work under the Purchase Order; or
 - iii. Reference to supplying any particular item or service to BUYER.
- b. BUYER's written consent to disclose does not constitute a "Public Release Approval" exempting SELLER from compliance with U.S. export requirements.
- c. **Flow-down Requirement:** SELLER shall include all provisions of this article in all Lower-tier Subcontracts issued under the Purchase Order, and shall obtain BUYER's consent prior to granting consent hereunder to any of its subcontractors.

41. Rights in Data

- a. The terms "Technical Data" and "Unlimited Rights", as used in this clause, shall have the meanings provided at DFARS 252.227-7013.
- b. All Technical Data delivered under the Purchase Order shall be delivered with Unlimited Rights unless, prior to commencement of any Work under the Purchase Order, and in any event prior to providing any such data item, SELLER provides valid, written assertion of its right to provide such data with restricted/limited rights, whether in whole or in part.
- c. Except for data items related to Commercially available off-the-shelf (COTS) items as defined in FAR 2.101, if SELLER is entitled to furnish data with restricted/limited rights, SELLER agrees to:

- i. Identify such data on EB Form 84-02-5667 (or equivalent) and certify that such data meets the applicable DFARS conditions allowing the furnishing of data with restricted rights; and
 - ii. Properly mark data in accordance with the applicable DFARS clause to convey that such data is submitted with restricted/limited rights; and
 - iii. Maintain appropriate records in accordance with the applicable DFARS clause.
- d. SELLER agrees to mark all data delivered that is subject to rights limitations with a marking, or stamp to identify such.
- e. If SELLER fails to appropriately mark information provided to BUYER, BUYER shall have no liability for failure to protect the information in accordance with any restricted rights.
- f. For the purpose of carrying out its contract obligations, SELLER grants to BUYER the same license rights as the Government per the applicable DFARS (e.g., 252.227-7013, 252.227-7014, 252.227-7015).
- g. For Commercial products for which there exists documentation containing form/fit/function information and/or operation, installation, training and/or maintenance information, such documentation shall be considered a deliverable component of the Purchase Order and, regardless of whether or not explicitly provided to BUYER by SELLER, otherwise by the owner of such documentation, or via BUYER's self-retrieval if publically available, BUYER shall have the same rights to such information as the Government has under DFARS 252.227-7015, for the purpose of fulfilling its Prime Contract obligations, as well as the right to disclose such data to its customer.

42. Rights in Computer Software

- a. In addition to rights in computer software specified elsewhere in the Purchase Order, unless otherwise expressly agreed to in writing, the license to any computer software and/or databases delivered under this Purchase Order shall be paid-up and perpetual, shall not contain any routine to disable the computer software and/or databases in the future, and shall be transferrable to BUYER's customer. No copy-protection devices, codes, or systems shall be used that would prevent BUYER or BUYER's customer from copying delivered software and/or data; however, this does not preclude other license agreement terms hereunder from specifying a maximum number of copies that may be made. Any limited rights or other legend(s) permissibly applied under this Purchase Order shall be digitally included on the same media as the delivered software and/or databases, and also displayed in human-readable form on a visible surface of the media carrying the digital software and/or databases.

43. Proprietary Information

- a. To the extent Proprietary Information is exchanged by the Parties during the performance of the Purchase Order, such exchange shall be subject to the following provisions:
 - i. Each Party agrees to:
 - 1. Hold the other party's proprietary information in confidence and to protect it from release to third parties unless it has the disclosing party's prior written consent; and
 - 2. disclose proprietary information only to its employees who have a need-to-know and only after they have been made aware of the proprietary nature of the information and the restrictions under which access is granted; and
 - 3. use such proprietary information solely for the purposes of performing the Purchase Order; and

4. use at least the same degree of care in safeguarding the disclosing party's proprietary information as it uses to safeguard its own similar, proprietary information that it does not wish to disclose, provided such degree of care is reasonably calculated to prevent inadvertent disclosure and unauthorized use thereof; and
 5. not use any portion of this proprietary information for personal gain or to advance or support business other than for the Purchase Order; and
 6. reproduce the restrictive stamp, marking, or legend on each use of the proprietary information whether in whole or in part; and
 7. notify the disclosing party immediately upon discovery of any inadvertent disclosure or unauthorized use of proprietary information and to promptly use reasonable efforts to prevent any further inadvertent disclosure or unauthorized use; and
 8. promptly notify the disclosing party of any attempt by an individual, company, or representative not directly involved in the effort to be performed under the Purchase Order to gain access to such proprietary information.
- ii. The restriction against release to third parties contained in this paragraph does not apply to release by the SELLER to SELLER's subcontractors that SELLER uses in performing the Purchase Order, provided SELLER includes in such Lower-tier Subcontracts a provision substantially the same as this paragraph.
 - iii. The restriction on release to third parties contained in this paragraph does not apply to release by the BUYER to BUYER'S customer as required to fulfill its contract obligations.
 - iv. Proprietary Information may NOT be transmitted over the internet except when suitably encrypted.
 - v. The Receiving Party may disclose Proprietary Information to the extent required by law, provided it first (to the extent permitted by law) gives the disclosing party sufficient notice to enable the disclosing party a reasonable opportunity to obtain a protective order to govern such disclosure and, if requested by the disclosing party, reasonably cooperates with the disclosing party to obtain such a protective order.
 - vi. Each Party's obligations under this article shall survive the Purchase Order and continue in effect for a period of twenty (20) years after issuance of the Purchase Order.
 - vii. The Receiving Party will defend, hold harmless, and indemnify the disclosing party, its parent company, officers, directors, customers, agents and related parties from and against any third-party claims and liabilities, including, without limitation, reasonable attorney fees and costs, regardless of the form of action or claim that arises out of or is in connection to the Propriety Information. The disclosing party further agrees to defend against claims of misappropriation or wrongful use of documents or information, arising out of or related to the use, manufacture, reproduction, sale or other distribution of services by the Receiving Party. The Receiving Party shall timely notify the disclosing party of any such claim, suit or action.
 - viii. To the extent third-party proprietary information is disclosed by BUYER to SELLER hereunder, SELLER agrees to enter into agreements for the protection and allowed use of such data with originators and/or owners of such proprietary data. A copy of any such agreement shall be furnished to BUYER.
 - ix. In performance of the Purchase Order, SELLER shall neither utilize during design or production, nor incorporate into any deliverable, any intellectual property of a third party

unless written consent, authorization and proper licensing is obtained from the originator.

44. Intellectual Property Infringement

SELLER agrees that it shall not provide, or offer to provide, any item to BUYER in which SELLER has knowledge of alleged or actual infringement of a patent, license, registered trademark, or copyright. In addition, if BUYER requests SELLER to perform Work that SELLER thinks could cause SELLER or BUYER to infringe on a patent, license, registered trademark, or copyright, SELLER shall notify BUYER of the pertinent details in a timely manner, and shall not proceed with the Work until the matter is resolved and SELLER has received written authorization from the BUYER to proceed with the Work.

45. Material and Information Disposition

- a. Destruction or return of documents provided by BUYER hereunder and disposal/return/delivery/destruction of components and/or equipment specifically related to performance of this Order, shall take place promptly following the performance of the Order, unless BUYER's written authorization allows for SELLER's retention.
- i. If disposition instructions/requirements are not specified or are unclear to SELLER, SELLER shall request clarification/provision of such in writing from BUYER.
- ii. SELLER shall request disposition instructions from BUYER at Order completion for any goods and equipment developed/manufactured/purchased for the Order but not yet delivered.
- iii. SELLER shall ensure that information to be disposed of and/or destroyed is done so in accordance with the guidance and requirements applicable to the classification/designation of that information and agrees to provide written certification to Buyer that such has been disposed of/destroyed in a compliant manner upon completion of such action.
- iv. For NNPI specifically, SELLER must remove all NNPI markings from material produced under this Purchase Order but not delivered. If, after removal of markings, the equipment or component would still reveal NNPI, the item shall be disposed of in the same manner as classified material.

AUDIT AND INSPECTION

46. Audit

- a. For purposes of this clause, the term 'commercially available off-the-shelf ("COTS") shall have the meaning set forth at FAR part 2.101.
- b. If this Purchase Order is for goods or services which are not COTS, SELLER agrees that BUYER, or an authorized representative of BUYER, shall have access to, and the right to examine, copy and retain any of the SELLER's or its subcontractors directly pertinent records relating to this Order, and its processes and procedures related to performance and compliance hereunder. SELLER agrees to promptly make available at its offices, at reasonable times, the records referred to above, and to assist BUYER in accessing the records, at no additional cost to BUYER.

- c. Additional audit requirements may be invoked elsewhere within this Purchase Order. In the event any audit performed by BUYER involves disclosure of proprietary processes of SELLER, BUYER and SELLER agree as follows:
- i. BUYER shall not copy or retain any of SELLER's proprietary processes shared with BUYER during an audit that is not otherwise required to be provided under the Purchase Order, and any such information shall be safeguarded in accordance with the Proprietary Information terms herein; and
 - ii. Proprietary processes shared/disclosed during an audit shall be shared solely for the purpose of the audit.
- d. BUYER may provide copies of this Order, including any other document incorporated into this Order, to federal, state, or other regulatory agencies as requested by either BUYER's or government auditors to comply with auditing procedures.

47. Inspection

- a. SELLER shall implement and maintain a Quality Management System in accordance with the Quality Management System Requirements Standard ANSI/ISO/ASQ Q9001-2015 and any higher standard requirement invoked in this Order.
- b. FAR 52.246-2, Inspection of Supplies – Fixed Price (Aug 1996) shall apply to the extent this is a fixed-price Order, and FAR 52.246-3, Inspection of Supplies – Cost Reimbursement (May 2001) shall apply to the extent this Order is a cost reimbursement type order. Each clause shall be considered by the Parties to be modified such that the BUYER shall take the same rights under the applicable clause as are set forth for the Government, and SELLER shall take the same rights under the applicable clause as are set forth for the Contractor, but not such that any privity of contract is established between SELLER and the U.S. Government. The following modifications shall be made to FAR 52.246-2 and FAR 52.246-3:
- i. The term "BUYER" shall be substituted for "Government" or "United States", the term "BUYER's Procurement Representative" shall replace "Contracting Officer," and "Administrative Contracting Officer" ("ACO"), and the term "SELLER" shall replace "Contractor", except as noted here:
 1. Subsection (b) add "BUYER and" prior to the word "Government", when the word "Government" first appears in the first sentence. Otherwise, the notes apply.
 2. Subsection (c) add "BUYER and" prior to the term "Government."
 3. For FAR 52.246-2:
 - A. Subsection (d) add "BUYER and/or" prior to the term "Government" in the first sentence, but delete "Government" and insert "BUYER" the first time "Government" appears in the second sentence as follows: "Except as otherwise provided in the contract, the BUYER shall bear the expense of these inspections or tests if made at other than the"
 - B. Subsection (i)(1): add "BUYER and/or" prior to the first and last instance of the term "Government". Replace "Government" with "BUYER" at the second instance of the term "Government."
 - C. Subsection (i)(2): replace "Government" with "BUYER"; "Government representative" shall be replaced with "BUYER's Procurement Representative"; insert "BUYER's Procurement Representative and/or" prior to the second and final instance of "Government representative."

- c. When goods to be supplied are COTS, BUYER's right to inspect Work prior to shipment is limited to the right to perform a final inspection prior to shipping.

REJECTION & WARRANTY

48. Rejection

- a. If SELLER delivers non-conforming supplies or services, BUYER may, at its option and SELLER's expense:
 - i. Return the supplies for refund or credit;
 - ii. Require SELLER to promptly correct or replace the supplies or services;
 - iii. Retain non-conforming supplies and reduce the purchase order price by an amount equitable under the circumstances;
 - iv. Correct the nonconformance;
 - v. Obtain conforming supplies or services from another source; or
 - vi. Any combination of (i-v) above.
- b. SELLER shall be liable for any increase in costs, including shipping costs and any procurement costs attributable to BUYER's rejection of non-conforming supplies or services.
- c. SELLER shall not re-tender rejected supplies without disclosing the corrective action taken.

49. Warranty

- a. SELLER warrants that all Goods furnished under the Purchase Order shall be:
 - i. New and free from defects in material, workmanship and design; and
 - ii. In strict compliance with all applicable specifications, drawings, samples, descriptions, and other requirements of the Purchase Order.
- b. To the extent reasonably possible, SELLER warrants that any computer hardware, software, and firmware supplies delivered under the Purchase Order:
 - i. Do not contain any viruses, malicious code, Trojan horse, worm, time bomb, self-help code, back door, or other software code or routine designed to (i) damage, destroy, or alter any software or hardware; (ii) reveal, damage, destroy any data;(iii) disable any computer program automatically; or (iv) permit unauthorized access to any software or hardware; and
 - ii. Do not contain any third party software (including software that may be considered free or open source software) that (i) may require any software to be published, accessed or otherwise made available without the consent of the BUYER; or (ii) may require distribution, copying or modification of any software free of charge.
- c. SELLER warrants that all services furnished under the Purchase Order shall:
 - i. Comply with all requirements of the Purchase Order; and
 - ii. Be performed to the highest professional standards reasonably expected of similar service providers in the BUYER's geographic area.
- d. The foregoing warranties shall survive inspection, final acceptance and payment for supplies and services.
- e. This warranty entitlement shall run to the benefit of both BUYER and BUYER'S customer and shall cover a period of twelve (12) months following final acceptance by BUYER'S customer.
- f. Remedy for breach of warranty shall be at the BUYER's election, including those specified in the Rejection Clause.
- g. "Goods", as used herein, means goods and parts thereof, parts, materials/supplies, software, technology, drawings, data, reports, manuals, other specified documentation, services, or items that are required to be delivered pursuant to, or in connection with, this Purchase Order.
- h. Goods, or parts thereof, corrected or furnished in replacement of non-compliant Goods, shall be

subject to the terms of this clause to the same extent as Goods initially delivered. The warranty, with respect to replacement Goods, or parts thereof, shall be equal in duration to that in paragraph (e) of this clause and shall run from the date of delivery of the corrected or replaced Good(s).

- i. Following delivery of Goods hereunder, if SELLER becomes aware of any discrepant, deficient, or non-conforming condition(s) affecting the shipped Good(s) or which are probably affecting the shipped Good(s), SELLER shall promptly notify BUYER of such discrepancy/deficiency/non-conformance in writing.

CHANGES

50. Amendments Required by Prime or Higher-Tier Contract Changes

- a. The SELLER agrees that it will negotiate in good faith with the BUYER, relative to amendments or supplements to this Purchase Order, to incorporate additional provisions herein or to change provisions hereof, as the BUYER may reasonably deem necessary in order to comply with the requirements of BUYER's contract.

51. BUYER Authorization and Vendor Information Request ("VIR")

- a. SELLER shall complete and submit a VIR (via Buyer's form No. 84-01-2205) in the following events:
 - a. To request a change in Purchase Order requirement (including in requirements forming a part of the Order such as a Statement of Work or technical specification); and/or
 - b. To request interpretation of a Purchase Order requirement; and/or
 - c. To request BUYER's acceptance/disposition of nonconforming conditions or material.
 - i. BUYER may elect, at its sole discretion, not to accept nonconforming conditions or material.
- b. A VIR disposition applies only to the item for which it is submitted and shall not be extended to any other item (whether under the same or another Purchase Order) without BUYER's explicit consent.
- c. SELLER agrees that no changes to the Purchase Order shall be binding unless a VIR disposition authorizes such change and/or the change is specifically invoked into the Purchase Order by BUYER's Procurement Representative.
- d. A VIR disposition does not authorize a change in Purchase Order price or delivery schedule. If any VIR disposition causes price or delivery schedule impact to SELLER, or warrants a change in another Purchase Order requirement, SELLER may submit a Request for Equitable Adjustment ("REA") to the Purchase Order.
- e. If the SELLER is registered and approved to participate in BUYER's Shipyard Partners and Suppliers ("SPARS") system, VIRs may be submitted to BUYER electronically through the SPARS system. SELLERS who are not participants in SPARS shall submit VIRs directly to the BUYER's Procurement Representative.
 - i. Nothing in the SPARS program shall be construed as relieving the SELLER of any legal and contractual obligations to control and protect export-controlled information, and otherwise sensitive information, from unauthorized disclosure.
- f. SELLER's Certification of Conformance shall include a list of any VIRs submitted against the item(s) being certified. For each VIR, the listing shall include, at a minimum, the VIR number, the VIR disposition, and the date closed. If a Certification of Conformance is not required to be provided with the shipment, SELLER shall include the listing of VIRs, if any, on its packing list for the shipment.

52. Changes

- a. The BUYER may, at any time, by written order, and without notice to the sureties or assignees, make changes within the general scope of the Purchase Order, including, but not limited to, any one or more of the following:
- i. Drawings, designs, or specifications;
 - ii. Method of shipment or packaging;
 - iii. Place of delivery, acceptance or inspection;
 - iv. Inspection standards;
 - v. Delivery schedule; and
 - i. Place, time and description of services (if applicable).
- b. If any such change causes an increase or decrease in the cost of, or the time required for, performance of Work under the Purchase Order, whether or not changed by the Purchase Order, the SELLER may submit a REA to the Purchase Order, and, upon agreement as to the validity of the request and equitable adjustment, BUYER shall modify the Purchase Order accordingly.
- i. In event SELLER will assert its right to a REA under this clause, SELLER must assert its right, in writing, within twenty (20) days from the date of receipt of the written order.
 - ii. If the SELLER'S proposal includes the cost of property made obsolete or excess by such change, the BUYER shall have the right to prescribe the manner of the disposition of the property.
 - iii. BUYER has the right to examine any of SELLER'S pertinent books and records (including financial records) for the purpose of verifying SELLER'S REA.
 - iv. Failure to agree to any adjustment shall be a dispute under the Disputes clause of this Order; however, nothing in this clause shall excuse the SELLER from proceeding with the contract as changed.
- c. The SELLER shall notify the BUYER in writing of any BUYER conduct which the SELLER considers would constitute or would require a change to this Purchase Order. Such notice shall include and be fully supported by factual information, and shall be submitted to BUYER'S Procurement Representative no later than five (5) calendar days from the date the SELLER identifies any such conduct (including actions, inactions, and written or oral communications). On the basis of the most accurate information available to the SELLER, the written notice shall state the following factual information:
- i. The date, nature, and circumstances of the conduct regarded as a change; and
 - ii. The name, function, and activity of the individuals directly involved in or knowledgeable about such conduct; and
 - iii. The identification of any documents and the substance of any oral communication involved in such conduct; and
 - iv. In the instance of alleged acceleration of scheduled performance or delivery, the basis upon which it arose; and
 - v. The particular elements of Order performance for which the SELLER may seek an equitable adjustment under this clause, include:
 - i. What contract line items have been or may be affected by the alleged change;
 - ii. To the extent practicable, labor or materials or both which have been or may be added, deleted, or wasted by the alleged actual or potential change;
 - iii. To the extent practicable, what delay and disruption in the manner and sequence of performance and effect on continued performance have been or may be caused by the alleged change;
 - iv. What adjustments to contract price, delivery schedule, and other provisions affected by

- the alleged change are estimated; and
- v. The SELLER's estimate of the time by which the BUYER must respond to the SELLER's notice to minimize cost, delay or disruption of performance.
- d. Changes are not binding on BUYER unless they are in writing and authorized by BUYER's Procurement Representative, who is also the only person who may authorize changes affecting price or schedule. Engagement of BUYER's or BUYER's customer's employees in rendering assistance or advice to SELLER, and/or participating in discussions or exchanging information with SELLER, shall not constitute or authorize a change to the Purchase Order or equitable adjustment under this clause. SELLER assumes all responsibility and risk if it acts upon any direction other than from BUYER's Procurement Representative(s).
- e. Continued Performance: SELLER shall not proceed with the Work under the alleged change, or affected by the alleged change, until it receives formal written authorization from the BUYER's Procurement Representative. However, SELLER shall diligently continue performance of the unaffected portions of the Purchase Order to the maximum extent possible in accordance with its Terms and Conditions, and in a manner intended to minimize cost, price, schedule, and performance impact.

53. Request for Equitable Adjustment

- a. Any and all REA's submitted by SELLER shall include all required adjustments in the total amounts to which the SELLER believes it is entitled.
- b. Whenever the SELLER requests an equitable adjustment of \$100,000 or more, the proposal supporting such request shall include the following information for each individual item or element of the request:
- i. A description (1) of the Work required by the Purchase Order before the change, which has been deleted by the change, and (2) of the Work deleted by the change which already has been completed. The description is to include a list of identifiable components, equipment, and other identifiable property involved as well as the status of manufacture, procurement or installation of such property. Separate descriptions shall be furnished for design Work and production Work. Items of identifiable raw material, purchased parts, components and other identifiable hardware, which are made excess by the change and which are not to be retained by the SELLER, shall be listed for later disposition; and
- ii. A description of Work necessary to undo Work already completed which has been deleted by the change;
- iii. A description of Work which is substituted or added by the change. This shall include a list of identifiable components and equipment (not bulk materials or items) involved. Separate descriptions shall be furnished for design Work and production Work; and
- iv. A description of interference and inefficiencies in performing the change; and
- v. A description of disruption attributable solely to the change. Such description shall include the following information:
1. Description of each identifiable element of disruption and how Work has been, or may be, disrupted; and
 2. The calendar period of time during which disruption occurred, or may occur; and
 3. Area(s) of the SELLER's operations where disruption occurred, or may occur; and
 4. Trade(s) or functions disrupted, with a breakdown of man hours and material for each trade or function; and
 5. Scheduling of trades before, during, and after the period of disruption insofar as such scheduling may relate to or be affected by the estimated disruption; and

6. Description of any measures taken to lessen the disruptive effect of the change.
- vi. Delay in delivery attributable solely to the change; and
 - vii. Other Work or increased costs attributable to the change; and
 - viii. Supplementing the foregoing, a narrative statement of the nature of any alleged BUYER or Government act or omission, when the alleged BUYER or Government act or omission occurred, and the relationship between the alleged BUYER or Government act or omission and the claimed consequences thereof, cross-referenced to the detailed information provided as required above.
- c. Each proposal submitted in accordance with this requirement shall include a copy of the SELLER's labor budget at the cost level in effect as of the date the change began, the cost incurred at the cost level as of the same date, and the proposed effect of the change at the cost class level.
 - d. The SELLER is only required to set forth in its REA information with respect to factors delineated in paragraph (b) above which are relevant to the individual REA, or in the level of detail which is reasonably available to the SELLER. However, the SELLER shall provide BUYER sufficient detail to reasonably support SELLER's proposal for a REA or which BUYER's customer should require in evaluating such request.
 - e. In addition to any information required under paragraph (b) above, each proposal submitted in support of a claim for equitable adjustment in an amount which requires certified cost or pricing data shall contain such cost or pricing data with respect to each individual claim item, and shall be in sufficient detail to permit the BUYER to cross-reference the claimed increased costs, or delay in delivery, or both, as appropriate, with the information submitted pursuant to paragraph (b).
 - f. Regardless of whether certified cost and pricing data is required in support of the REA, the REA shall include a detailed listing of "Direct Costs" as described at FAR 552.243-71, subsection e. Any proposal preparation costs shall be identified as a separate item of cost. Time and time-related costs shall also be listed separately, including increase or decrease in number of work days of performance attributable to the change/conditions giving rise to REA.

FURNISHED PROPERTY

54. BUYER Furnished Property

- a. BUYER-owned property furnished under the Purchase Order (hereinafter referred to in this clause as "Furnished Property") shall be furnished "as is".
- b. Furnished Property shall be used only for performance of Work under the Purchase Order.
- c. Title to all Furnished Property shall remain with BUYER.
- d. SELLER shall assume the risk of, and be responsible for, any loss, destruction of, or damage to, Furnished Property provided to SELLER while such property is in SELLER's, or SELLER's subcontractors', care, custody, or control.
- e. Upon completion or termination of this Purchase Order, all Furnished Property shall be held free of charge for six (6) months by SELLER pending disposition instructions from BUYER; in the absence of such instructions after six (6) months, SELLER shall be entitled, ten (10) days after providing written notice of its intent to BUYER, to store such material at BUYER's expense.
- f. Excluding Furnished Property authorized to be consumed in the performance of the Purchase Order, SELLER shall return Furnished Property in as good a condition as when received, except for reasonable wear and tear, or in the case of property to be overhauled or repaired, in such condition as required by the terms of the Purchase Order.
- g. Unless already so marked by BUYER, SELLER shall clearly mark all Furnished Property to identify the proper ownership and, upon request, shall furnish BUYER with a list of all Furnished Property in its possession.
- h. BUYER may inspect and/or remove any Furnished Property at any time at no charge to BUYER,

and BUYER shall have reasonable access to SELLER's premises for such purpose. SELLER shall return Furnished Property upon BUYER's demand, and return expenses shall be paid as specified on the face of the Purchase Order.

- i. Unless otherwise agreed to in writing, SELLER shall be entitled to retain all cutting and processing waste such as chips, cuttings, borings, turnings, short ends, circles, trimmings, clippings and remnants. SELLER shall make proper credit allowances to the BUYER for the scrap value of such waste in determining the price of the Purchase Order.
- j. All spoiled, partially manufactured materials, parts, and assemblies, including those damaged in handling, shall remain as Furnished Property and shall be held by SELLER for disposition by BUYER.
- k. SELLER shall control and maintain Furnished Property in accordance with a system that meets the requirements of FAR Part 45, Government Property; DFARS Part 245. The requirements related to accounting for property shall also apply to scrap, provided, however, that BUYER may authorize or direct SELLER to omit from inventory schedules any scrap consisting of faulty castings or forgings or of cutting and processing waste, such as chips, cuttings, borings, turnings, short ends, circles, trimmings, clippings, and remnants, and to dispose of such scrap in accordance with SELLER's normal practice, and account for it as a part of general overhead or other reimbursable costs in accordance with SELLER's established accounting procedures.

55. Government-Furnished Property

- a. The FAR entitled "Government Property" (FAR 52.245-1) shall apply to all Government-owned property furnished under this Purchase Order in lieu of clause 54, BUYER Furnished Property.

INDEMNIFICATION

56. Indemnification

- a. SELLER shall indemnify, hold harmless, and at BUYER's request, defend BUYER, BUYER's Parent Company, its officers, directors, customers, agents, and employees against all claims, causes of action, liabilities, damages, losses, and expenses arising from any act or omission of SELLER, SELLER'S parent company, its officers, directors, agents, employees, suppliers, or subcontractors at any tier, in the performance of any of its obligations under the Order.
- b. SELLER agrees to pay or reimburse all costs that may be incurred by BUYER in enforcing this indemnity, including attorney's fees, court costs, settlement costs, or any amount withheld from BUYER's higher-tier contract.
- c. SELLER shall not settle any suit or claim which arises under this clause without BUYER's prior written approval.

WORK ON BUYER'S SITES

57. Access to BUYER Owned or Controlled Premises:

- a. SELLER recognizes and acknowledges there are various risks involved in visiting BUYER's owned/controlled premises, including, but not limited to, tripping hazards, machinery and equipment in motion, suspended loads, noise and chemical exposure.
- b. SELLER agrees to enter BUYER premises only if able to physically navigate the premise unassisted and to use appropriate care by donning required attire, safety equipment and heeding all signage, warnings and alarms.

58. Performing Work on BUYER Owned/Controlled Premises

- a. All SELLERS performing Work on BUYER owned/controlled premises shall comply with the requirements of visiting and/or working on such premises. Requirements can be found in the Purchase Order and SELLER may also refer to the website http://www.gdeb.com/suppliers/8_visiting_eb_contractors/ for additional information.
- b. SELLER, for itself, its officers, directors, employees, members, agents, representatives, subcontractors, guests, and invitees (collectively "Others"), agrees to comply with all applicable statutory, regulatory, military, and BUYER rules and regulations including, but not limited to, those governing environmental, health and safety, insurance, security, plant protection, traffic regulations, and prohibition of alcohol and drugs requirements, while on premises owned or controlled by BUYER (including vessels)(hereinafter collectively referred to as "Premises") and/or by parties other than SELLER, in performance of Work hereunder, and shall require its subcontractors to comply with the same.
- c. The use of illegal drugs or abuse of controlled substances, including (but not limited to) alcohol, is strictly prohibited at all BUYER owned/controlled sites. SELLER and any of SELLER's subcontractors performing Work at any BUYER owned or controlled facility and/or any facility other than that owned/controlled by SELLER, shall not engage in the use of illegal drugs nor abuse of any controlled substance.
- d. BUYER may, without notice or an opportunity to cure, and without liability, deny SELLER or SELLER's subcontractors access to premises of the BUYER, expel SELLER or SELLER's subcontractors from premises of the BUYER, and/or deny future access to BUYER Premises, at its sole discretion.
- e. Prior to being granted access to BUYER owned/controlled facilities/worksites or to other sites SELLER is required to access to perform Work hereunder, other than those owned/controlled by SELLER, SELLER shall comply with the requirements to secure and maintain insurance as required by the Purchase Order, and ensure its subcontractors secure and maintain the same forms and minimum limits of insurance required by the SELLER.
- f. If SELLER is required to install or supervise the installation of equipment or to perform services at BUYER's or BUYER'S customer's site, SELLER shall inspect the location of the Work at BUYER's or BUYER'S customer's site and be familiar with its condition at the time of award of this Order. In no event shall either SELLER's failure to inspect the site prior to the award of the Purchase Order, or any circumstance that SELLER should reasonably have discovered through such site inspection, constitute a basis for any claim for increased cost or additional time for performance.

59. Indemnification: Access to BUYER's Premises

- a. In the event SELLER, its officers, employees, agents, subcontractors, and/or lower-tier subcontractors enter premises owned/controlled by the BUYER in the performance of this Purchase Order, SELLER agrees to indemnify, hold harmless and defend BUYER, Buyer's Parent Company, shareholders, affiliates, directors, officers, employees, and assigns from any and all claims for damages, death, personal injury, or property damage and litigation costs/attorney's fees, arising from or contributed to by, in whole or in part, any act, omission, fault or mistake of the SELLER and their employees or agents, resulting from accessing BUYER's owned/controlled premises.

PLACE OF PERFORMANCE / FOREIGN INVOLVEMENT / IMPORT & EXPORT COMPLIANCE

60. Work in the United States ("U.S.")

- a. SELLER must submit written request for, and obtain BUYER's written approval, prior to:
 - i. Sourcing from outside the United States any goods to be delivered hereunder, or any goods to

- be incorporated into deliverable goods hereunder, that are listed on the Commerce Control List ("CCL") or the United States Munitions List ("USML"); and
- ii. Conducting, whether of itself or via a subcontractor, outside the United States any Work performance, or manufacture of any part or component listed on the CCL or USML.
- b. SELLER's written request for such approval must contain:
 - i. A description of the foreign-manufactured material or Work to be performed in foreign location; and
 - ii. Name and address of the foreign manufacturer/supplier or Work performance location, including Country; and
 - iii. Detailed justification for use of foreign-sourced material or foreign Work performance location.
 - c. If granted, each approval shall apply only for the specific Purchase Order for which it was requested, and shall not constitute an approval for any other Purchase Orders.
 - d. BUYER reserves the right to review supporting documentation related to an Export Administration Regulations ("EAR") 99, CCL or USML classification and challenge the determination, if necessary.
 - e. Notwithstanding the above, SELLER is prohibited from (i) entering transactions, (ii) submitting marketing proposals or presentation to parties, and (iii) engaging in brokering transactions with parties as proscribed or embargoed under ITAR §126.1 and/or by the Office of Foreign Asset Control ("OFAC"). A current list of proscribed countries is available on the U.S. State Department Directorate of Defense Trade Controls ("DDTC") website: http://www.pmdtc.state.gov/embargoed_countries/.
 - f. The requirements of this clause are in addition to any other requirements in the Terms and Conditions of this Order for BUYER approval to transmit information, data, technical data, goods, materials, or equipment outside the United States.

61. Notification of Foreign Ownership or Foreign Place of Performance

- a. SELLER shall notify BUYER in writing within ten (10) business days of the effective date of the change, or of becoming aware of the prospective change, whichever is earlier, when:
 - i. A foreign interest directly or indirectly acquires the authority, whether or not exercised, and whether or not exercisable through the ownership of SELLER's securities, to direct or decide matters affecting the management or operations of SELLER; or
 - ii. SELLER relocates the place of performance, in whole or in part, outside the United States.
- b. SELLER, regardless of whether a U.S. or non-U.S. (foreign) entity, shall provide BUYER with written notice, as described above, in the event that SELLER becomes aware that it is to be merged with or acquired by a foreign entity or interest, regardless of whether or not it is to be a company organized to do business under the laws of the United States.
- c. SELLER shall comply with any and all requirements, and obtain any and all necessary approvals that may be imposed or required by Committee on Foreign Investment in the United States ("CFIUS").
- d. **Flow-down Requirement:** SELLER shall impose the requirements of this clause on its suppliers/subcontractors under this Order (and require their inclusion in Lower-tier Subcontracts, as necessary), and the term "BUYER" shall mean Electric Boat Corporation and shall not be substituted for any other meaning/entity.

62. Import/Export Compliance

- a. SELLER shall comply with all applicable import and export laws and regulations, including, but not limited to, the requirement for U.S. entities, in the business of manufacturing or exporting (or

temporarily importing) defense articles, or providing defense services, to register with the Department of State in accordance with the ITAR Section 122.1.

- b. Nothing in the terms of this Order changes, supersedes, or waives any of the requirements of applicable federal laws, executive orders, and regulations regarding import/export control, including but not limited to:
 - i. The Export Administration Act of 1979, as amended (50 U.S.C. App. 2401, et seq.);
 - ii. The Arms Export Control Act (22 U.S.C. 2751, et seq.);
 - iii. The International Emergency Economic Powers Act (50 U.S.C. 1701, et seq.);
 - iv. The Export Administration Regulations (15 CFR Parts 730-774);
 - v. The International Traffic in Arms Regulations (22 CFR Parts 120-130); and
 - vi. Executive Order 13222, as extended.
- a. No export (including to any individual or entity that is not a "US person" (as defined in EAR part 772), re-export, re-transfer, or sublicensing of any export-controlled commodities, technical data, technology, software, or any other export-controlled items, or any "Defense service" (as defined in 22 CFR § 120.9), in performance of this Order or any subcontract hereunder, at any tier and regardless of location, may be made prior to receiving:
 - i. Written consent provided by BUYER; and
 - ii. Any required Government export authorizations.
- b. All requests for such BUYER consent must state the intended recipient's citizenship(s), and status under 8 U.S.C. § 1101 and 8 U.S.C. § 1324 (the "Immigration and Naturalization Act"), and such other information as BUYER may reasonably request. Consent granted by BUYER in response to SELLER's request hereunder shall not relieve SELLER of its obligations to comply with U.S. export laws and regulations.
- c. Failure of the U.S. Government or any other government to issue a required export or import license, or withdrawal/termination of a required export or import license or other authorization, shall relieve BUYER of its obligations under the Purchase Order. Provided that SELLER has diligently pursued obtaining such license or authorization and, through no fault of SELLER, such license has been denied, withdrawn, or terminated, SELLER shall also be relieved of its obligation(s) under Purchase Order. In either event, the BUYER may terminate this subcontract without additional cost or other liability.
- d. **Flow-down Requirement:** SELLER shall impose the requirements of this clause on its suppliers/subcontractors under this Order (and require their inclusion in lower-tier subcontracts, as necessary), and the term BUYER shall mean Electric Boat Corporation and shall not be substituted for any other meaning/entity.

63. Transmission Abroad of Equipment and/or Technical Data

- a. Except with the prior written consent of the BUYER and the Contracting Officer (or designated representative), SELLER shall not, at any time during or after the performance of this Purchase Order, transmit or authorize the transmittal of any technical data or equipment as defined in paragraph (c) below:
 - i. Outside the United States; or
 - ii. Irrespective of location, to any:
 - 1. Foreign national, not working on this contract or any subcontract hereunder; or
 - 2. Foreign organization (including foreign subsidiaries and affiliates of the SELLER);

or

3. Foreign government; or
4. International organization.
 - b. SELLER shall request Contracting Officer consent via BUYER.
 - c. As used in this requirement, the following terms shall have the following definitions:
 - i. "United States" means the States, the District of Columbia, Puerto Rico, American Samoa, the Virgin Islands, Guam, and any areas subject to the complete sovereignty of the United States;
 - ii. "Equipment" means all supplies of the kind specified to be delivered under this Purchase Order, all component parts thereof, and all models of such supplies and component parts, but "Equipment" does not include standard commercial supplies and component parts, and models thereof;
 - iii. "Technical Data" means all professional, scientific, or technical information and data produced or prepared for the performance of this Purchase Order, or on or for the operation, maintenance, evaluation, or testing of any Purchase Order item, whether or not the information and data were specified to be delivered under this Purchase Order including, without limitation, all writings, sound recordings, pictorial reproductions, and drawings or other graphical representations; but "Technical Data" does not include such information and data on standard commercial supplies and component parts to the extent that the information and data do not relate to the use, operation, maintenance, evaluation and testing of such supplies and component parts in or in connection with any item, or component parts thereof, specified to be delivered under this Purchase Order.

64. SELLER Cooperation with Import/Export Compliance

- a. SELLER agrees to cooperate to the fullest extent with BUYER requests for information to ensure import/export compliance, including, but not limited to:
 - i. Source and manufacture of items to be delivered/incorporated into deliverables;
 - ii. SELLER and lower-tier subcontractor's eligibility to export; and
 - iii. ITAR or EAR export classification of items to be delivered.
- b. SELLER will notify BUYER if any deliverable under this Purchase Order is subject to the export control laws or regulations of any non-U.S. country.
- c. Upon request by BUYER, SELLER shall provide the name, business address, and contact information of the person(s) responsible for the SELLER's compliance with import and export requirements, regulations, and laws governing the Work under this Order, in writing, to the BUYER.
- d. Upon written request by BUYER, SELLER agrees to provide the following classification information for each product and service that is a deliverable under the Purchase Order:
 - i. Classification number in accordance with one of the following:
 1. Export classification (USML Category according to the ITAR); or,
 2. Export Control Classification Number (ECCN) according to the U.S. Commerce Control List if the product is subject to U.S. Export Administration Regulations (EAR); or,
 3. For non-U.S. origin products or services, the applicable "Export Control List

Number" according to the country of origin's export control regime (i.e. Canada, EU Control List).

- ii. The date of such determination; and
- iii. Whether such determination was made by the controlling agency (Department of State or Department of Commerce) or whether it was a self-determination; and
- iv. The statistical commodity code according to the current commodity classification for foreign trade statistics and the Harmonized System ("HS") coding; and
- v. The country of origin (non-preferential origin).

65. Additional Requirements when SELLER is a Signatory on an Export License or Export Agreement with or for BUYER

- a. Where SELLER is a signatory for an export license or export agreement with or for BUYER (e.g., Technical Assistance Agreement (TAA), Manufacturing License Agreement (MLA), etc.), SELLER agrees to provide prompt, written notification to BUYER in the event of SELLER's changed circumstances including, but not limited to, change in DDTC Registration status, debarment, violation or potential violation of the U.S. export control laws, or of the export license or agreement, or the initiation or existence of a U.S. Government investigation that could affect SELLER's performance under this Purchase Order.

66. Importer of Record; Anti-Dumping Warranty; Duty Free Entry

- a. Importer of Record: SELLER shall coordinate all imports into the United States that are shipping directly to BUYER, with BUYER and BUYER's Customs Broker. Prior to any such import shipment, SELLER shall request BUYER's permission to ship, and such request shall include a Pro Forma invoice. Buyer's approval of the Pro Forma invoice is required prior to shipment being made. Failure to comply with these requirements may result in the shipment being rejected or refused and returned to SELLER at SELLER's expense.
- b. Anti-Dumping Warranty: If any items will be imported into the United States under this Order for shipment directly to BUYER (i.e., Buyer is "importer of record"), SELLER agrees and warrants that all sales hereunder are or will be made at not less than fair value under the United States Anti-Dumping Laws (19 U.S.C. 1673 et seq.).
- c. Duty-Free Entry ("DFE"): SELLER is to coordinate all imports (including, but not limited to, raw materials, intermediate assemblies, software, supplies and end-item deliverables) under this order with the BUYER. If an import into the United States is eligible for DFE (due to its classification in the Harmonized Tariff Schedule of the U.S. (HTSUS), or due to a Trade Agreement, or as per DFARS 252.225-7013), SELLER is to take necessary actions to allow BUYER to obtain DFE.

67. Marking Requirement

- a. SELLER shall place the following statement on all documents containing technical data that are controlled by the Arms Export Control Act or EAR:
 - i. **"WARNING - This document contains technical data whose export is restricted by the Arms Export Control Act (Title 22, U.S.C. Sec. 2751, et seq.) or the Export Administration Act of 1979, as amended, Title 50, U.S.C., App 2401, et seq. Violations of these export laws can result in severe criminal penalties. Disseminate in accordance with provisions of DoD Directive 5230.25."**
 - b. Additional marking requirements may be included elsewhere in the Purchase Order.
 - c. **Flow-down Requirement**: SELLER agrees to insert a contract provision substantially the same as this paragraph, including this sentence (subsection c), in all Lower-tier Subcontracts issued under the Purchase Order.

PURCHASE ORDER REQUIREMENTS/MANAGEMENT

68. United States Standard Weights and Measures

- a. Unless otherwise specified in writing, all documentation, Work and services provided in performance of the Purchase Order shall employ the units of United States standard weights and measures as published by the United States National Institute of Standards and Technology ("NIST").

69. Liens

- a. All material, supplies, delivered goods, equipment, hardware, and software secured for the performance of obligations under this Purchase Order shall be free of all liens, claims, charges and encumbrances of any kind, legal or equitable.
 - i. If SELLER fails to discharge, or cause to be discharged, any such lien, claim, charge or encumbrance, after BUYER has requested SELLER to do so, BUYER may discharge, or cause to be discharged, any such lien, claim, charge or encumbrance and SELLER shall be responsible for the reasonable costs thereof, including attorney's fees. BUYER may, at its option, deduct such sum from any payments due or to become due to SELLER under the Purchase Order. In the event such cost is in excess of the amount of any such reimbursement by deductions, SELLER shall pay the amount of such excess upon demand.
- b. Upon request, SELLER shall furnish BUYER with formal written releases of liens from SELLER's subcontractors.
- c. If BUYER provides SELLER with funding of milestone payments, progress payments, or other funding prior to completion of the Work required by this Order and delivery, as appropriate, BUYER shall have a lien against SELLER for any supplies, material, equipment, or goods for which such funding was used. SELLER shall keep this investment(s) free and clear of any lien, security interest, encumbrance, claim, option, or right of others except for the security interests created by BUYER or BUYER'S customer.
 - i. BUYER shall file in any relevant jurisdiction any financing statements and amendments thereto that contain the information required by Article 9 of the Uniform Commercial Code ("UCC") of each applicable jurisdiction for the filing of any financing statement or amendment relating to the Investment for the purpose of perfecting, confirming, continuing, or enforcing the security interest granted by the SELLER hereunder. The SELLER agrees to provide all information required by the BUYER pursuant to this request.

70. Administration Cost

- a. Payments under the Purchase Order will be made by BUYER from funds advanced by the United States Government and not from BUYER's own assets.

71. Cost Reimbursement

- a. If this is a cost reimbursement type Purchase Order, SELLER shall be entitled to reimbursement of costs only to the extent such costs are allowable per FAR 31.2 or 31.3. Prior written agreement/approval must be granted by BUYER for reimbursement of any other costs.
- b. Travel and Per Diem Costs:
 - i. In accordance with the Federal Travel Regulations ("FTR") section 301-11.101, the allowance for meals and incidental expenses ("M&IE") is adjusted for the first and last day's travel.

- ii. Unless otherwise expressly agreed to in writing by BUYER, travel and per diem costs shall not exceed amounts determined to be allowable by FAR part 31.2 and the FTR.
- iii. When the Purchase Order provides for reimbursement of lodging costs for travel to BUYER's sites/facilities in the lower 48 contiguous United States ("CONUS"), BUYER will not be obligated to reimburse any such costs in excess of the allowable FTR amount.
- iii. Costs incurred for M&IE shall be considered to be reasonable and allowable only to the extent that they do not exceed on a daily basis the maximum per diem rates in effect at the time of travel as set forth in the:
 1. FTR for travel in the lower 48 CONUS (Note: The FTR may currently be accessed on the GSA Web Site <http://www.gsa.gov/portal/content/104877>); or
 2. Joint Travel Regulations (JTR), Volume 2, Appendix A for travel in Alaska, Hawaii, Puerto Rico, and territories and "outlying areas" of the United States (as defined in FAR part 2.101); or
 3. Standardized Regulations (Government Civilians, Foreign Areas), Section 925, "Maximum Travel Per Diem Allowances for Foreign Areas" or elsewhere.
- c. If air travel is required under the Purchase Order, SELLER agrees that, except for circumstances identified in FAR 31.205-46, airfare costs in excess of the lowest priced airfare available to SELLER during normal business hours are unallowable (except as noted in FAR 31.205-46(b)).
- d. SELLER shall obtain and maintain receipts to substantiate invoiced amounts for travel, including any airfare, car rental, fuel, tolls, lodging, and other allowable miscellaneous expenses being separately billed, and shall allow BUYER to review/audit such receipts.

72. Taxes

- a. SELLER shall pay all applicable foreign or domestic taxes, assessments or duties assessed against SELLER for the goods or services covered by this Purchase Order prior to delivery to BUYER. SELLER shall pay all gross receipt type taxes applicable to such sale (e.g., B&O tax, BPOL tax, Hawaii GET, etc.). BUYER shall pay all applicable sales or use taxes imposed on the sale of goods or services under this Purchase Order ("Taxes"). If SELLER is required to collect Taxes on behalf of the taxing jurisdiction in which the goods or services are delivered to BUYER, SELLER shall separately state such Taxes on its invoices, collect such Taxes from BUYER, and remit such Taxes to the appropriate taxing jurisdiction; provided, however, if Buyer provides SELLER with a valid resale certificate, exemption certificate or direct pay permit, SELLER shall not collect from BUYER any Taxes to which such certificate or permit applies.
- b. SELLER's pricing shall include all applicable Value-Added Tax ("VAT")

73. Offset Credits, International

- a. This Order is entered into under the auspices of Buyer's Parent Company's Industrial Participation Program. Any potential or actual offset credits resulting from Buyer's, Seller's, and/or Seller's subcontractor's efforts hereunder, are the sole property of Buyer's Parent Company, to be applied to the offset program of its choice.
- b. SELLER agrees to cooperate with and assist BUYER in identifying and performing activity which may generate offset credits, and in securing the appropriate offset credits from the respective government authorities.

74. Set-Off

- a. BUYER, in addition to any other amounts which may be retained hereunder, shall have a right of set-

off against payments due to SELLER under the Purchase Order or any other Purchase Order between the parties for all costs, expenses, damages, and liabilities owed to BUYER. The parties expressly agree that such costs, expenses, damages and liabilities shall include, without limitation, any reduction in the award fee on BUYER's Prime Contract and any costs determined to be unallowable attributable to SELLER's performance or submission, and any impacts to cost or schedule of other subcontractors under BUYER's Prime Contract.

- b. For avoidance of doubt, BUYER may take a corresponding withholding from the SELLER should any withholding for deficiencies occur at the Prime Contract level as a result of Work performed by SELLER. Any amounts so withheld will be paid upon correction of the deficiency and approval at the Prime Contract level for payment provided that such Work does not otherwise impact performance of BUYER's Prime Contract, or result in a reduction to BUYER's award fee. There shall be no interest due to SELLER on any monies withheld by BUYER.
- c. For the avoidance of doubt, BUYER's right to set-off may include amounts sufficient to cover the costs of correction of defective or nonconforming Work by redesign, repair, rework or replacement or other appropriate means when SELLER states or indicates, that it is unable or unwilling to proceed with corrective action in a reasonable time to support production need.

75. Release of Claims

- a. If this Order is a cost-reimbursement or time-and-material Order, involves design, development or research, or has a total value in excess of two (2) million dollars, as a condition precedent to final payment under this Purchase Order, the SELLER shall execute and deliver a release discharging the BUYER, the United States of America, and their respective officers and agents, from any and all claims, demands, and liabilities arising under or by virtue of this Purchase Order ("Release"). SELLER may include in its Release exception(s) for specific claims which have been submitted in writing to BUYER stated in exact amounts, or in estimated amounts when the exact amounts are not known.
- b. SELLER shall sign a Release disclosure at BUYER's request during Order performance, not to exceed more than three (3) times annually. Failure to submit such a Release within twenty (20) days of BUYER's request shall be deemed as SELLER asserting no claims and serve as Release. If SELLER has open claims, SELLER is still required to submit a periodic Release as indicated above.
- c. SELLER agrees it will execute a Release as part of the supplemental agreement providing an equitable adjustment, and, other than a specific exception agreed to by the Parties and notated as part of the Release, that such Release shall discharge the BUYER, its officers, agents, employees and BUYER's Customer, from any further claims including, but not limited to, further claims arising out of delays or disruptions or both, caused by the change, circumstance or event giving rise to the adjustment.
- d. Failure of SELLER and BUYER to agree on any proposed adjustment or change claimed by SELLER shall be a dispute within the meaning of the Disputes clause and shall not excuse SELLER from diligently proceeding with performance of the Order.

76. Waiver

- a. Failure or delay of the BUYER to enforce any of the provisions of the Purchase Order, or to exercise any right, privilege or remedy available to it by law, shall not constitute a waiver of the requirement of such provisions or law, or as a waiver of the right of the BUYER thereafter to enforce such provision or law.
- b. Any payments made under the Purchase Order shall not constitute acceptance of any defective or unsatisfactory material or workmanship, or a waiver of BUYER's right to later reject the same.
- c. BUYER's failure to insist on strict performance at any time shall not constitute a waiver by BUYER

of the requirement for strict performance by the SELLER at all subsequent times.

- d. The rights and remedies provided in the Purchase Order are cumulative and in addition to other rights provided by law.

77. Assignment/ Novation

- a. Neither this Purchase Order, nor the benefits or obligations thereof, shall be assigned by SELLER except with the prior written consent of the BUYER. If the BUYER consents to SELLER's request, the SELLER shall execute, and, when required, shall require its prospective transferee, etc. to execute, any assignment agreement, novation agreement, and/or other appropriate documentation that is specified by, and acceptable to, the BUYER.
- b. SELLER may assign its right to be paid for amounts due or to become due from BUYER to a bank, trust company, or other financing institution (including any federal lending agency), without prior BUYER written consent if SELLER promptly furnishes BUYER 1) a signed copy of such assignment of payment, and 2) written authorization to make such payments directly to the assignee, in lieu of to the SELLER, in satisfaction of BUYER's obligation to SELLER. Such authorization shall state that such payment(s) made by BUYER satisfies BUYER's obligations to SELLER for payment for the goods and/or services (being invoiced). Any such assignments shall be for the convenience of the SELLER. SELLER agrees that BUYER shall not be held liable if delays in payment result from BUYER complying with or attempting to comply with SELLER's assignment of its right to payment.
- c. SELLER agrees to provide evidence of assignment, as requested by BUYER.
- d. SELLER shall ensure that there are no unauthorized disclosures of equipment, technical data, or other information subject to export control or to other distribution restrictions, and prior to any disclosure, all Government and BUYER written approvals are obtained.
- e. In the event that SELLER intends to request to assign or novate the Work hereunder, in whole or in part, SELLER shall ensure that its intended assignee or transferee:
- i. Is not debarred, suspended, or otherwise ineligible to receive a federal contract or subcontract; and
 - ii. Agrees to, and is able to, fully comply with all contract terms and conditions, including those dealing with export control and control of NNPI.
- f. In addition, SELLER agrees that:
- i. It shall remain liable for satisfactory performance or lack of satisfactory performance by its assignee; and
 - ii. SELLER agrees to execute any paperwork regarding the assignment that BUYER deems necessary to protect BUYER's interests; and
 - iii. The SELLER shall not furnish or disclose to any assignee under this subcontract, any information related to Work under the Purchase Order, until the BUYER expressly authorizes such action in writing.
- g. BUYER may, at any time, assign its rights (including the right of exercise of any option(s)) and its obligations under the Purchase Order in whole or in part, to the Government, or to any other shipyard or entity designated by the BUYER or the Government. In such event, SELLER agrees to look solely to the Government or other assignee for payment. BUYER shall provide SELLER with reasonable written notice of such assignment.

78. Stop Work

- a. BUYER may, by written notice, stop Work under the Purchase Order at any time. Upon receipt of such notice, SELLER shall immediately comply with its terms and, during the stop Work, take all reasonable steps to minimize the incurrence of costs allocable to the Work covered by the

suspension notice. If the stop Work ordered under this paragraph results in an increase in the time required for, or in SELLER's cost of, the performance of any part of the Purchase Order, the SELLER may request an equitable adjustment in accordance with the provisions herein. SELLER shall assert its right to an adjustment no later than twenty (20) calendar days after the Work suspension is lifted. SELLER is not entitled to additional costs or schedule relief if the stop Work was required due to poor performance of that SELLER, or any defects discovered in SELLER's Work, regardless of whether such performance or defects rise to the level of default.

79. Reduction or Suspension of Contract Payments upon Finding of Fraud or Falsification

- a. The BUYER may reduce or suspend advance, partial, progress, or milestone (performance-based payments) payments to the SELLER under the Purchase Order upon a written determination by BUYER that substantial evidence exists that the SELLER's request for advance, partial, progress, or milestone payments is based on fraud, misrepresentation, or falsification. This clause is in addition to any rights or remedies available to the BUYER by law or in equity.
- b. Actions taken by the BUYER under this clause shall not constitute an excusable delay under the Force Majeure clause of the Purchase Order or otherwise relieve the SELLER of its obligations to perform under the Purchase Order.

DISPUTES

80. Disputes

- a. The parties will attempt to settle in good faith all disputes related to the Purchase Order at the lowest practicable level. If the parties cannot resolve the dispute, each party reserves all its rights and remedies available at law and in equity and such remedies shall not be exclusive. Disputes upon which the parties cannot reach an amicable settlement will be construed and resolved under the laws in accordance with the clause herein entitled "Choice of Law". SELLER shall bring any dispute arising under or related to the Purchase Order within two (2) years after the cause of action for such dispute accrues.
- b. Notwithstanding any provisions herein to the contrary, if a decision under the Prime Contract is made by the Contracting Officer that affects this Purchase Order, said decision shall in turn be binding upon BUYER and SELLER insofar as it relates to the Purchase Order. If BUYER elects to appeal such a decision pursuant to the Disputes clause in BUYER's Prime Contract, any decision from such an appeal, if binding upon BUYER under the Prime Contract, shall in turn be binding upon BUYER and SELLER insofar as it relates to the Purchase Order.
- c. Pending final resolution of any decision, appeal, or judgment of any proceedings relating to the Purchase Order, or the settlement of any dispute arising under the Purchase Order, SELLER shall proceed diligently with the performance of the Purchase Order in accordance with all the terms and conditions contained herein.

DEFAULT / TERMINATION

81. Force Majeure

- a. Neither Party shall be deemed to have defaulted or failed to perform their obligations hereunder if that Party's inability to perform or default was caused by an event or events beyond its reasonable control and without its fault or negligence.

- b. The following events, and only the following events, shall constitute force majeure under the Purchase Order: (i) acts of the Government in its sovereign or contractual capacity, (ii) unusually severe weather, (iii) epidemics, (iv) quarantine restrictions, (v) embargoes, (vi) acts of God or a public enemy, (vii) strike at a facility under a subcontractor's control, and (ix) civil riots.
- c. The affected Party shall immediately notify the other Party in writing of any event the affected Party claims is a force majeure condition that would prevent the party from performing its obligations hereunder, and of the cessation of the condition.
- d. The affected Party shall use diligent efforts to end the failure or delay and ensure the effects of such force majeure event are minimized. The affected Party shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause.

82. Termination for Convenience

- a. BUYER may, with written notice to the SELLER, terminate the Purchase Order, in whole or in part, at any time, and such termination shall not constitute default. In such event, BUYER shall have all rights and obligations accruing to, including BUYER's rights to title and possession of the supplies and material paid for. BUYER may take immediate possession of all Work performed upon notice of termination.
- b. SELLER, upon notice of termination, shall immediately stop Work and limit costs incurred on the terminated Work. SELLER shall diligently continue with all Work not terminated.
- c. BUYER, after deducting any amount(s) previously paid, shall reimburse SELLER for the actual, reasonable, substantiated, and allowable costs with the total amount to be paid by the BUYER being determined by negotiation. SELLER shall not be paid for any Work performed or costs incurred which reasonably could have been avoided. 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 Purchase Order price. SELLER's termination claim shall be submitted within ninety (90) days from the effective date of the termination.

83. Default

- a. If SELLER fails to: (i) comply with any requirements specified in the Purchase Order, (ii) deliver the supplies or to perform the services within the time specified (ii) make progress, so as to endanger performance of the Purchase Order; or (iii) becomes insolvent or suffers a material adverse change in financial condition, the SELLER shall be in default of the Purchase Order.
- b. If the SELLER is in default of the Purchase Order, upon written notice, the BUYER may: (i) terminate the Purchase Order, in whole or in part, (ii) withhold payment until the BUYER has determined that there are no remaining deficiencies, or (iii) any combination of (i) or (ii).
- c. The BUYER's exercise of b(ii) of this clause shall at no time prevent its ability to exercise b(i).
- d. SELLER must cure any default within ten (10) days (unless BUYER authorizes longer in writing) after receipt of notice from BUYER. Default involving delivery schedule delays or adverse change in financial condition shall not be subject to the cure provision.
- e. If BUYER has terminated the Purchase Order in part, SELLER shall continue to diligently perform the Work not terminated.
- f. Upon termination, BUYER may acquire, under terms and in a manner the BUYER considers appropriate, supplies or services similar to those terminated, and the SELLER shall be liable to the BUYER for any excess costs for those supplies or services.
- g. For the terminated portion of the Purchase Order, the BUYER may require the SELLER to deliver information/data (including manufacturing drawings) developed hereunder, and to transfer title and deliver to the BUYER, in the manner and to the extent directed by BUYER, any supplies and materials, that SELLER has produced or acquired, including the assignment to BUYER of

- SELLER's Lower-tier Subcontracts. SELLER agrees to protect and preserve property in its possession in which either the BUYER or the Government has an interest.
- h. Payment for completed supplies and services delivered to and accepted by BUYER shall be at Purchase Order price. Payment for manufacturing materials delivered to and accepted by BUYER and payment for the protection and preservation of property shall be determined by negotiation, shall not exceed the value of the Purchase Order, and shall not include profit. BUYER may withhold payment otherwise due to SELLER for completed supplies and/or manufacturing materials in such amounts as BUYER determines necessary to protect BUYER and/or BUYER's Customer against loss due to any outstanding liens or claims against said supplies or manufacturing materials. SELLER shall immediately refund to BUYER the total amount paid to SELLER, except for deliveries previously received by BUYER in full compliance with all requirements of the Purchase Order. SELLER shall also, at no cost to BUYER, immediately return all the materials supplied by BUYER.
 - i. After termination, if it is determined that the SELLER was not in default, or that the default was excusable, the rights and obligations of the Parties shall be the same as provided in the Termination for Convenience provision hereof.
 - j. Upon the occurrence and during the continuation of a default, BUYER may exercise any and all rights and remedies available to it under applicable law and equity, including without limitation, cancellation of the Purchase Order, in whole or in part.

INSURANCE

84. Insurance

- a. Prior to the commencement of Work under the Purchase Order, SELLER shall secure, at no expense to BUYER, policies of insurance as detailed below, and shall maintain such policies through completion of performance under the Purchase Order, and closure of liabilities hereunder, and/or as specifically otherwise required herein:
 - i. Commercial General Liability Insurance, written on an insurance industry standard occurrence form, including all typical coverage known as: premises/operations liability; products/completed operations; personal injury; contractual liability; independent contractor's liability; and, fire damage legal liability.
 - 1. The cost of any claim payments falling within the deductible shall be the responsibility of SELLER.
 - 2. Such policy(ies) must provide the following minimum limit(s), or meet such via umbrella insurance policy(ies):
 - A. Bodily injury and property damage: \$2,000,000 each occurrence; and
 - B. Products or completed operations: \$2,000,000 each occurrence.
 - 3. In the event watercraft is to be used in the performance of this Purchase Order, the Commercial General Liability Policy shall be endorsed or a policy of Protection and Indemnity shall be provided with the same minimum limits of liability as required under the Commercial General Liability Policy. In addition, SELLER shall secure and maintain Jones Act coverage for masters and crews of the subject watercraft.
 - ii. Business Automobile Liability Insurance, including coverage for owned, non-owned, leased or hired vehicles (if used on Electric Boat Corporation property) written on an insurance industry standard form. Such policy(ies) must provide the following minimum limit:

1. Bodily Injury and Property Damage: \$1,000,000 each accident.
- iii. Workers' Compensation Insurance, must meet the statutory obligation imposed by Workers' Compensation Law in the state in which the Work under the Order is to be performed.
 1. When any Work to be done wholly or in part by SELLER or SELLER's subcontractor is part of the process of BUYER's business (same type of task performed by BUYER's employee) and is to be performed in, on, or about premises under BUYER's control in the State of Connecticut, the SELLER or subcontractor will include an endorsement to its Workers' Compensation Policy including Electric Boat Corporation as an alternate for claims where primary liability is determined under the State of Connecticut Workers' Compensation Statute Section 31-291.
 2. SELLER's Worker's Compensation Policy must include a written approval by the insurer to waive its right of subrogation (and this approval must be shown on the Certificate of Insurance provided to Electric Boat Corporation prior to beginning any work on Electric Boat premises).
 3. If any Work under the Order involves Work to directly support the construction or repairs of any vessels, or involves manual work on any facility within the shipyard or like property, or is on or adjacent to navigable water, the Worker's Compensation Policy must be endorsed to include Federal Longshore Coverage.
- iv. Employer's Liability Insurance, providing minimum limits of \$1,000,000 per occurrence.
- v. Professional Liability Insurance, such that is appropriate to the SELLER's operations. Coverage should be for a professional error, act or omission arising out of the scope of services required by this agreement. Such policy(ies) must provide the limit of \$5,000,000 per claim.
- b. If SELLER is qualified as a self-insurer in accordance with the State of Connecticut requirements, the SELLER shall so certify by letter signed by a corporate officer indicating that it is a qualified self-insured, and setting forth the limits of any policy of excess insurance covering its employees.
- c. **Flow-down Requirement:** SELLER shall require its subcontractors to secure and maintain the same forms and minimum limits of insurance required of the SELLER, as applicable to their performance under their Lower-tier Subcontract, and shall indemnify the BUYER to the extent the required insurance would have covered a loss in the event SELLER's subcontractor(s) fails to obtain/maintain the required insurance.
- d. If any of the required insurance policies is written on a claims made form, the retroactive date shall be prior to or coincident with the effective date of this Purchase Order. Such policy(ies) shall state that coverage is claims made, and state the retroactive date. Claims made form coverage shall be maintained by the SELLER following Purchase Order completion and closure of liabilities thereunder for a minimum of three (3) years, except for professional liability which shall be for seven (7) years. The SELLER shall provide EB with annual proof of renewals of such coverage upon BUYER request. If renewal of the claims made form of coverage becomes unavailable, or economically prohibitive, the SELLER shall purchase an extended reporting period ("tail") or execute another form of guarantee acceptable to the BUYER assuring financial responsibility for liability for services performed.
- e. All insurance shall be endorsed to include Electric Boat Corporation, its officers, and employees, as additional insured, and shall not be reduced below the required minimum limits, canceled, or substituted without thirty (30) days prior written notice to the BUYER. In addition, the SELLER's insurance shall be primary as respects Electric Boat Corporation, and any insurance maintained by

- Electric Boat Corporation shall be excess and not contributing insurance with the SELLER's insurance.
- f. Evidence of Insurance: SELLER shall furnish evidence of the required insurance coverages at least three (3) days prior to the start of any Work where possible, and in any event prior to the start of Work and prior to arriving for performance of Work on BUYER's owned/controlled sites or facilities. Evidence shall be electronically delivered to the BUYER of record on the Purchase Order, or mailed to:

Attn: BUYER Procurement Representative's Name

Electric Boat Corporation

75 Eastern Point Road

Groton, CT 06340-4989

- i. Evidence shall be in the form of a Certificate of Insurance signed by an authorized representative of the insurance company. The Certificate of Insurance must state that Electric Boat Corporation is named as the certificate holder and an additional insured and the SELLER's insurance will provide primary coverage. The certificate must also show that a waiver of subrogation has been endorsed by the SELLER's Workers' Compensation Policy.
- ii. Failure of SELLER and its subcontractors to have evidence of insurance on file with the BUYER prior to arrival at BUYER's premises for performance of Work hereunder will result in denied access to BUYER's premises, and such shall not relieve SELLER of its obligations hereunder, impose any liability on BUYER, or result in any equitable adjustment to cost/price or schedule.
- g. Self-insurance: should SELLER be self-insured, for any or all of the insurance requirements, a letter from the corporate risk manager, or appropriate finance office shall be submitted to BUYER. The letter shall stipulate self-insurance is actuarially funded and include fund limits; plus any excess declaration pages necessary to meet the Purchase Order requirements. The letter should also advise how SELLER would protect and defend Electric Boat Corporation as an additional insured in its self-insured layer, and include claims handling directions in the event of a claim. Upon satisfactory review by BUYER, SELLER's letter shall be accepted as evidence of insurance.
- h. Subcontractors: SELLER shall include all subcontractors as insureds under its policies or shall require its subcontractors to obtain and maintain the same insurances as are required hereunder, with the same minimum limits, as applicable. SELLER shall review and maintain Certificate of Insurance records for all its subcontractors to ensure the minimum coverage requirements of the BUYER are met as stated herein and are applicable to their profession.

CYBERSECURITY

85. Cybersecurity and Incident Reporting

- a. For purposes of this clause, the terms "Covered defense information", "Covered contractor information system," and "Cyber incident" are as defined at DFARS 252.204-7012.
- b. SELLER shall provide adequate security to safeguard Covered defense information that resides on or transits through SELLER's information system(s) or network(s), in accordance with DFARS 252.204-7012, 252.204-7019, 252.204-7020, and NIST SP 800-171 Rev. 1. To the extent applicable, these referenced DFARS provisions/clauses are hereby invoked by reference.
- c. In addition to the requirements specified above:

- i. SELLER shall rapidly report Cyber incidents to the BUYER, providing the information required under this clause.
 - ii. Without exception, any Cyber incident the SELLER encounters shall be reported to BUYER as soon as practicable within seventy-two (72) hours of discovery of a Cyber incident.
 - iii. In the event of a data breach, BUYER shall be afforded unfettered access to certain technical information (e.g., logs, packet flow information, etc.). This information will be required to satisfy BUYER's Customer's information requests.
 - iv. SELLER shall have a current DoD Assessment posted in the Supplier Performance Risk System ("SPRS") that was completed in the last three (3) years in order to be eligible for award, and maintain such assessment through award completion.
 - v. In any Cyber incident event, SELLER agrees to provide information and resources as required to support the evaluation, containment and resolution requirements of BUYER'S customer.
- d. **Flow-down Requirement:** SELLER shall include this clause in its subcontracts/contractual instruments, and require further flow-down as necessary, for/involving operationally critical support, or in which subcontractor performance will involve a Covered contractor information system, including in Lower-tier Subcontracts for Commercial items.

NAVAL NUCLEAR PROPULSION INFORMATION (NNPI)

86. Identification

- a. Naval Nuclear Propulsion Information (NNPI) is defined as that information and/or hardware concerning the design, arrangement, development, manufacturing, testing, operation, administration, training, maintenance, and repair of the propulsion plants of Naval Nuclear Powered Ships, including the associated shipboard and shore-based nuclear support facilities.
- b. NNPI may be classified (Restricted Data ("RD"), Formerly Restricted Data ("FRD")) or unclassified (Unclassified Naval Nuclear Propulsion Information ("U-NNPI"), Unclassified Controlled Nuclear Information ("UCNI")).

87. Subcontract (Flow-down) Requirement

- a. In all Lower-tier Subcontracts SELLER issues under this Order that involve NNPI, SELLER shall insert provisions which conform substantially to the language of these Terms and Conditions in this Naval Nuclear Propulsion Information section (clauses 86-95).

88. Access, Control, and Protection of Naval Nuclear Propulsion Information

- a. SELLER shall comply with all requirements, including, but not limited to, marking, handling, transmission, disclosure and disposal, specifically applicable to NNPI, including those set forth by OPNAVINST N9210.3, federal law, and Purchase Order requirements.
- b. SELLER shall allow access to NNPI by US citizens only, as access to NNPI is permitted only to U.S. citizens. Further, SELLER shall allow access only to those U.S. citizens with a Need-to-Know ("NTK") the information in order to perform the Purchase Order. Access to classified NNPI shall be further limited to only those individuals with an appropriate security clearance.
- c. SELLER shall not disclose NNPI to Foreign Nationals or Immigrant Aliens. Access to NNPI by Foreign Nationals or Immigrant Aliens is strictly prohibited, regardless of whether within or outside of the SELLER's company.
 - i. "Foreign National"/"Immigrant Alien" is defined as a person that is not a United States

citizen or a United States National.

ii. United States citizens representing a foreign government, foreign private interest or other Foreign Nationals, are considered to be Foreign Nationals for industrial security purposes and the purpose of this restriction.

d. Disclosure of RD, as defined in the Atomic Energy Act of 1954, as amended, relating to the Naval Nuclear Propulsion Program, to employees of contractors that have been granted limited clearance under the provisions of the DoD 5220.22-M, National Industrial Security Program Operating Manual (NISPOM), is NOT AUTHORIZED.

- e. SELLER shall develop and implement written policies and procedures, and other safeguards, for the protection of NNPI from inadvertent release by the SELLER, or any of SELLER's subcontractors.
- f. SELLER shall prevent disclosure of NNPI to the public, to those without an established NTK, and to those without appropriate clearance (for classified NNPI).
- g. SELLER shall report U.S. citizens having dual citizenship that require access to NNPI to the Chief of Naval Operations (CNO) (N00N)) PRIOR to granting the dual citizen(s) access to NNPI.
- h. SELLER agrees NNPI, whether provided to SELLER or generated by SELLER as part of the Purchase Order, shall only be used for the performance of the Purchase Order.
- i. NNPI generated by SELLER and/or SELLER's subcontractor(s) in performance of this Order shall contain markings to convey such designation as set forth in the requirements in the OPNAVINST N9210.3, NN-801, and any Security Guidance/Directives. SELLER and its subcontractors are required to impose the same markings as found on documents containing NNPI that are provided to SELLER during the course of the Order in all of SELLER's or its subcontractors generation, reproduction(s), expansion(s) or modifications(s) of NNPI.
- j. Unauthorized or suspected unauthorized release of NNPI information, whether intentional or unintentional, shall be reported by SELLER to the appropriate security personnel. This includes, but is not limited to, incidents of theft, improper disposal, placement on a website, transmission via electronic means, or violation of the information system(s) containing NNPI.
- k. SELLER shall immediately notify BUYER in writing when any litigation, subpoenas, or requests which either seek or may result in the release of NNPI are received by the SELLER or its subcontractors. If a court or administrative order makes immediate review by BUYER impractical, SELLER shall take all necessary steps to notify the court or administrative body of the Navy's interest in controlling the release of such information through review and concurrence in any release.
- l. The Contracting Officer reserves the right to audit SELLER's procedures, systems and facilities for compliance with the above requirements.
- m. Exceptions to these requirements may only be obtained with approval from the Director, Naval Nuclear Propulsion Program (CNO (N00N)). SELLER shall make any request for exceptions via BUYER.
- n. **Flow-down Requirement:** SELLER shall insert this clause, including this paragraph, in all Lower-tier Subcontracts/contractual instruments it issues in performance of this Purchase Order that involve

NNPI.

89. Visitor Controls

- a. Unless prior written consent of the BUYER is received, SELLER shall not permit any Visitors to its plants, offices, or facilities to view or examine documents, components, assemblies/subassemblies provided for or to be delivered under this Purchase Order, or to obtain information or data concerning such documents, components, assemblies, or major subassemblies.
 - i. "Visitor" as used herein refers to any person who visits the SELLER's plant, office or facility and who does not represent the SELLER, BUYER, or the Government in the performance of this Purchase Order. This includes Foreign Nationals, whose visits require additional controls above and beyond those necessary for visits by U.S. Citizens.
- b. SELLER shall have procedures that will prevent the release of NNPI to Visitors or to any other person or entity, including its own employees, that are otherwise ineligible to access/receive NNPI; or who do not have an established NTK for performance of this Purchase Order. SELLER must notify the BUYER in advance of any Visitor to SELLER's plant, office, or facility, who may be required to view or examine documents, components, assemblies, or major subassemblies provided for or delivered under this Order.
- c. **Flow-down Requirement:** SELLER shall ensure similar controls are in effect at all lower-tier suppliers.

90. Marking

- a. U-NNPI documents shall be designated "Not Releasable to Foreign Nationals" ("NOFORN") and shall be marked NOFORN at the top and bottom of each page.
- b. The following warning notice shall be included on the cover sheet and first page of NNPI documents:

"NOFORN: This document is subject to special export controls and each transmittal to foreign governments or foreign nationals may be made only with prior approval of the NAVAL SEA SYSTEMS COMMAND."
- c. Media, such as video tapes, disks, etc., must be marked and controlled similar to the markings on the original information.
- d. Classified NNPI is and shall be identified by markings as designated in OPNAVINST N9210.3.
- e. Electronic files must contain the classification/handling identifier prescribed in OPNAVINST N9210.3 in the file name.

91. Storage

- a. While in use, SELLER shall protect documents from unauthorized observation.
- b. SELLER shall not generate copies of U-NNPI documentation unless done in accordance with the provisions of the detailed guidance of the solicitation and/or Order requirements.
- c. When not in direct, active control of an authorized individual, U-NNPI shall be secured in an opaque, locked container (e.g., file cabinet, desk, safe, etc.). Access to the container shall be limited to only authorized persons, and any compromise of the container shall be able to be visually detected, and container should have no labels that indicate the contents.
- d. If removed from the SELLER's facility, U-NNPI information must remain in the personal possession of SELLER's authorized individual until such time as it can be properly stored.
- f. NNPI shall at no time be left unsecured in a home, automobile, hotel room, or sent in checked baggage.

- g. Information systems which will be used to store (electronic) NNPI files require NAVSEA 08 approval as per Letter 08B/19-03823 dated 02 August 2019.
- h. Electronic NNPI files must be stored on an encrypted file share or removable media device (disks, CDs/DVDs, USB drives, etc.).
- i. Personally-owned computing systems including, but not limited to, personal computers ("PC"), laptops, and Portable Electronic Devices ("PED"), such as Personal Digital Assistants ("PDA"), are not authorized for processing NNPI. Exceptions require the specific approval of CNO (N00N).

92. Transmission

- a. Transmission of NNPI outside of the SELLER's company is prohibited, except to lower-tier subcontractors which have a specific NTK the NNPI, and to which the SELLER has invoked the requirements for safeguarding NNPI in compliance with the guidance and requirements of the Purchase Order.
- b. Transmission of electronic NNPI files outside of the SELLER's company may only be made to information systems approved by NAVSEA 08, as per Letter 08B/19-03823 dated 02 August 2019.
- c. NNPI shall not be transmitted or disclosed to any Foreign National, Immigrant Alien, or foreign interest, whether within or outside the SELLER's company.
- d. U-NNPI may be faxed within the U.S. and its territories, provided there is an authorized person waiting to receive the document to properly control it; and the device receiving the transmission is not connected to a computer system, unless approved by CNO (N00N).
- e. U-NNPI may not be faxed to facilities outside the U.S. or its territories, including military installations, unless the transmission line is encrypted using means approved by the CNO (N00N).
- f. U-NNPI may be shipped within the U.S and its territories as certified mail, via the U.S. Postal Service or any U.S. express freight carrier in an opaque envelope/package that bears no external marking so as to reveal its contents to unauthorized personnel.
- g. Electronic NNPI files transmitted outside the SELLER's facility must be encrypted.

93. Disposal

- a. SELLER must promptly remove all NNPI markings from material produced under this Purchase Order but not delivered. If after removal of markings the equipment or component would still reveal NNPI, the item shall be disposed of in the same manner as classified material.
- b. SELLER shall ensure that NNPI is disposed of in accordance with applicable direction in the OPNAVINST N9210.3 and, upon completion of disposal, shall notify BUYER in writing. Disposing of U-NNPI documents in the same manner as classified documents is preferred.

Electric Boat Corporation

General Provisions for Orders under U.S. Government Contracts

February 2023, Rev 1

Standard Clauses

17-33 ACCEPTANCE OR REJECTION OF DPAS RATED PURCHASE ORDERS

This is a rated order certified for national defense use and you are required to follow all provisions of the defense priorities and allocations system (DPAS) Regulation (15 CFR 700).

The DPAS Rating(s) for this request for quotation/purchase order are specified at the line item level and may vary by line item.

A seller shall accept and fill rated orders regardless of any other rated or unrated that have been accepted. Rated orders can only be rejected for the reasons specified in 15 CFR 700.13 (B) and 15 CFR 700.13(C).

Further flow down of the priority ratings may be required. Seller agrees to schedule the materials described herein abiding by the DPAS priority rating stated in this request for quotation/purchase order.

Seller is required to acknowledge its acceptance or rejection of any resulting purchase order in writing (Hard Copy), or in electronic format, within fifteen (15) working days after a receipt of a DO rated order and within (10) working days after receipt of a DX rated order by completing and submitting the purchase order acknowledgment, which indicates suppliers receipt and acceptance of a DPAS rated order. If the order is rejected, the seller must give reasons in writing or electronically for the rejection in accordance with 15 CFR 700.13 (D).

Any supplier who places or receives a rated order should be thoroughly familiar with, and must comply with, the provisions of this regulation.

Signatures	
Buyer	Supplier
(Authorized Representative Signature)	(Authorized Representative Signature)
Name	Name
(Title)	(Title)
(Date)	(Date)