



MARVIN ENGINEERING CO., INC.

PURCHASE ORDER GENERAL TERMS AND CONDITIONS

November 2016

Title and Clause Number

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1. DEFINITIONS.

- A. BUYER means Marvin Engineering Co., Inc. including its subsidiaries, sectors, and divisions as identified on the face of the Order.
- B. BUYER'S AUTHORIZED PURCHASING REPRESENTATIVE means the person authorized by Buyer's procurement organization to administer and/or execute the Order.
- C. DATA means all financial/business information, designs, dimensions, specifications, drawings, patterns, know how, or other information concerning methods, manufacturing processes, equipment, gauges and tools used in the design and manufacture of Products. Data may be recorded in a written or printed document, computer or electronically stored, software, or any other tangible form of expression.
- D. DFARS means the Defense Federal Acquisition Regulation Supplement
- E. FAR means the Federal Acquisition Regulation
- F. ORDER means the instrument of contracting including the Purchase Order and all referenced documents.
- G. PARTIES means Buyer and Seller collectively.
- H. PRIME CONTRACT means the contracting instrument issued to Buyer or Buyer's higher tier customer by the U.S. Government for the acquisition of Products.
- I. PRODUCTS means those goods, supplies, reports, computer software, data, materials, articles, items, parts, components or assemblies, and any incidental services described in the Order.
- J. PROPRIETARY INFORMATION means all Data or other information that is identified in writing at the time of disclosure as proprietary and marked with an appropriate legend, marking or stamp identifying the Data as Proprietary to the party disclosing the information, and includes any information marked with a restrictive legend as prescribed in DFARS 252.227-7013 or 252.227-7014 or in FAR 52.227-14.
- K. SELLER means the party with whom Buyer is contracting.

2. ACCEPTANCE.

This Order is Buyer's offer to Seller. Acceptance of this offer is strictly limited to the terms and conditions in this offer. Modifications hereto, to be binding, must be in writing and signed by Buyer's Authorized Purchasing Representative. Seller's acknowledgement, acceptance of payment shall conclusively evidence acceptance of this offer as written. Buyer hereby objects to any additional or different terms contained in Seller's acceptance.

3. ORDER OF PRECEDENCE.

In the event of any inconsistency or conflict between or among the provisions of this Purchase Order, the inconsistency shall be resolved by giving precedence in the following order:

- A. Change Order Document
- B. Purchase Order Document
- C. Purchase Order Terms and Conditions.
- D. FAR/DFARS Clauses
- E. Statement of Work.
- F. Specification/Drawing
- G. Product Assurance Provisions
- I. Other Referenced Documents.

4. TITLE.

- A. For build-to-print and build-to-specification transactions (Buyer-furnished prints/specifications), title to Products, whether work-in-progress or finished, shall always belong to Buyer.
- B. For commercial-off-the-shelf Products, title shall pass to Buyer upon acceptance (except as otherwise specified within this Order). Title assignment defined above shall not relieve Seller of any other obligations under this Order.

5. DELIVERY AND RISK OF LOSS

- A. All deliveries shall be strictly in accordance with the applicable quantities and schedules set forth in this Order. Buyer reserves the right to return overshipments and early shipments at Seller's expense. Seller shall be liable for all storage/handling charges incurred as a result of overshipments and early shipments.
- B. Whenever it appears Seller will not meet the delivery schedule, Seller shall immediately notify Buyer of the reason and estimated length of the delay. Seller shall make every effort to avoid or minimize the delay to the maximum extent possible including the expenditure of premium time and most expeditious transportation. Any additional cost caused by these requirements shall be borne by Seller.
- C. If Seller is unable to meet the required delivery schedules for any reason, other than a change directed by Buyer, Buyer shall have the option to:
 - 1. Terminate this Order; or
 - 2. Fill such Order or any portion thereof, from sources other than Seller and to reduce Seller's Order quantities accordingly at no increase in unit price, without any penalty to Buyer; or
 - 3. Accept late delivery and recover from Seller any costs Buyer incurs caused by the late delivery.

This condition shall not limit Buyer's rights under the default clause contained herein.

- D. All Parties expressly agree that time is and shall remain a material element of this Order and no acts of Buyer, including without limitation, modifications to this Order or acceptance of late deliveries, shall constitute a waiver of this provision.
- E. All deliveries to Buyer, whether domestic U.S. or international transactions, shall be governed by DAP (Marvin, Inglewood, CA) Incoterms 2010, unless otherwise specified in the Order.



F. If Seller is permitted to use terms other than DAP Buyer's premises, Seller shall provide the name and contact information for all freight forwarders, carriers or cartage agents expected to handle Buyer's cargo. Seller shall provide this information to the Buyer not later than 10 days after Order acceptance. Seller proposed freight forwarders, carriers or cartage agents must have a reputation for honesty and a company policy prohibiting bribes and facilitating payments intended to expedite or secure performance of a routine governmental action, such as, customs clearance. Buyer retains the right to deny Seller's use of Seller proposed freight forwarders, carriers or cartage agents within 30 days of Seller notification. Seller shall ensure that Buyer's purchase does not transit through one of the Proscribed Countries listed in the U.S. International Traffic in Arms Regulations, 22 CFR 126.1.

6. INVOICE AND FREIGHT BILL.

Seller shall send a separate invoice for each shipment and shall include the following information taken from Buyer's Order: (a) Order number; (b) item number; (c) part serial number (if serialized); (d) part number; (e) unit of measure; (f) unit price; and (g) unit Export Control Classification Number (ECCN) or International Traffic in Arms Regulations (ITAR) designation. Seller's invoice shall also include: (h) Seller's phone number and address; (i) invoice number; (j) date prepared; (k) item quantity; (l) extended item price; and (m) total invoice value. If Seller's "remit to" address is different than the address indicated on the Order, clearly identify the "remit to" address on the invoice. No invoice shall be issued prior to shipment of Products. Seller shall also provide documentation to support its invoice as Buyer may reasonably require. For each shipment made at Buyer's expense (i.e., FOB Origin), Seller shall include a copy of the freight bill (which shall include the weight of items shipped) with each invoice. Buyer reserves the right to return invoices failing to comply with these instructions for re-submittal of a correct invoice.

7. PAYMENT.

Payment due dates will be calculated from the date of Buyer's receipt of acceptable Products or correct invoice, whichever is later. Unless freight and other charges are itemized, any discount will be taken on the full amount invoiced. Buyer has the right, without loss of discount privileges, to pay invoices covering Products shipped in advance of schedule on the normal maturity after the date specified for delivery. Payment shall not constitute acceptance of Products. Any amounts owing to Buyer by Seller may be set off against amounts otherwise due to Seller under this Order.

8. PACKING AND SHIPPING.

Seller shall be responsible for ensuring the proper packaging, bracing, and shipping of Product hereunder in accordance with Buyer's Purchase Order Terms and Conditions. Damage resulting from improper Product packaging will be charged to Seller.

9. INSPECTION AND ACCEPTANCE.

Unless otherwise specified, Buyer's final inspection and acceptance shall be at destination. Failure to inspect and accept or reject Products shall not relieve the Seller from responsibility for compliance with Order requirements nor impose liability on Buyer.

10. NONCONFORMING GOODS.

If Seller fails to deliver or delivers defective or nonconforming Products, Buyer may:

- A. Reject all or any part of a delivery of defective or non-conforming Products, and demand delivery of conforming Products. All rejected Products shall be shipped to Seller at Seller's expense; or
- B. Make, or have a third party make, all repairs, modifications, or replacements necessary to enable such Product to comply in all respects with Order requirements and charge the expense incurred to Seller; or
- C. Terminate this Order for default in whole or in part.

11. WARRANTY.

A. Seller warrants that all Products delivered under this Order will: be free from defects in materials, workmanship, and manufacturing processes; conform to all requirements of this Order; and be free of all liens and encumbrances. To the extent Products are not manufactured pursuant to detailed design and specifications furnished by Buyer, Seller warrants that the Product shall be free from design and specifications defects.

B. If any Product fails to comply in any respect to the warranty set forth above, Seller, at Buyer's option, shall promptly repair or replace the Product. Transportation of replacement Product and return of nonconforming Product shall be at Seller's expense. If repair or replacement of Product is not timely, Buyer may elect to return, repair, replace, or repro cure the nonconforming Product at Seller's expense. All warranties shall apply to Buyer and its customers.

C. Buyer's approval of any documentation prepared by Seller or Buyer's participation in design reviews or first article approval process or similar reviews shall not relieve Seller of any obligation under this warranty.

D. Buyer's rights under this clause shall, at Buyer's option, be assignable to and enforceable by its successors and customers.

E. The rights of Buyer set forth in this clause shall be in addition to, and not in lieu of, any other right Buyer may have under this Order, or in law or equity.

12. CHANGES.

A. Buyer's Authorized Purchasing Representative may at any time, by written order, and without notice to sureties or assignees, if any, make changes within the general scope of this Order in:

- 1. Drawings, designs, specifications, planning, and/or other technical documents;
- 2. Method of shipment, packaging, or packing;
- 3. Place of delivery;
- 4. Reasonable adjustments in quantities or delivery schedules or both;
- 5. Place of inspection; and
- 6. Place of acceptance.



B. If the change causes an increase or decrease in the cost or time required to perform this Order, Buyer and Seller shall negotiate an equitable adjustment in the price or schedule, or both, to reflect the increase or decrease. Buyer shall modify this Order in writing accordingly.

C. Any claim for adjustment shall be unconditionally waived unless:

1. Asserted in writing and delivered to Buyer within 15 days of date of written change order; and 2. A fully supported proposal is delivered to Buyer's Authorized Purchasing Representative within 30 days after Seller's receipt of such direction.

D. If Seller claims the cost of any Property made obsolete or excess, Buyer shall have the right to prescribe the manner of disposition of the property to include the right to acquire that property for the cost claimed.

E. Buyer has the right to examine any of Seller's pertinent books and records for the purpose of verifying Seller's claim.

F. Failure to agree to any adjustment shall be a dispute within the meaning of the "Disputes" clause hereof. However, Seller shall not be excused from proceeding with the Order as changed.

13. BUYER AUTHORIZATION.

A. Buyer's Authorized Purchasing Representative has sole authority to make contractual commitments on behalf of the Buyer, to provide contractual direction, and to change contractual requirements as defined in the Order.

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

14. DISPUTES.

A. Any dispute that may arise under or in connection with this Order with respect to the rights, duties, or obligations of the Parties shall be submitted in writing for resolution to ascending levels of management of the respective Parties up to the Senior Executive of the organization placing the Order, and Seller's equivalent executive level.

B. If a dispute cannot be resolved to both Parties' mutual satisfaction, after good faith negotiations, within ninety (90) calendar days from the date the written claim is received by the other Party, or such additional time as the Parties agree upon, in writing, either Party may only bring suit in Federal Court or the County of Los Angeles, in the state of California from which this Order is issued. Seller consents to personal jurisdiction for this purpose in the forum state from which this Order is issued.

C. Pending any prosecution, appeal, or final decision referred to in this clause, or the settlement of any dispute arising under this Order, Seller shall proceed diligently, as directed by Buyer, with performance of the Order.

D. To the maximum extent permitted by law, the parties waive any right to a jury trial and agree that such dispute shall be decided by a judge only.

15. TERMINATION FOR CONVENIENCE.

Buyer may at any time terminate all or any part of this Order in accordance with the contract clause entitled "Termination for Convenience of the Government (Fixed-Price)" set forth at 52.249-2 of the FAR, which clause is hereby incorporated herein and made a part hereof by this reference, except that the term "contract" therein shall mean this Order, the term "Contracting Officer" therein shall mean "Buyer", the term "Government" therein shall mean "Buyer" except that in subparagraph (b) (8) and at the first occurrence thereof in paragraph (h) it shall mean "Buyer or the Government" and in paragraph (n) it shall mean "Buyer and the Government", the term "Contractor" therein shall mean "Seller", paragraphs (d) and (j) thereof are deleted, the period "120 days" in paragraph (c) is changed to "60 days", the period "1 year" in paragraph (e) is changed to "3 months" and the period "90 days" in paragraph (l) is changed to "45 days"; provided, however, that if this Order is a first-tier subcontract under a U.S. Government prime contract, the period "1 year" in paragraph (e) is changed to "180 days."

16. TERMINATION FOR DEFAULT.

A. The FAR 52.249-8 "Default (Fixed Price Supply and Service)" clause is by this reference incorporated herein and made a part hereof except that the term "contract" therein shall mean this Order, the term "Contractor" therein shall mean "Seller", the term "Contracting Officer" therein shall mean "Buyer", the term "Government" in all paragraphs thereof except paragraph (c) shall mean "Buyer" and all reference therein to "Disputes" shall mean the "Disputes" clause of this Order. Buyer may terminate this Order in whole, or in part, for Seller's default in accordance with this clause. In addition, Buyer may terminate this Order in whole, or in part, in the event one of the following occurs, is threatened, or is imminent with respect to Seller: insolvency; bankruptcy; suspension of business; sale of a substantial part of Seller's assets; filing for dissolution; liquidation proceedings; appointment of a trustee or receiver for Seller's property or business; or assignment.

B. As set forth in FAR 52.249-8 the Parties agree that in the event a determination is made whether by the Parties or a court that the default termination was inappropriate, the Parties' rights and obligations shall be solely governed by the "Termination for Convenience" clause contained herein and Seller shall be entitled to a recovery no greater than that permitted in said "Termination for Convenience" clause.

17. BUYER'S PROPERTY.

A. Seller shall be responsible for all Buyer-furnished property (e.g., dies, molds, jigs, tools, materials, etc.); if Seller fails to return such property upon Buyer's demand, Buyer shall have the right, upon reasonable notice, to enter Seller's premises and remove any such property without being liable for trespass or damages of any sort.

B. Seller shall assume the risk of, and be responsible for, any loss, destruction of or damage to Buyer's property while in Seller's possession or control. Seller shall, at its sole cost, maintain insurance covering any loss or damage to Buyer materials, tools, and/or equipment for the full replacement value, and protecting against all perils normally covered in an "all-risk" policy including but not limited to fire, windstorm, hurricane, tornado sandstorm, explosion, riot, civil commotion, aircraft, earthquake, floor or other acts of



nature during such time as they remain in Seller's possession. Upon request, Seller shall provide Buyer with adequate proof of insurance against such risk of loss or damage.

C. If seller cannot locate Buyer-furnished property, Seller has five (5) business days to find the misplaced item. After such period, the property shall be deemed "lost" and Seller must reimburse Marvin Engineering Co., Inc. for its full replacement cost. The search period begins either:

1. Upon Seller's notification to Buyer of a misplaced item (where the reimbursement shall take place on the 6th business day the item is lost), OR
2. Five (5) business days after Property Transfer Authorization issuance date (i.e., ten (10) business days total) where the reimbursement shall take place on the 11th business day the item is lost.

18. GOVERNMENT PROPERTY.

A. Seller shall be responsible for all Government-furnished property in accordance with Buyer's Tooling Control document, which is incorporated herein.

B. If, in performing this Order, any Government property is furnished to Seller, Seller shall assume the risk of, and be responsible for, any loss, destruction of or damage to Government property while in Seller's possession or control except to the extent that this Order provides otherwise. Seller shall return all Government property in a condition as good as when received except for reasonable wear and tear. Seller shall establish and maintain a system for control of Government property in accordance with FAR 52.245-1, "Government Property". Seller shall notify Marvin Engineering Co., Inc. if the Government determines that its system is inadequate.

C. If Seller cannot locate Government-furnished property, Seller has five (5) business days to find the misplaced item. After such period, the property shall be deemed "lost" and Seller must reimburse Marvin Engineering Co., Inc. for the full replacement cost of the item. The search period begins either:

1. Upon Seller's notification to Buyer of a misplaced item (where the reimbursement shall take place on the 6th business day the item is lost), OR
2. Five (5) business days after Property Transfer Authorization issuance date (i.e. ten (10) business days total) where the reimbursement shall take place on the 11th business day the item is lost.

19. DISPOSAL OF PRODUCTS.

Seller shall not sell, or otherwise dispose of as scrap or otherwise, any completed or partially completed or defective Products without defacing or rendering such Products unsuitable for use. Upon completion or termination of this Order, Seller shall, at Seller's expense, dispose of all Products, including partially completed Products, as required or directed by Buyer.

20. PRIORITY RATING

If so identified, this Purchase Order is a "rated order" certified for national defense use, and Seller shall follow all the requirements of the Defense Priorities and Allocation System Regulation (15 C.F.R. Part 700).

21. TAXES.

The price of this Order includes all applicable Federal, State, and Local taxes, duties, tariffs, and similar fees imposed by any government, all of which shall be listed separately on the invoice. Use or sales taxes for which Buyer has furnished a valid exemption certificate or a direct pay permit shall not be included.

22. ASSIGNMENT.

A. Seller shall not assign any of its rights under this Order without Buyer's prior, written consent, except as specifically stated in this clause. Seller may assign to a bank, trust company, or other financing institution including any Federal lending agency, claims for money due or to become due to Seller from Buyer under this Order, provided:

1. The assignment is limited to one party, covers all amounts payable under the Order and not already paid, is not subject to further assignment, and is made specifically subject to reduction and setoff or recoupment for any present or future claim or claims or indebtedness which Buyer may have against Seller;
2. Seller furnishes to Buyer written notice of assignment and a true copy of the instrument of assignment.

B. Buyer may make direct settlements or adjustments in price, or both, with Seller under the terms of this Order notwithstanding any assignment of claims for money due or to become due under this Order and without notice to the assignee.

C. Seller shall not furnish or disclose to any assignee under this Order or any other person not entitled to receive the same, any classified document or any of Buyer's Proprietary Information (including this Order) until and unless authorized to do so by Buyer's Authorized Purchasing Representative.

23. SUBCONTRACTING.

A. Seller shall not subcontract without the prior written authorization of Buyer for the design or procurement of the whole or any major component of any Product ordered hereunder, and Seller shall require a like agreement from immediate and lower-tier suppliers. This is not a restriction on authorized distributors, dealers, jobbers or industrial suppliers.

B. No subcontract placed under this Order shall provide for payment on a cost-plus-percentage-of-cost basis, and any fee payable under cost-reimbursement subcontracts shall not exceed the fee limitations in FAR subsection 15.404-4(c).

C. Any subcontract awarded to a foreign person, as defined in the ITAR or the Export Administration Regulations (EAR), must comply with the "Export and Import Compliance" clause herein.



24. INFORMATION OF BUYER AND SELLER.

A. Unless expressly stated otherwise herein, the exchange of information under this Order shall be governed by this Order and, in particular this Clause 23, which supersedes any prior agreement between Buyer and Seller to protect information relating to the purpose of this Order.

B. Seller shall keep confidential all information, drawings, specifications, or data and return, upon request, all documents furnished by Buyer and shall not divulge or use such information, drawings, specifications or data for the benefit of any other party. Except as required for the efficient performance of this Order, Seller shall not make copies or permit copies to be made without the prior written consent of Buyer. Seller shall make no use, either directly or indirectly, of any such data or any information derived therefrom, except in performing this Order, without obtaining Buyer's written consent.

C. Seller agrees that all information heretofore or hereafter furnished or disclosed to Buyer by Seller in connection with the placing or performance of this Order is furnished or disclosed as a part of the consideration for this Order; that such information is not, unless otherwise agreed to by Buyer in writing, to be treated as confidential or proprietary; and that Seller shall assert no claims (other than for patent infringement) by reason of the use or disclosure of such information by Buyer, its assigns, or its customers and Seller shall not place any restrictive markings on such information. Any agreement purporting to provide for the confidential treatment of, or limiting the use of or disclosure of, information so furnished or disclosed, must be in writing and signed by Buyer.

D. If this Order is issued under a U.S. Government contract, subsections B. and C. above shall be deemed deleted and this clause D. shall apply. Each Party agrees to keep confidential and not to disclose to any other person (unless permitted below or elsewhere in this Order) any Proprietary Information received from the other Party in connection with this Order. Proprietary Information shall be all information exchanged under this Order in written or other permanent form which is clearly and conspicuously marked as being proprietary using an appropriate legend. Proprietary Information shall also include information originally disclosed in some other form (e.g., orally or visually) to the extent that the disclosing Party:

1. Identifies the information as proprietary at the time of original disclosure;
2. Summarizes the Proprietary Information in writing;
3. Marks the writing clearly and conspicuously with an appropriate proprietary legend; and
4. Delivers the writing to the receiving party within thirty (30) days of the original disclosure.

The foregoing limitation on disclosure and use shall not apply to data or information which:

- i. Was in the rightful possession of a receiving Party without restriction, prior to the first receipt from the disclosing Party; or
- ii. Now or hereafter, through no act or failure to act on the part of a receiving Party, becomes generally known and available to the public without restriction; or
- iii. Is hereafter disclosed and made available to a receiving Party without restriction by others having the right to make such disclosure.

E. If this Order is issued under a U.S. Government contract, Seller agrees to use Buyer's Proprietary Information only for purposes necessary for performing this Order, without first obtaining Buyer's written authorization. Seller further hereby grants to Buyer a non-exclusive, irrevocable, worldwide, right and license to copy, modify, use and disclose to the U.S. Government or any higher tier contractor, any information received from Seller, including Proprietary Information, for the performance of this Order and any higher tier contract from which this Subcontract is issued.

F. All documents and other tangible media (excluding Products) transferred in connection with this Subcontract, together with any copies thereof, are and remain the property of Buyer.

G. Neither the existence of this Order nor the disclosure hereunder of Proprietary Information or any other information shall be construed as granting expressly, by implication, by estoppel or otherwise, a license under any invention or patent now or hereafter owned or controlled by Buyer or Buyer's customer, except as specifically set forth herein.

H. Seller's obligations with respect to information or data disclosed hereunder prior to the performance in full, termination or cancellation of this Order shall not, except as expressly set forth herein, be affected by such performance in full, termination, or cancellation.

I. Notwithstanding, the foregoing, nothing in this clause is intended to affect the rights or exercise of rights, if any, obtained by the U.S. Government under the "Rights in Technical Data – Noncommercial Items" clause DFARS 252.227-7013 and "Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation" clause DFARS 252.227-7014, or any similar or successor clauses, or other clauses that may be contained in any contracts or subcontracts between Buyer and Seller and any customer.

25. SUBCONTRACT DELIVERABLES.

Seller agrees and acknowledges that all deliverables, or portions thereof, under this Order ("Deliverable Materials") may be incorporated into deliverables under the next higher tier or prime contract. Seller hereby grants Buyer the right to deliver the Deliverable Materials or any portion thereof under the next higher tier or prime contract. Seller further hereby agrees to deliver the Deliverable Materials under this Order with the appropriate markings required by the Government regulations incorporated into this Order.

26. INFRINGEMENT INDEMNIFICATION.

A. In lieu of any other warranty by Seller to Buyer against intellectual property infringement, statutory or otherwise, expressed or implied, Seller will defend, indemnify, and hold harmless Buyer, Buyer's officers, agents, employees, and customers against all suits or actions, claims and liabilities, including costs, based on a claim that use or sale of any Products delivered under this Order infringes any patent, trade secret, copyright, or other intellectual property right of third parties.

B. Buyer shall notify Seller in writing of such claim and Buyer shall provide Seller with reasonable information and assistance, at Seller's expense, for the defense thereof.

C. If the use or sale of the Product is enjoined as a result of a suit, Seller, at no expense to Buyer, shall obtain for Buyer and its customer the right to use and sell the Product or shall substitute an equivalent Product acceptable to Buyer and extend this indemnification thereto.



D. Seller's obligation shall not apply to Products manufactured by Seller pursuant to detailed designs developed by Buyer and furnished to Seller under an Order, which does not require research, development, or design work by Seller. Seller's obligation shall also not apply to any infringement arising from the use or sale of Products in combination with Products not delivered by Seller if such infringement would not have occurred but for such combined use unless such combination was reasonably foreseeable.

E. Notwithstanding the foregoing, when this Order is performed under the authorization and consent of the U.S. Government to infringe United States Patents, Seller's liability for Seller's patent infringement under this Order shall be coextensive with Buyer's liability.

27. INSURANCE.

A. During the entire Order period Seller and its subcontractors shall, at their sole cost and expense, procure and maintain Worker's Compensation insurance coverage as required by the laws of the state in which the work is performed and such insurance shall provide waiver of subrogation against Buyer. Seller shall also maintain, at its sole cost and expense, Employer Liability insurance in the amount of at least US\$1,000,000.

B. Seller and its subcontractors shall, at their sole cost and expense, procure and maintain the following insurance coverage in the minimum limits indicated:

1. Commercial General Liability (CGL) – Combined Single Limit (CSL) \$2,000,000 bodily injury and/or property damage. Coverage shall include but not necessarily be limited to, premises and operations, products and completed operations and contracts.

2. Automobile Liability (AL) – Combined Single Limit (CSL) \$2,000,000 bodily injury and/or property damage covering all owned, hired and non-owned vehicles.

C. All insurance required as a part of this Order shall be placed with insurance companies that are authorized to do business under the laws of the state or states in which the work is being performed and shall be in a form reasonably acceptable to Buyer.

D. General Liability and Automobile Liability insurance coverage shall provide that Buyer is named as an additional insured and if requested by Buyer, Seller shall provide evidence that the required insurance is in place in the form of insurance certificates.

E. Insurance coverage described herein must be in place and effective prior to commencement of any activity that is the subject of this Order. Renewal insurance certificates, if applicable, shall be provided to Buyer at least 15 days prior to the expiration date of the insurance under each required coverage.

F. Buyer and Seller agree to defend, indemnify, and save harmless the other from all damages and liabilities arising out of or in connection with presence on the other's premises pursuant to this Order; provided, however, that such damage and liability shall not have been caused by the negligence of the agents, subcontractors or employees of the indemnified parties.

G. Additional insurance types and/or limits will be necessary if the work involves extra hazardous operations. The extra hazardous operations include dispensing of medical care, operations involving the nuclear hazard, providing professional engineering advice, large construction projects (above \$5,000,000) hazardous waste, food service, crane operation, work above ground, work below ground, and operations involving demolition or explosives.

H. If work involves aviation products, Aviation Products Liability: \$100,000,000.

I. Foreign Direct Sale Insurance mandated by the country involved.

28. LABOR DISPUTES.

Whenever Seller has knowledge that any actual or potential labor dispute is delaying or threatens to delay timely performance of this Order, Seller shall immediately give notice to Buyer including all relevant information including, but not limited to, nature of dispute, labor organizations involved, contingency plans regarding the protection of the Buyer's Order and estimated duration. Seller shall also provide updated reports throughout the dispute duration. Seller agrees to insert the substance of this clause, including this sentence, in any lower-tier subcontract where a labor dispute might delay timely performance of this Order.

29. COMPLIANCE WITH LAWS.

A. Seller shall comply with all applicable Federal, State and Local laws, statutes, rulings, ordinances, orders, and regulations in effect on the date of this Order.

B. Seller certifies that the Products called for by this Order have been or will be produced in full compliance with Sections 6, 7, 12, and 15 of the Fair Labor Standards Act of 1938 (29 U.S. Code 201-219), as amended, and of regulations and orders of the United States Department of Labor under Section 14 thereof.

30. CHOICE OF LAW.

Both Parties agree that, irrespective of the place of performance of this Order, this Order will be construed and interpreted according to the law of the state from which this Order is issued, as identified in the Order, excepting that state's laws on conflict of law.

31. ASBESTOS.

Seller shall not provide any Product that contains asbestos and shall submit certification to Buyer on demand that the Products contain no asbestos.

32. OFFSET COMMITMENT.

This clause shall only apply to Orders in excess of \$50,000.00.

A. Definition: "Offset" means the obligations that Buyer undertakes, in order to market or sell its Products, to assist a customer country in reducing any trade imbalance caused by its purchase of Buyer's Products or to meet other customer country national objectives.

B. Notwithstanding that this Order is or is not made in direct support of a foreign sale, Seller agrees that it is obligated to support Buyer's Offset commitments as a condition of this Order.

C. The offset credits arising out of or resulting from, directly or indirectly, this Order is for the exclusive use of Buyer and may be used by Buyer and any of its affiliates and subsidiaries to fulfill all past, present and future Offset obligations. In addition, Seller agrees to



identify and retain for Buyer's use any rights to offset credits generated by its suppliers and subcontractors arising out of or resulting from this Order.

D. Seller shall provide a copy of each Order or Subcontract placed with a foreign source under this Order in support of Buyer's rights to offset credit.

E. Seller shall execute all necessary documents to evidence Buyer's right to use or assign any offset credits.

F. Buyer reserves the right to assign offset credits generated through Seller's efforts under this Order to third parties.

G. Seller shall include the substance of this clause, in favor of Buyer, in its subcontracts issued at all tiers pursuant to this Order.

33. EXPORT AND IMPORT COMPLIANCE.

A. Export Compliance

General Performance of this Order may involve the use of or access to articles, technical data or software that is subject to export controls under 22 United States Code 2751 – 2799 (Arms Export Control Act) and 22 Code of Federal Regulations 120-130 (International Traffic in Arms Regulations or "ITAR") or 50 United States Code 2401-2420 (Export Administration Act of 1979, as amended), 50 United States Code 1701-1706, (International Emergency Economic Powers Act, as amended), and 15 Code of Federal Regulations 768 – 799 (Export Administration Regulations) and their successor and supplemental laws and regulations (collectively hereinafter referred to as the "Export Laws and Regulations"). Seller represents and warrants that it is either:

1. A U.S. Person as that term is defined in the Export Laws and Regulations; or
2. A Foreign Person as that term is defined in the Export Laws and Regulations and has disclosed to Buyer's Representative in writing the country in which it is incorporated/authorized/ organized to do business, and all nationalities of any dual or third-country national employees who will require access to the data, articles or services provided hereunder.

Seller shall comply with all applicable Export Laws, Regulations, and licenses.

1. Registration. If Seller is a U.S. entity and is engaged in the business of either exporting or manufacturing (whether exporting or not) defense articles or furnishing defense services, Seller represents that it is registered with the U.S. Department of State's Directorate of Defense Trade Controls, as required by the ITAR, and it maintains an effective export and import compliance program in accordance with the ITAR.

2. Foreign Persons. Seller shall not re-transfer any export-controlled information (e.g. technical data or software) to any other non-US person or entity (including the Seller's dual and/or third-country national employees) without first complying with all the requirements of the applicable Export Laws and Regulations.

Prior to any proposed re-transfer, Seller shall first obtain the written consent of the Buyer. No consent granted by Buyer in response to Seller's request shall relieve Seller of its obligations to comply with the provisions of paragraph A. of this Clause or the Export Laws and Regulations, nor shall any such consent constitute a waiver of the requirements of paragraph A. hereinabove, nor constitute consent for Seller to violate any provision of the Export Laws and Regulations.

B. Political Contributions, Fees and Commissions.

If this Purchase Order is valued in an amount of \$500,000 or more, then in performance of this Purchase Order, Seller shall not directly or indirectly pay, offer or agree to pay any political contributions or any fees or commissions.

1. For purposes of this section and pursuant to 22 CFR 130.6, political contribution means any loan, gift, donation or other payment of \$1,000 or more made, or offered or agreed to be made, directly or indirectly, whether in cash or in kind, which is:

(a) To or for the benefit of, or at the direction of, any non-U.S. candidate, committee, political party, political faction, or government or governmental subdivision, or any individual elected, appointed or otherwise designated as an employee or officer thereof; and

(b) For the solicitation or promotion or otherwise to secure the conclusion of a sale of defense articles or defense services to or for the use of the armed forces of a non-U.S. country or international organization. Taxes, customs duties, license fees, and other charges required to be paid by applicable law or regulation are not regarded as political contributions.

2. For purposes of this section and pursuant to 22 CFR 130.5, fee or commission means any loan, gift, donation or other payment of \$1,000 or more made, or offered or agreed to be made directly or indirectly, whether in cash or in kind, and whether or not pursuant to a written contract, which is:

(a) To or at the direction of any person, irrespective of nationality, whether or not employed by or affiliated with the Seller; and

(b) For the solicitation or promotion or otherwise to secure the conclusion of a sale of defense articles or defense services to or for the use of the armed forces of a non-U.S. country or international organization.

C. Import Compliance. Both parties shall comply with all U.S. Customs laws and regulations (e.g., 19 CFR) and all other applicable U.S. government regulations pertaining to importations of goods and materials into the United States.

1. For International Orders (Purchase Orders issued to entities addressed in foreign countries): Specifically, without excluding other regulations, Seller shall comply with and adhere to the commercial invoice requirements detailed in 19 CFR 141 subpart F of the regulations, and provide additional information as requested by the Buyer. Seller shall immediately upon discovery, notify Buyer of any change to the shipment data related to product valuation, quantities shipped, country of origin, port of export and any additional information directed by the Buyer. Seller will timely provide pre-alert shipping information and documentation prior to shipment arrival to the U.S. Buyer will direct Seller where to send pre-alert shipping information and documentation. Pre-alert shipping documentation includes, but is not limited to, a commercial invoice, airway bill, bill of lading, and other required documentation as directed by U.S. regulations and Buyer.

2. For Domestic Orders (Purchase Orders issued to entities addressed in the United States): Seller shall assume all U.S. import responsibilities, to include designation as U.S. Importer of Record, Customs clearance, duty, taxes, and fees for goods entering into the United States. Unless otherwise agreed in writing, NGC will not assume any import liabilities for goods procured through a domestic purchase order.



D. Indemnification.

Seller shall indemnify and save harmless Buyer from and against any and all damages, liabilities, penalties, fines, costs, and expenses, including attorney's fees, arising out of claims, suit, allegations or charges of Seller's failure to comply with the provisions of this Clause and breach of the warranty set forth in paragraph A or C. Any failure of Seller to comply with the requirements or any breach of the warranty contained in this Clause shall be a material breach of this Order.

E. Subcontracts.

The substance of this Clause shall be incorporated into any lower-tier subcontract or purchase order entered into by the Seller for the performance of any part of the work under this Order.

F. Notification

Seller agrees to provide prompt notification to Buyer in the event of changes in circumstances such as ineligibility to contract with U.S. Government, debarment, assignment of consent agreement, and initiation or existence of a U.S. Government investigation, that could affect Seller's performance under this Order. Seller further agrees to provide prompt notification to Buyer should any offer, agreement or payment of political contributions, fees or commissions (as defined herein and pursuant to this Order) be made in contravention of the prohibition in Section B.

34. DEPENDABILITY

Seller represents and warrants that Seller is an expert fully competent in all phases of the work involved in producing and supporting all Products and performing all services purchased under this Order.

35. RELEASE OF INFORMATION AND ADVERTISING.

Except as required by law, no public release of any information, or confirmation or denial of same, with respect to this Order or the subject matter hereof, will be made by Seller without the prior written approval of Buyer. Additionally, Seller shall not use the name Marvin Engineering Co., Inc. or in any other way identify Buyer in any advertisement, display, news release, or other public disclosure without Buyer's prior written consent.

36. COMPLIANCE WITH AND APPLICABILITY OF THE OFFICE OF FEDERAL PROCUREMENT POLICY (OFPP) ACT OF 1988 (41 USC 423).

Seller represents that during the conduct of the procurement of which this Order forms a part, it has complied with and will continue to comply with the requirements of FAR 52.203-10 and Section 27 of the OFPP Act as implemented in FAR. Seller further agrees that it shall indemnify and hold harmless Buyer from and against any loss, cost or damage incurred by Buyer under Buyer's contract with its customers as a result of or in connection with Seller's violation of the OFPP Act.

37. INDEMNITY FOR DEFECTIVE CERTIFIED COST OR PRICING DATA.

Seller hereby indemnifies and agrees to hold Buyer harmless from any and all price or cost reductions made pursuant to the FAR 52.215-10 "Price Reduction for Defective Cost or Pricing Data" clause or the FAR 52.215-11 "Price Reduction for Defective Cost or Pricing Data - Modifications" clause, or any other provisions of the prime contract or higher-tier subcontract under which this Order is issued, and from and against any and all cost disallowances or non-recognitions of costs under such prime contract or subcontract, if such price or cost reduction, cost disallowance or non-recognition of costs arises or results directly or indirectly because:

A. Seller, or any Seller subcontractor at any tier or prospective subcontractor hereunder, furnished cost or pricing data that were not complete, accurate and current as certified in Seller's Certificate of Current Cost or Pricing Data; or

B. Seller, or any Seller subcontractor or prospective subcontractor at any tier hereunder, furnished data of any description that were not accurate. Accordingly, without limitation of the foregoing, the price of this Order shall be reduced and the Order shall be modified in writing as necessary to reflect the full amount of any and all such price or cost reductions and any and all such cost disallowances or non-recognitions of costs. The rights and remedies of Buyer under or pursuant to this indemnity shall be cumulative and additional to any other or further rights and remedies provided under this Order or at law or in equity.

38. PARTIAL INVALIDITY.

If any provision in this Order is or becomes void or unenforceable by force or operation of law, all other provisions shall remain valid and enforceable.

39. NONWAIVER.

A Party's failure at any time to enforce any provision of any Order shall not constitute a waiver of the provision or prejudice a Party's right to enforce that provision at any subsequent time.

40. COMPLETE AGREEMENT.

This Order is the Parties' final expression of their agreement and is the complete and exclusive statement of all terms and conditions of agreement. This Order supersedes and cancels all prior understandings, proposals, communications, whether oral or written, and agreements between the Parties, whether such understandings, proposal, communications, and agreements were written or oral, concerning the matters addressed in this Order. No course of prior dealings between the Parties, and no usage of trade, shall be relevant to supplement or explain any term used in this Order.

41. RESPONSIBILITY FOR CLAIMS/INDEMNITY.

Seller shall, at its own expense, defend, indemnify and hold harmless Buyer from any claims or suits brought and liabilities and losses sustained by any third party for injury to persons or damage to property, arising in whole or in part out of the acts or omissions of Seller, its subcontractors, agents, or employees in the performance of this Order. If Seller fails to defend, hold harmless, and indemnify Buyer as provided in this clause, then Seller shall pay for any damages, attorney's fees, and any other fees, costs, and expenses that may be



incurred by Buyer in the defense of any action related to this Order and/or in the prosecution of any action to enforce the provisions of this clause.

42. SUSTAINABILITY.

Buyer is committed to providing a sustainable environment for all of its stakeholders including but not limited to employees, customers, investors, suppliers, and communities. Buyer's goal is to promote resource conservation and environmental responsibility through the use of recycled contents and recovered materials to achieve maximize waste reduction, water conservation and energy efficiency. Buyer is dedicated to obtaining products and services from suppliers that exceed or comply with all applicable laws, regulations, and ordinances relating to preservation conservation and protection of the environment, in addition to employing policies, programs, processes techniques and materials that support sustainability. To assist Buyer in maintaining its commitment, suppliers of products and services are strongly encouraged to demonstrate the same degree of integrity from a social and environmental perspective and strive for continuous improvement in the following key areas of sustainability: water quality, water and energy conservation, greenhouse gas emission reductions, responsible solid waste minimization, recycling, hazardous waste management and air quality. Buyer is committed to working with Marvin Engineering Co., Inc. on achieving their sustainability goals by adhering to these conditions and will work to provide any and all documentation to demonstrate compliance upon request.

43. ANTI-CORRUPTION COMPLIANCE.

Seller represents, warrants and covenants that:

- A. It has not and will not, directly or indirectly, pay, promise, offer, or authorize the payment of any money or anything of value to:
1. an officer, employee, agent or representative of any government, including any department, agency, or instrumentality thereof or any person acting in an official capacity thereof;
 2. a candidate for political office, any political party or any official of a political party; or
 3. any other person or entity while knowing or having reason to know that all or any portion of such payment or thing of value will be offered, given or promised, directly or indirectly, to any person or entity for the purpose of assisting Buyer in obtaining or retaining business, or an improper business advantage.

Without limiting the generality of the foregoing, Seller shall not directly or indirectly, pay, promise, offer, or authorize the payment of any facilitating payment intended to expedite or secure performance of a routine governmental action, such as, customs clearance on behalf of Buyer.

B. No gift, travel expenses, business courtesies, hospitalities or entertainment of any nature has been or will be accepted or made in connection with this agreement where the intent was, or is, to unlawfully influence the recipient of the gift, travel expense, business courtesy, hospitality or entertainment. Seller also represents that any gifts, travel expenses, business courtesies, hospitalities or entertainment offered or provided shall meet the following conditions:

1. be permitted under the U.S. Foreign Corrupt Practices Act and the laws and regulations of the country in which this agreement will be performed;
2. be consistent with applicable social and ethical standards and accepted business practices;
3. be of such limited value as not to be deemed a bribe, payoff or any other form of improper inducement or payment; and
4. be of such nature that its disclosure will not cause embarrassment for the Buyer.

C. Breach of any of the foregoing provisions of parts A and B of this clause by Seller shall be considered an irreparable material breach of this agreement and shall entitle the Buyer to terminate this agreement immediately without compensation to Seller.

44. INTELLECTUAL PROPERTY RIGHTS.

Seller as part consideration for this Order and without further cost to Buyer hereby grants and agrees to grant to Buyer and its customers an irrevocable, non-exclusive, royalty-free right to license to use, sell, manufacture and cause to be manufactured products embodying any and all inventions and discoveries made, conceived or actually reduced to practice in connection with Seller's performance of this Order and Seller hereby grants to Buyer a license to repair, rebuild or relocate and to have repaired, rebuilt or relocated the Products purchased by Buyer under this Order.

45. SUSPECT/COUNTERFEIT PARTS (applies to all Orders and is in addition to DFARS 252.246-7007 Contractor Counterfeit Electronic Part Detection and Avoidance System; see clause 48, FAR/DFARS Provisions/Clauses, for DFARS applicability)

If suspect/counterfeit parts are furnished under this Order and are found in any of the goods delivered hereunder, such items will be impounded by Buyer. Seller shall promptly replace such suspect/counterfeit parts with parts acceptable to the Buyer and the Seller shall be liable for all costs relating to the removal and replacement of said parts, including without limitation Buyer's external and internal costs of removing such counterfeit parts, of reinserting replacement parts and of any testing necessitated by the reinstallation of Seller's goods after counterfeit parts have been exchanged. Buyer's remedies described herein shall not be limited by any other clause which is agreed upon between Buyer and Seller in this Order. At Buyer's request, Seller shall return any removed counterfeit parts to Buyer in order that Buyer may turn such parts over to its Government customer for further investigation. Seller agrees that any Government or quasi-Government directive, such as a GIDEP alert indicating that such parts are counterfeit, shall be deemed definitive evidence that Seller's parts contain counterfeit parts.

46. CUSTOMS TRADE PARTNERSHIP AGAINST TERRORISM (C-TPAT) PROGRAM.

Buyer has joined with the U.S. Bureau of Customs and Border Protection in the C-TPAT program. This program is designed to protect the supply chain from the introduction of terrorist contraband (weapons, explosives, biological, nuclear or chemical agents, etc.) in shipments originating from off-shore of the United States to Buyer, drop shipments to its sub-tier suppliers, or drop shipments to its customers originating from off-shore of the United States. Seller shipments through U.S. importers, from manufacturers in foreign countries, and brokers/freight forwarders/carriers must be with transportation companies that are C-TPAT validated by the U.S. Customs Service. In addition, Seller agrees to take such reasonable measures as may be required by Buyer to ensure the physical



integrity and security of all shipments under this Order against the unauthorized introduction of harmful or dangerous materials, drugs, contraband, weapons or weapons of mass destruction or introduction of unauthorized personnel in transportation conveyances or containers. Such measures may include, but are not limited to, physical security of manufacturing, packing and shipping areas, restrictions on access of unauthorized personnel to such areas; personnel screening to the maximum limits of law or regulations in Seller's or manufacturer's country; and development, implementation and maintenance of procedures to protect the security and integrity of all shipments. Contact the Buyer's Authorized Purchasing Representative for assistance in identifying transportation companies that are validated under the C-TPAT program.

47. EUROPEAN UNION REGISTRATION, EVALUATION, AUTHORIZATION AND RESTRICTION OF CHEMICALS (REACH).

- A. Seller shall comply with any and all European Union (EU) Registration, Evaluation, Authorization and Restriction of Chemicals (REACH) Regulation obligations with respect to any of the Products delivered by Seller to Buyer under the terms of this Order.
- B. Seller must provide Buyer with a list of substances contained in any of the Products that were included on the list of Candidate List substances published by European Chemicals Agency (ECHA) on October 28, 2008. Thereafter, if a substance is added to the Candidate List by ECHA, and that substance is also contained in any Products, Seller must notify Buyer within 15 days.
- C. By accepting this Order, Seller recognizes and agrees that Buyer will thereafter act in reliance on Seller's acceptance of this Order as a contractual commitment that it is in compliance with EU REACH regulations, subject to the further provisions below.
- D. Should any Products contain substances listed on the Candidate List that are above 0.1% on a weight by weight basis within that Product, Seller shall provide Buyer with so-called Safe-Use information, pursuant to the provisions of REACH Article 33 and shall maintain the REACH database for the life of this Order.
- E. As indicated, Buyer will act in reliance on the statements and commitments Seller makes regarding the Candidate List status of each of the substances contained in any of the Products. If Seller fails to comply with the provisions of this clause, Buyer may consider whether such failure constitutes a breach of this Order sufficient to warrant Termination for Default in accordance with the terms of this Order. Moreover, in the event failure to timely comply with these provisions results in a business interruption of Buyer's operations, Buyer will seek to recover the damages, including financial losses, it suffers as a consequence of such failure.

48. RESTRICTIONS ON THE USE OF MANDATORY ARBITRATION AGREEMENTS (DFARS 252.222-7006).

Applicable to all subcontracts, task orders and Purchase Orders at every tier that utilize funds appropriated or otherwise made available by the Fiscal Year 2010 Defense Appropriations Act or subsequent DoD appropriations acts for any contract (including task or delivery orders and bilateral modifications adding new work) in excess of \$1 million except for commercial items and commercially available off-the-shelf items.

A. Seller agrees not to –

- 1. Enter into any agreement with any of its employees or independent contractors that requires, as a condition of employment, that the employee or independent contractor agree to resolve through arbitration any claim under title VII of the Civil Rights Act of 1964 or any tort related to or arising out of sexual assault or harassment, including assault and battery, intentional infliction of emotional distress, false imprisonment, or negligent hiring, supervision, or retention; or
- 2. Take any action to enforce any provision of an existing agreement with an employee or independent contractor that mandates that the employee or independent contractor resolve through arbitration any claim under title VII of the Civil Rights Act of 1964 or any tort related to or arising out of sexual assault or harassment, including assault and battery, intentional infliction of emotional distress, false imprisonment, or negligent hiring, supervision, or retention.

B. Seller agrees to flow down this provision in all subcontracts, task orders and Purchase Orders at every tier that will be funded with in excess of \$1 million of Fiscal Year 2010 funds, except for those for commercial items, including commercially available off-the-shelf items.

C. Failure to comply with this provision will be considered a material breach and, at the sole discretion of the Buyer, may result in termination for default or cause.

49. FAR/DFARS CLAUSE FLOW-DOWNS FOR U.S. GOVERNMENT CONTRACTS.

49.1. When the materials or Products furnished are for use in connection with a US Government contract or subcontract, then in addition to Marvin's Purchase Order General Terms and Conditions, the following provisions shall also apply, as required by the terms of the prime contract, or by operation of law or regulation. The US Government's Federal Acquisition Regulation (FAR) clauses and the US Department of Defense Federal Acquisition Regulation Supplement (DFARS) clauses cited below, where applicable by their terms, are incorporated herein by reference as if set forth in full text. The full texts of all clauses incorporated by reference are available at <http://www.acquisition.gov/>. The effective version of each FAR or DFARS clause shall be the same version as that which appears in Buyer's prime contract, or higher-tier subcontract under which this Agreement is a subcontract. In the event of a conflict between Marvin's Purchase Order General Terms and Conditions and these FAR/DFARS provisions, Marvin's Purchase Order General Terms and Conditions shall control.

49.2. In all clauses listed herein, the terms "Government", "Contracting Officer" and "Contractor" shall be revised to suitably identify the contracting parties herein and effect the proper intent of the provision except where further clarified or modified below. "Subcontractor", however, shall mean "Seller's Subcontractor" under the Purchase Order.

49.3. Clauses in this document may not be applicable to specific Purchase 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 not applicable for these reasons shall not be removed from this document but will be considered by all parties to be without force and effect.



A. APPLICABLE TO ALL ORDERS WITHOUT REGARD TO DOLLAR VALUE:

FAR: The following FAR clauses apply to all contracts, purchase orders, delivery orders, or agreements between Marvin and the Seller where the end customer is the United States Government (“**USG**”):

1. Definitions	52.202-1
2. Security Requirements	52.204-2
3. Annual Representations and Certifications	52.204-8
4. Personal Identify Verification of Contractor Personnel	52.204-9
5. Service Contract Reporting Requirements	52.204-14
6. Service Contract Reporting Requirements for Indefinite Delivery Contracts	52.204-15
7. Material Requirements	52.211-5
8. Alternatives to Government-Unique Standards	52.211-7
9. Defense Priority and Allocation Requirements	52.211-15
10. Contract Terms and Conditions Required to Implement Statutes or Executive Orders - Commercial Items	52.212-5
11. Terms and Conditions – Simplified Acquisitions (other than Commercial items)	52.213-4
12. Small Business Program Representations	52.219-1
13. Post-Award Small Business Program Representation	52.219-28
14. Notice to the Government of Labor Disputes	52.222-1
15. Convict Labor	52.222-3
16. Child Labor – Cooperation with Authorities and Remedies	52.222-19
17. Service Contract Labor Standards	52.222-41
18. Combating Trafficking in Persons	52.222-50
19. Minimum Wages Under Executive Order 13658	52.222-55
20. Hazardous Material Identification & Material Safety Data – “Government” means “Government & Buyer”	52.223-3
21. Notice of Radioactive Materials	52.223-7
22. Ozone Depleting Substances	52.223-11
23. Privacy Act	52.224-2
24. Buy American Act – Supplies	52.225-1
25. Buy American Act Certificate	52.225-2
26. Trade Agreement	52.225-5
27. Trade Agreements – Certificate	52.225-6
28. Duty-Free Entry	52.225-8
29. Restrictions on Certain Foreign Purchases	52.225-13
30. Place of Manufacturer (applicable to solicitations)	52.225-18
31. Authorization and Consent – ALTERNATE I	52.227-1
32. Royalty Information	52.227-6
33. Additional Data Requirements	52.227-16
34. Refund of Royalties	52.227-9
35. Filing of Patent Applications – Classified Subject Matter	52.227-10
36. Patent Rights – Ownership by the Contractor	52.227-11
37. Patent Rights—Ownership by the Government	52.227-13
38. Rights in Data – General	52.227-14
39. Commercial Computer Software License	52.227-19
40. Workers Compensation Insurance (Defense Base Act)	52.228-3
41. Workers Compensation and War-Hazard Insurance Overseas	52.228-4
42. Insurance – Work on a Government Installation	52.228-5
43. Limitation on the Withholding of Payments	52.232-9
44. Progress Payments	52.232-16
45. Performance-based Payments	52.232-32
46. Unenforceability of Unauthorized Obligations	52.232-39
47. Providing Accelerated Payments to Small Business Subcontractors (applicable only if included in Marvin’s terms and conditions with its customer)	52.232.40
48. Protest After Award	52.233-3
49. Applicable Law for Breach of Contract Claim	52.233-4
50. Industrial Resources Developed Under Defense Production Act Title III	52.234-1
51. Accident Prevention	52.236-13
52. Indemnification and Medical Liability Insurance	52.237-7
53. Privacy or Security Safeguards	52.239-1
54. Stop Work Order	52.242-15
55. Government Delay of Work	52.242-17
56. Changes – Fixed Price Contracts	52.243-1
57. Competition in Subcontracting	52.244-5
58. Subcontracts for Commercial Items	52.244-6
59. Government Property (or ALTERNATE I or ALTERNATE II, the Buyer shall so specify; if the Buyer does not specify the requirement will default to the BASIC clause)	52.245-1



60. Government Property Installation Operation Services	52.245-2
61. Use and Charges	52.245-9
62. Termination for Convenience of the Government (Fixed-Price) (Short Form)	52.249-1

DFARS: The following DFARS clauses apply to all contracts, purchase orders, delivery orders, or agreements between Marvin and the Seller where the end customer is any agency within the United States Department of Defense (“DoD”):

1. Requirement to Inform Employees of Whistleblower Rights	252.203-7002
2. Disclosure of Information	252.204-7000
3. ALTERNATE A, System for Award Management	252.204-7004
4. ALTERNATE A, Annual Representations and Certifications	252.204-7007
5. Compliance with Safeguarding Covered Defense Information Controls	252.204-7008
6. Limitations on the Use or Disclosure of Third-Party Contractor Reported Cyber Incident Information	252.204-7009
7. Requirement for Contractor to Notify DoD if the Contractor's Activities are Subject to Reporting under the US-International Atomic Energy Agency Additional Protocol	252.204-7010
8. Safeguarding Covered Defense Information and Cyber Incident Reporting	252.204-7012
9. Limitations on the Use or Disclosure of Information by Litigation Support Contractors	252.204-7014
10. Notice of Authorized Disclosure of Information for Litigation Support	252.204-7015
11. Intent to Furnish Precious Metals as Government-Furnished Material	252.208-7000
12. Disclosure of Ownership or Control by a Foreign Government	252.209-7002
13. Limitations on Contractors Acting as Lead System Integrators	252.209-7006
14. Prohibited Financial Interests for Lead System Integrators	252.209-7007
15. Item Unique Identification and Valuation	252.211-7003
16. Reporting of Government Furnished Equipment in DoD Item Unique Identification (IUID) Registry	252.211-7007
17. Contract Terms and Conditions Required to Implement Statutes or Executive Orders Applicable to Defense Acquisitions of Commercial Items	252.212-7001
18. Pricing Adjustments	252.215-7000
19. Cost Estimating System Requirements	252.215-7002
20. Award Fee Reduction or Denial for Jeopardizing the Health or Safety of Government Personnel (applicable to Award Fee Orders only)	252.216-7004
21. Liability and Insurance	252.217-7012
22. Restrictions on Employment of Personnel	252.222-7000
23. Hazard Warning Labels	252.223-7001
24. Safety Precautions for Ammunition and Explosives	252.223-7002
25. Change in Place of Performance - Ammunition and Explosives	252.223-7003
26. Drug-Free Work Force	252.223-7004
27. Prohibition on Storage, Treatment, and Disposal of Toxic or Hazardous Materials	252.223-7006
28. Safeguarding Sensitive Conventional Arms, Ammunition and Explosives	252.223-7007
29. Prohibition of Hexavalent Chromium	252.223-7008
30. Buy American Act – Balance of Payments Program Certificate	252.225-7000
31. Buy American Act and Balance of Payments Program	252.225-7001
32. Prohibition on Acquisition of US Munitions List Items from Communist Chinese Military Companies	252.225-7007
33. Restriction on Acquisition of Specialty Metals (prime contracts exceeding SAT and requiring delivery of specialty metals as end items)	252.225-7008
34. Restriction on Acquisition of Certain Articles Containing Specialty Metals (prime contracts exceeding SAT; excludes and reserves paragraphs (d) and (e)(1))	252.225-7009
35. Commercial Derivative Military Article – Specialty Metals Compliance Certificate (prime contracts exceeding SAT, see clause for exceptions)	252.225-7010
36. Duty-Free Entry	252.225-7013
37. Restriction on Acquisition of Hand or Measuring Tools (prime contracts exceeding SAT and both the prime contract and subcontract are for the acquisition of hand or measuring tools either commercial or non-commercial as prime end items)	252.225-7015
38. Restriction on Acquisition of Ball and Roller Bearings	252.225-7016
39. Trade Agreements Certificate	252.225-7020
40. Trade Agreements	252.225-7021
41. Restriction on Acquisition of Forgings	252.225-7025
42. Restriction on Contingent Fees for Foreign Military Sales (blank is filled in “zero”)	252.225-7027
43. Exclusionary Policies and Procedures of Foreign Governments	252.225-7028
44. Restriction on Acquisition of Carbon Alloy and Armor Steel Plate	252.225-7030
45. Secondary Arab Boycott of Israel	252.225-7031
46. Buy American Act – Free Trade Agreements – Balance of Payments Program Certificate	252.225-7035
47. Buy American Act – Free Trade Agreements – Balance of Payments Program	252.225-7036
48. Contractor Personnel Supporting US Armed Forces Deployed Outside US	252.225-7040
49. Antiterrorism / Force Protection Policy for Defense Contractors Outside US	252.225-7043
50. Export-Controlled Items	252.225-7048
51. Rights in Technical Data - Noncommercial Items	252.227-7013



52. Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation	252.227-7014
53. Technical Data - Commercial Items	252.227-7015
54. Rights in Bid or Proposal Information	252.227-7016
55. Identification and Assertion of Use, Release, or Disclosure Restrictions	252.227-7017
56. Rights in Noncommercial Technical Data and Computer Software – Small Business Innovation Research (SBIR) Program	252.227-7018
57. Validation of Asserted Restrictions - Computer Software	252.227-7019
58. Limitations on Use or Disclosure of Government Furnished Information Marked with Restrictive Legends	252.227-7025
59. Technical Data or Computer Software Previously Delivered to the Government	252.227-7028
60. Technical Data--Withholding of Payment	252.227-7030
61. Rights in Shop Drawings	252.227-7033
62. Validation of Restrictive Markings on Technical Data	252.227-7037
63. Patent Rights – Ownership by the Contractor	252.227-7038
64. Patents – Reporting of Subject Inventions	252.227-7039
65. Ground and Flight Risk	252.228-7001
66. Accident Reporting and Investigation Involving Aircraft, Missiles, and Space Launch Vehicles	252.228-7005
67. Reporting of Foreign Taxes – US Assistance Programs	252.229-7011
68. Supplemental Cost Principles (first-tier subcontractors only)	252.231-7000
69. Earned Value Management System	252.234-7002
70. Frequency Authorization	252.235-7003
71. Protection of Human Subjects	252.235-7004
72. Requirement for Competition Opportunity for American Steel Producers, Fabricators and Manufacturers	252.236-7013
73. Continuation of Essential Contractor Services	252.237-7023
74. Protection Against Compromising Emanations	252.239-7000
75. Information Assurance Contractor Training and Certification	252.239-7001
76. Cloud Computing Services	252.239-7010
77. Telecommunications Security Equipment, Devices, Techniques, and Services	252.239-7016
78. Supply Chain Risk	252.239-7018
79. Pricing of Contract Modifications	252.243-7001
80. Subcontracts for Commercial Items and Commercial Components (DoD contracts)	252.244-7000
81. Tagging, Labeling, and Marking of Government-Furnished Property	252.245-7001
82. Reporting Loss of Government Property	252.245-7002
83. Material Inspection and Receiving Report	252.246-7000
84. Notification of Potential Safety Issues	252.246-7003
85. Safety of Facilities, Infrastructure, and Equipment for Military Operations	252.246-7004
86. Contractor Counterfeit Electronic Part Detection and Avoidance System	252.246-7007
87. Notification of Transportation of Supplies by Sea	252.247-7024

B. ORDERS OVER \$3,500 WHERE THE END CUSTOMER IS USG ALSO INCLUDE THE FOLLOWING FAR CLAUSES:

1. Employment Eligibility Verification	52.222-54
2. Contractor Policy to Ban Text Messaging While Driving	52.223-18

C. ORDERS OVER \$10,000 WHERE THE END CUSTOMER IS USG ALSO INCLUDE THE FOLLOWING FAR CLAUSES:

1. Prohibition of Segregated Facilities	52.222-21
2. Equal Opportunity	52.222-26
3. Notification of Employee Rights under the National Labor Relations Act	52.222-40

D. ORDERS OVER \$15,000 WHERE THE END CUSTOMER IS USG ALSO INCLUDE THE FOLLOWING FAR CLAUSES:

1. Contracts for Materials, Supplies, Articles, and Equipment Exceeding \$15,000	52.222-20
2. Equal Opportunity for Workers with Disabilities	52.222-36

E. ORDERS OVER \$25,000 WHERE THE END CUSTOMER IS USG ALSO INCLUDE THE FOLLOWING FAR CLAUSES:

1. Reporting Executive Compensation and First-Tier Subcontract Awards	52.204-10
2. Buy American Act – North American Free Trade Agreement – Israeli Trade Act	52.225-3
3. Buy American Act North American Free Trade Agreement – Israeli Trade Act Certificate	52.225-4



F. ORDERS OVER \$150,000 WHERE THE END CUSTOMER IS USG ALSO INCLUDE THE FOLLOWING FAR CLAUSES:

- | | |
|---|-----------|
| 1. Anti-Kickback Procedures (less subparagraph (c) (1)) | 52.203-7 |
| 2. Limitation on Payments to Influence Certain Federal Transactions | 52.203-12 |
| 3. Preventing Personal Conflicts of Interest | 52.203-16 |
| 4. Equal Opportunity for Veterans | 52.222-35 |
| 5. Value Engineering | 52.248-1 |

G. ORDERS OVER THE SIMPLIFIED ACQUISITION THRESHOLD (SAT) ALSO INCLUDE THE FOLLOWING:

FAR: The following FAR clauses apply to all contracts, purchase orders, delivery orders, or agreements valued over the SAT between Marvin and the Seller where the end customer is USG:

- | | |
|---|-----------|
| 1. Certificate of Independent Price Determination | 52.203-2 |
| 2. Gratuities (less subparagraph (c) (1)) | 52.203-3 |
| 3. Covenants against Contingent Fees | 52.203-5 |
| 4. Restrictions on Subcontractor Sales to the Government | 52.203-6 |
| 5. Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity | 52.203-8 |
| 6. Price or Fee Adjustment for Illegal or Improper Activities | 52.203-10 |
| 7. Contractor Employee Whistleblower Rights; Requirement to Inform Employees of Whistleblower Rights | 52.203-17 |
| 8. Women-Owned Business (Other than Small Business) | 52.204-5 |
| 9. Audit and Records – Negotiation | 52.215-2 |
| 10. Integrity of Units Prices | 52.215-14 |
| 11. Utilization of Small Business Concerns | 52.219-8 |
| 12. Contract Work Hours and Safety Standards Act – Overtime Compensation | 52.222-4 |
| 13. Non-displacement of Qualified Workers | 52.222-17 |
| 14. Employment Reports on Veterans | 52.222-37 |
| 15. Compliance with Veterans' Employment Reporting Requirements | 52.222-38 |
| 16. Drug-Free Workplace | 52.223-6 |
| 17. Estimate of Percentage of Recovered Material Content for EPA-Designated Products | 52.223-9 |
| 18. Notice and Assistance Regarding Patent and Copyright Infringement | 52.227-2 |
| 19. Federal, State, and Local Taxes | 52.229-3 |
| 20. Bankruptcy | 52.242-13 |
| 21. Change Order Accounting | 52.243-6 |
| 22. Subcontracts (paragraphs (h) notice to Marvin and (i) only apply) | 52.244-2 |
| 23. Inspection of Supplies, Fixed Price Contracts | 52.246-2 |
| 24. Inspection of Services, Fixed Price Contracts | 52.246-4 |
| 25. Higher-Level Contract Quality Requirement | 52.246-11 |
| 26. Responsibility for Supplies | 52.246-16 |
| 27. Termination for Convenience of the Government (Fixed-Price) – "Government: shall mean "Buyer". In paragraph (c) the term "120 days" is changed to "60 days." The term "one year" in paragraph (e) is changed to "six months." The term "90 days" in paragraph (l) is changed to "45 days," per 49.502(e). | 52.249-2 |
| 28. Default (Fixed Price Supply and Service) | 52-249-8 |

DFARS: The following DFARS clauses apply to all contracts, purchase orders, delivery orders, or agreements valued over the SAT between Marvin and the Seller where the end customer is DoD:

- | | |
|--|--------------|
| 1. Prohibition on Persons Convicted of Fraud or Other Defense Contract-Related Felonies | 252.203-7001 |
| 2. Subcontracting with Firms that are Owned or Controlled by the Government of a Terrorist Country | 252.209-7004 |
| 3. Requests for Equitable Adjustment | 252.243-7002 |
| 4. Contractor Purchasing System Administration (BASIC if 52.244-2 applies) | 252.244-7001 |
| 5. Contractor Purchasing System Administration (ALTERNATE I if 252.246-7007 applies) | 252.244-7001 |
| 6. Representation of Extent of Transportation by Sea | 252.247-7022 |
| 7. Transportation of Supplies by Sea | 252.247-7023 |

H. ORDERS OVER \$700,000 WHERE THE END CUSTOMER IS DoD ALSO INCLUDE THE FOLLOWING DFARS CLAUSES:

- | | |
|--|--------------|
| 1. Small Business Subcontracting Plan (DoD Contracts) | 252.219-7003 |
| 2. Small Business Subcontracting Plan (Test Program) | 252.219-7004 |
| 3. Report of Intended Performance Outside the US & Canada – Submission with Offer | 252.225-7003 |
| 4. Report of Intended Performance Outside the US & Canada – Submission after Award | 252.225-7004 |
| 5. Notification of Anticipated Contract Termination or Reduction | 252.249-7002 |



- I. ORDERS OVER \$750,000 WHERE THE END CUSTOMER IS USG ALSO INCLUDE THE FOLLOWING FAR CLAUSES:**
- | | |
|---|-----------|
| 1. Price Reduction for Defective Certified Cost / Pricing Data – Modifications – Sealed Bidding | 52.214-27 |
| 2. Subcontractor Certified Cost or Pricing Data – Modifications – Sealed Bidding | 52.214-28 |
| 3. Pension Adjustment and Asset Reversions | 52.215-15 |
| 4. Reversion or Adjustment of Plans for Postretirement Benefits (PRB) other than Pensions | 52.215-18 |
| 5. Notification of Ownership Changes | 52.215-19 |
| 6. Small Business Subcontracting Plan | 52.219-9 |
| 7. Liquidated Damages – Subcontracting Plan | 52.219-16 |
| 8. Disclosure and Consistency of Cost Accounting Practices – foreign Concerns | 52.230-4 |
- J. UNLESS OTHERWISE EXEMPT, THE FOLLOWING FAR CLAUSES ARE ALSO INCLUDED WHERE THE END CUSTOMER IS USG:**
- | | |
|---|-----------|
| 1. Price Reduction for Defective Certified Cost or Pricing Data | 52.215-10 |
| 2. Price Reduction for Defective Certified Cost or Pricing Data – Modifications | 52.215-11 |
| 3. Subcontractor Certified Cost or Pricing Data | 52.215-12 |
| 4. Subcontractor Certified Cost of Pricing Data – Modifications | 52.215-13 |
| 5. Requirements for Certified Cost or Pricing Data or Information Other Than Cost or Pricing Data | 52.215-20 |
| 6. Requirements for Certified Cost or Pricing Data or Information Other Than Cost or Pricing Data – Modifications | 52.215-21 |
| 7. Limitation on Pass-Through Charges – Identification of Subcontract Effort | 52.215-22 |
| 8. Limitation on Pass-Through Charges | 52.215-23 |
| 9. Contract Definitization | 52.216-25 |
| 10. Prospective Subcontractor Requests for Bonds | 52.228-12 |
| 11. Earned Value Management System | 52.234-4 |
- K. ORDERS OVER \$1,000,000 WHERE THE END CUSTOMER IS DoD ALSO INCLUDE THE FOLLOWING DFARS CLAUSES:**
- | | |
|--|--------------|
| 1. Restrictions on the Use of Mandatory Arbitration Agreements | 252.222-7006 |
| 2. Waiver of United Kingdom Levies | 252.225-7033 |
- L. ORDERS OVER \$1,500,000 WHERE THE END CUSTOMER IS DoD ALSO INCLUDE THE FOLLOWING DFARS CLAUSES:**
- | | |
|-----------------------------|--------------|
| 1. Acquisition Streamlining | 252.211-7000 |
|-----------------------------|--------------|
- M. ORDERS OVER \$5,000,000 WHERE THE END CUSTOMER IS USG ALSO INCLUDE THE FOLLOWING FAR CLAUSES:**
- | | |
|------------------------------|-----------|
| 1. Display of Hotline Poster | 52.203-14 |
|------------------------------|-----------|
- N. ORDERS OVER \$5,000,000 WHERE THE END CUSTOMER IS DoD ALSO INCLUDE THE FOLLOWING DFARS CLAUSES:**
- | | |
|---|--------------|
| 1. Agency Office of the Inspector General | 252.203-7003 |
| 2. Display of Hotline Posters | 252.203-7004 |
- O. ORDERS OVER \$5,500,000 WHERE THE END CUSTOMER IS USG ALSO INCLUDE THE FOLLOWING FAR CLAUSES:**
- | | |
|--|-----------|
| 1. Code of Business Ethics and Conduct (where performance period is over 120 days) | 52.203-13 |
|--|-----------|
- P. ORDERS OVER \$10,000,000 WHERE THE END CUSTOMER IS USG ALSO INCLUDE THE FOLLOWING FAR CLAUSES:**
- | | |
|--|-----------|
| 1. Pre-award On-Site Equal Opportunity Compliance Evaluation | 52.222-24 |
|--|-----------|
- Q. ORDERS FOR MAJOR DEFENSE ACQUISITION PROGRAMS ALSO INCLUDE THE FOLLOWING DFARS CLAUSES:**
- | | |
|--|--------------|
| 1. Notice of Prohibition Relating to Organizational Conflict of Interest – Major Defense Acquisition Program | 252.209-7008 |
| 2. Organizational Conflict of Interest – Major Defense Acquisition Program | 252-209-7009 |
| 3. Cost and Software Data Reporting System | 252.234-7004 |



R. FAR CLAUSES APPLICABLE TO COST REIMBURSEMENT, TIME& MATERIAL OR LABOR HOUR ORDERS WHERE THE END CUSTOMER IS USG:

1. Facilities Capital Cost of Money	52.215-16
2. Waiver of Facilities – Capital Cost of Money	52.215-17
3. Allowable Cost and Payment (cost reimbursement) – Seller agrees to execute assignment documents in order to meet subsection (d) (5)	52.216-7
4. Fixed Fee – applicable if this is a cost plus fixed fee order	52.216-8
5. Incentive Fee – applicable if this is a cost plus incentive fee order	52.216-10
6. Cost Contract – No Fee – applicable if this is a cost no fee order	52.216-11
7. Cost Sharing Contract – No Fee – applicable if this is a cost sharing, no fee order	52.216-12
8. Payment for Overtime premiums – insert “0%” in paragraph (a) unless indicated otherwise on the face of this Order	52.222-2
9. Fair Labor Standards Act & Service Contract Act -- Price Adjustment (Multiple Year & Option Contracts)	52.222-43
10. Fair Labor Standards Act & Service Contract Act -- Price Adjustment	52.222-44
11. State of New Mexico Gross Receipts and Compensating Tax	52.229-10
12. Payments under Time & Materials and Labor-Hour Contracts (“schedule” means purchase order, “voucher” means purchase order, “Government” means Buyer, and “Contracting Officer” means Buyer Purchasing Representative)	52.232-7
13. Limitation of Cost (if fully funded)	52.232-20
14. Limitation of Funds (if incrementally funded)	52.232-22
15. Stop Work Order	52.242-15 Alt I
16. Changes – Cost-Reimbursement – applicable if this is a cost-reimbursement order	52.243-2
17. Changes – Time & Material or Labor-Hours – applicable if this is a time & material or labor hour order	52.243-3
18. Inspection of Supplies (Cost-Reimbursement) – “Contracting Officer” means “Buyer’s purchasing representative” and “Government” means “Buyer and Government” (provided that an inspection system accepted by the Government will be deemed accepted by the Buyer), and where “Government” first appears in paragraph (k) it shall mean “Government or Buyer.” The provisions in this clause for access, right to inspect, safety protection, and relief from liability apply equally to Buyer and the Government.	52.246-3
19. Inspection of Services (Cost –Reimbursement) – “Contracting Officer” means “Buyer’s purchasing representative” and “Government” means “Buyer and Government” (provided that an inspection system accepted by the Government will be deemed accepted by the Buyer) and where “Government” first appears in paragraph (k) it shall mean “Government and Buyer.” The provisions in this clause for access, right to inspect, safety protection, and relief from liability apply equally to Buyer and the Government.	52.246-5
20. Inspection – Time & Material and Labor Hour – “Contracting Officer” means “Buyer’s purchasing representative” and “Government” means “Buyer and Government” (provided that an inspection system accepted by the Government will be deemed accepted by the Buyer), and where “Government” first appears in paragraph (k) it shall mean “Government and Buyer.” The provisions in this clause for access, right to inspect, safety protection, and relief from liability apply equally to Buyer and the Government.	52.246-6
21. Submission of Transportation Documents for Audit	52.247-67
22. Termination (Cost-Reimbursement) – “Government” means “Buyer” and “Contracting Officer” means “Buyer’s purchasing representative.” In paragraph (d) change “15 days” and “45 days” to “30 days” and “90 days,” respectively. In paragraph (e) change “1 year” to “six months.” ALTERNATE IV is applicable to time & material or labor-hour orders only.	52.249-6 Alt IV
23. Excusable Delay	52.249-14

49.4. CERTIFICATIONS:

The Seller, by signing its offer, hereby certifies compliance with the following clauses and is therefore eligible for award:

A. Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (over \$150K)	52.203-11
B. Certification for Federal Funding Accountability and Transparency Act (FFATA)	52.204-10
C. Certification Regarding Responsibility Matters	52.209-5
D. Protecting the Government’s Interest when Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (over \$35K)	52.209-6
E. Certification Regarding Knowledge of Child Labor for Listed End Products	52.222-18
F. Previous Contracts and Compliance Reports (over \$10K and includes 52.222-26)	52.222-22
G. Affirmative Action Compliance	52.222-25
H. Affirmative Action for workers with Disabilities (over \$15K)	52.222-36
I. Bio-based Product Certification	52.223-1
J. Recovered Material Certification	52.223-4
K. Prohibition on Conducting Restricted Business Operations in Sudan Certification	52.225-20
L. Prohibition on Contracting with Entities Engaging in Certain Activities Relating to Iran	52.225-25
M. Cost Accounting Standards Notices and Certifications	52.230-1
N. Representation Regarding Combating Trafficking in Persons	252.222-7007
O. Representation of Use of Cloud Computing	252.239-7009



49.5. ADDITIONAL CLAUSES:

A. COST ACCOUNTING STANDARDS (Applicable unless otherwise exempt):

Seller shall communicate and otherwise deal directly with the Contracting Officer to the extent practicable and permissible as to all matters relating to Cost Accounting Standards. Seller shall provide Buyer with copies of all communications between Seller and the Contracting Officer respecting Cost Accounting Standards, FAR 52.230-2; Disclosure and Consistency of Cost Accounting Practices, FAR 52.230-3; and Administration of Cost Accounting Standards, FAR 52.230-6, provided Seller shall not be required to disclose to Buyer such communications containing information which is privileged and confidential to Seller. In addition to any other remedies provided by law or under this Order, Seller agrees to indemnify and hold Buyer harmless to the full extent of any loss, damage, or expense if Buyer is subject to any liability as the result of a failure of the Seller or its lower-tier subcontractors to comply with the requirements of FAR 52.230-2, 52.230-3, 52.230-4 (if applicable), 52.230-5 or 52.230-6. Paragraph (b) is deleted in each of the foregoing clauses.

B. TRUTH IN NEGOTIATIONS:

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

1. Indemnification:

- a. If any price (including profit or fee) negotiated in connection with the prime contract between the Government and the Buyer or any cost that is reimbursable under said contract is reduced because cost or pricing data furnished by the Seller in connection with any proposal submitted by the Buyer relating to said contract or in connection with this Order was not accurate, complete, or current, the Seller shall indemnify the Buyer in the amount of said reduction.
- b. The phrase "certified cost or pricing data" as used herein shall be deemed to include any such data, which related to a lower-tier prospective or actual subcontract, at any level, which was submitted by the Seller or which it procured by submission of, in connection with the aforesaid proposal or this Order in support of its cost estimate. If any reduction in the contract price under this clause reduces the price of items for which payment was made prior to the date of the modification reflecting the price reduction, the Seller shall be liable and shall pay the Buyer at the time such overpayment is repaid:
 - i. Simple interest on the amount of such overpayment to be computed from the date(s) of overpayment to the Seller to the date the Buyer is repaid by the Seller at that applicable underpayment rate effective for each quarter prescribed by the Secretary of the Treasury under 26 U.S.C 6621(a)(2); and
 - ii. For Department of Defense contracts only, a penalty equal to the amount of the overpayment, if the Seller knowingly submitted cost or pricing data which were incomplete, inaccurate, or non-current.

2. Certified Cost or Pricing Data for Changes:

- a. Prior to the pricing of any change or other modification to this Order which involves, increases and/or decreases in costs plus applicable profit in excess of the contractually required threshold (e.g. \$500,000, \$650,000, or \$1,000,000) and resulting from a change in the prime contract, subcontractors shall submit cost or pricing data and shall certify that the data, as defined in FAR clause 15.406-2, submitted either actually or by specific identification in writing are accurate, complete, and current as of the date of completion of negotiations.
- c. When required to obtain certified cost or pricing data or "Other Cost and Pricing Data" from its subcontractors, pursuant to the provisions of this Order, Seller shall provide such data.

C. DISPUTES – GOVERNMENT CONTRACTS:



Any reference to the “Disputes clause” in any applicable FAR clause under paragraph 2 above shall mean this paragraph, Disputes – Government Contracts. Any dispute arising under this Purchase Order relating to any decision of the Contracting Officer under the prime contract shall be resolved in accordance with this paragraph, Disputes – Government Contracts. All other disputes will be resolved under Article 14, “DISPUTES”.

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