

Government Contracts General Flowdowns for Commercial Products and Services (as defined in FAR 2.101)

1. SUPPLEMENTAL NATURE OF PROVISIONS. The terms and conditions included in these General Flowdowns are in addition to, and not in lieu of, any other terms contained in the Purchase Order or other agreement between the parties (the “Agreement”). In the event of a conflict between these provisions and the Agreement provisions, these provisions shall control. The term “Order” is used herein to refer to Purchase Orders, whether independently issued or issued under an Agreement. As used herein, the terms, “Buyer” and “Seller” shall mean the parties so identified in the applicable Purchase Order.

2. TERMS AND CONDITIONS

2.1. Defense Priority Rating If so identified, this Order is a “rated order” certified for national defense use, and Seller shall follow all the requirements of the Defense Priorities and Allocation System Regulation (15 C.F.R. Part 700). Additionally, Seller acknowledges that subsequent to placing the Order, the US Government may require Buyer to modify the Order to a rated order and upon notice, this Order will become a “rated order” and Seller shall follow all requirements of the Defense Priorities and Allocation System Regulations (15 C.F.R., Part 700).

2.2. HHS Priority Rating. If so identified, this Order is a “rated order” certified for national defense use, and Seller shall follow all the all the provisions of the Health Resources Priorities and Allocations System regulation at 45 CFR part 101. Additionally, Seller acknowledges that subsequent to placing the Order, the US Government may require Buyer to modify the Order to a rated order and upon notice, this Order will become a “rated order” and Seller shall follow all requirements of the Health Resources Priorities and Allocations System (45 CFR part 101).

2.3. Export Control

(a) Information subject to Export Control Laws/International Traffic in Arms Regulation (ITAR):

Public Law 90-629, « Arms Export Control Act, » as amended (22 U.S.C. 2751 et. seq.) requires that all unclassified technical data with military application may not be exported lawfully without an approval, authorization, or license under EO 12470 or the Arms Export Control Act and that such data require an approval, authorization, or license under EO 12470 or the Arms Export Control Act. For purposes of making this determination, the Military Critical Technologies List (MCTL) shall be used as general guidance. All documents determined to contain export controlled technical data will be marked with the following notice:

WARNING- this document contains technical data whose export is restricted by the Arms Export Control Act (Title 22, U.S.C., and Sec 2751, et seq.) or the Export Administration Act of 1979, as amended, Title 50, U.S.C., App. 2401 et seq. Violations of these export laws are subject to severe criminal penalties. Disseminate in accordance with provision of DOD Directive 5230.25.

(b) Flow down. Seller shall include this Section 2.3, suitably modified, to identify all Parties, in all lower tier agreements.

3. STATUTORY AND REGULATORY FLOWDOWNS

The requirements of the FAR and other agency clauses and federal statutes cited throughout this Order and the clauses cited below are incorporated herein by reference with full force and effect, as if set forth in full text. If no effective date is provided, the effective version of each clause shall be the same version as that which appears in Buyer’s prime contract with the federal government or higher-tier subcontract under which this Order is a subcontract. If any of the clauses are not applicable by their terms they shall be self-deleting.

In all clauses listed herein, terms shall be revised to suitably identify the party to establish Seller’s obligations to Buyer and to the Government, and to enable Buyer to meet its obligations under its prime contract or higher-tier subcontract, as applicable.

Without limiting the generality of the foregoing, the term, “Contracting Officer” means “Buyer’s Authorized Representative,” “Contractor” shall mean “Seller,” “Subcontractor” shall mean “Seller’s Subcontractor” under this Order, “Contract” means this Order, and “Government” means “Buyer.” However, notwithstanding the foregoing, the words “Government” and “Contracting Officer” do not change: (1) when a right, act, authorization or obligation can be granted or performed only by the Government or the prime contract Contracting Officer or duly authorized representative or (2) when title to property is to be transferred directly to the Government. Seller shall incorporate into each lower tier contract issued in support of this Order all of these General Flowdowns, as applicable, in accordance with the respective flow down requirements specified therein.

3.1 Federal Acquisition Regulations

FAR Reference	Clause Name
52.227-1	Authorization and Consent
52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement
52.244-6	Subcontracts for Commercial Items (each of the clauses listed at FAR 52.244-6 is incorporated by reference into this Agreement)

3.2 DFARS

Clause Reference	Clause Name
252.203-7002	Requirement to Inform Employees of Whistleblower Rights
252.204-7012	Safeguarding Covered Defense Information and Cyber Incident Reporting
252.227-7037	Validation of Restrictive Markings on Technical Data
252.244-7000	Subcontracts for Commercial Items

4. EQUAL OPPORTUNITY; NONDISCRIMINATION

41 CFR 60-1.4(a), 60-300.5(a) and 60-741.5(a). **Purchaser and Seller shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a), which are incorporated herein by reference, as applicable. These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ individuals without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin, and to employ and advance in employment qualified individuals with disabilities and protected veterans.**

41 CFR 61-300.10; 29 CFR Part 471, Appendix A to Subpart A. If applicable in accordance with its terms, Purchaser and Seller shall also abide by the requirements of 41 CFR 61-300.10 regarding veterans' employment reports and 29 CFR Part 471, Appendix A to Subpart A regarding posting a notice of employee rights.