

**CUSTOMER CONTRACT REQUIREMENTS  
F-22 EMD  
CUSTOMER CONTRACT PA-6101 CLIN 4000**

**CUSTOMER CONTRACT REQUIREMENTS**

The following customer contract requirements apply to this contract to the extent indicated below. If this contract is for the procurement of commercial items under a Government prime contract, as defined in FAR Part 2.101, see Section 3 below.

1. The following contract clauses are incorporated by reference from the Federal Acquisition Regulation and apply to the extent indicated. In all of the following clauses, "Contractor" and "Offeror" mean Seller.

52.203-6 Restrictions on Subcontractor Sales to the Government (JUL 1985). This clause applies only if this contract exceeds \$100,000.

52.203-7 Anti-Kickback Procedures (excluding subparagraph (c)(1)) (OCT 1988). Buyer may withhold sums owed Seller the amount of any kickback paid by Seller or its subcontractors at any tier if (a) the Contracting Officer so directs, or (b) the Contracting Officer has offset the amount of such kickback against money owed Buyer under the prime contract. This clause applies only if this contract exceeds \$100,000.

52.203-10 Price or Fee Adjustment for Illegal or Improper Activity (JAN 1997). This clause applies only if this contract exceeds \$100,000. If the Government reduces Buyer's price or fee for violations of the Act by Seller or its subcontractors at any tier, Buyer may withhold from sums owed Seller the amount of the reduction. In paragraph (d), the term "Government" shall mean Buyer.

52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (APR 1991). By signing and returning its solicitation response, Seller is executing the certification included in this clause. The certification required by this clause applies only if this contract exceeds \$100,000.

52.203-12 Limitation on Payments to Influence Certain Federal Transactions (JAN 1990). This clause applies only if this Contract exceeds \$100,000. Paragraph (c)(4) is modified to read as follows: "(c)(4) Seller will promptly submit any disclosure required (with written notice to Boeing) directly to the PCO for the prime contract. Boeing will identify the cognizant Government PCO at Seller's request. Each subcontractor certification will be retained in the subcontract file of the awarding contractor.

52.204-2 Security Requirements (AUG 1996). "Changes clause" means the changes clause of this contract. This clause applies only if access to classified material is required.

52.211-5 New Material (APR 1984). Any notice will be given to Buyer rather than the Contracting Officer.

52.211-7 Used or Reconditioned Material, Residual Inventory, and former Government Surplus Property (APR 1984). Any notice will be given to Buyer rather than the Contracting Officer.

52.211-15 Defense Priority and Allocation Requirements (SEP 1990). This clause is applicable if a priority rating is noted in this contract.

52.215-2 Audit - Negotiation (FEB 1993). This clause applies only if this contract exceeds \$100,000 and (i) is cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable type or any combination of these types: (ii) Seller was required to provide cost or pricing data, or (iii) Seller is required to furnish reports as discussed in paragraph (e) of the referenced clause.

52.215-22 Price Reduction For Defective Cost or Pricing Data (DEC 1991). This clause applies only if this contract exceeds \$500,000 and is not otherwise exempt. In subparagraph (3) of paragraph (a), insert "of this

contract" after "price or cost." In Paragraph (c), "Contracting Officer" shall mean "Contracting Officer or Buyer." In Paragraphs (c)(1), (c)(1)(ii), and (c)(2)(i), "Contracting Officer" shall mean "Contracting Officer or Buyer." In Subparagraph (c)(2)(i)(A), delete "to the Contracting Officer." In Subparagraph (c)(2)(ii)(B), "Government" shall mean "Government or Buyer." In Paragraph (d), "United States" shall mean "United States or Buyer."

52.215-24 Subcontractor Cost or Pricing Data (NOV 1994). This clause applies only if this contract exceeds \$500,000 and is not otherwise exempt. The certificate required by paragraph (b) of the referenced clause shall be modified as follows: delete "to the Contracting Officer or the Contracting Officer's representative" and substitute in lieu thereof "The Boeing Company or any of its wholly owned subsidiaries."

52.215-26 Integrity of Unit Prices (excluding subparagraph (b)) (APR 1991). This clause applies except for contracts at or below \$100,000; construction or architect-engineer services under FAR Part 36; utility services under FAR Part 41; services where supplies are not required; commercial items; and petroleum products.

52.215-27 Termination of Defined Benefit Pension Plans (SEP 1989). This Clause applies to this contract if it meets the requirements of FAR 15.804-8(e).

52.215-39 Reversion or Adjustment of Plans for Postretirement Benefits Other Than Pensions (PRB) (JUL 1991). This Clause applies to this contract if it meets the requirements of FAR 15.804-8(f).

52.215-40 Notification of Ownership Changes (FEB 1995).

52.219-8 Utilization of Small Business Concerns (FEB 1990).

52.219-9 Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan. (JAN 1991). In paragraph (c), "Contracting Officer" shall mean Buyer. This clause applies only if this contract exceeds \$500,000. and Seller is not a small business concern.

52.222-20 Walsh-Healy Public Contracts Act (APR 1984). This clause applies only if this contract exceeds \$10,000.

52.222-21 Prohibition of Segregated Facilities (FEB 1999).

52.222-26 Equal Opportunity (subparagraph (b)(1) through (11)) (APR 1984).

52.222-35 Affirmative Action for Special Disabled and Vietnam Era Veterans (APR 1984). This clause applies only if this contract exceeds \$10,000.

52.222-36 Affirmative Action for Handicapped Workers (APR 1984). This clause applies only if this contract exceeds \$2,500.

52.222-37 Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era (JAN 1988). This clause applies only if this contract exceeds \$10,000.

52.223-3 Hazardous Material Identification and Material Safety Data (NOV 1991). This clause applies only if Seller delivers hazardous material under this contract.

52.223-7 Notice of Radioactive Materials (NOV 1991). This clause applies only if this contract involves (i) radioactive material requiring specific licensing under the regulations issued pursuant to the Atomic Energy Act of 1954, as amended, as set forth in Title 10 of the Code of Federal Regulations, in effect on the date of this contract, or (ii) other radioactive material not requiring specific licensing in which the specific activity is greater than 0.002 microcuries per gram or the activity per item equals or exceeds 0.01 microcuries. "Contracting Officer" shall mean Buyer. In the blank in paragraph (a), insert "60 days."

52.223-11 Ozone Depleting Substances (MAR 2001).

52.225-10 Duty-free Entry (APR 1984). This clause applies only if this contract identifies supplies to be afforded duty-free entry or if foreign supplies in excess of \$10,000 may be imported into the customs territory of the United States. For the purposes of this clause, the blanks in paragraph (g)(3) are completed as follows: UNITED STATES GOVERNMENT, DEPARTMENT OF DEFENSE, Duty-free entry is claimed pursuant Section XXII, Chapter 98, Subchapter VIII, Item No. 9808.00.30 of the Harmonized Tariff Schedule of the United States. Upon arrival of shipment at port of entry, the importer or authorized agent will notify Commander, Defense Contract Management Area Operations (DCMAO, New York, 201 Varick Street, New York, New York, 10014-4811, Attention DCRN-NCT) for execution of Customs Forms 7501, 7501-A, or 7506 and required duty free entry certificates.

52.225-11 Restrictions on Certain Foreign Purchases (MAY 1992).

52.227-1 Authorization and Consent (JUL 1995).

52.227-1 Alternate I (APR 1984).

52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement (APR 1984). A copy of each notice sent to the Government will be sent to Buyer. "Contracting Officer" shall mean "Buyer". This clause applies only if this contract exceeds \$100,000.

52.227-10 Filing of Patent Applications - Classified Subject Matter (APR 1984). This clause applies only if this contract will involve access to classified information.

52.227-12 Patent Rights - Retention by the Contractor (Long Form) (JUN 1989). This clause only applies if this Contract is for experimental, developmental, or research work and Seller is other than a small business firm or nonprofit organization.

52.230-5 Administration of Cost Accounting Standards (DEC 1994). Add "Buyer and the" before "Contracting Officer in paragraph (f). This provision applies if Clause H001 or H002 is included in Buyer's contract.

52.234-1 Industrial Resources Developed Under Defense Production Act Title III (DEC 1994).

52.237-2 Protection of Government Buildings, Equipment, and Vegetation (APR 1984). This clause applies only if work will be performed on a Government installation. "Contracting Officer" shall mean Buyer.

52.242-15 Stop Work Order (AUG 1989). Change "90 days" and "30 days" to "100 days" and "20 days" respectively. The terms "Contracting Officer" and "Government" shall mean Buyer.

52.244-5 Competition in Subcontracting (DEC 1996)

52.244-6 Subcontracts for Commercial Items (OCT 1995)

52.245-2 Government Property (Fixed Price Contracts) (DEC 1989). This clause is not applicable if this contract incorporates Form GP4. "Government" shall mean Government throughout except the first time it appears in paragraph (f) when "Government" shall mean the Government or the Buyer.

52.245-17 Special Tooling (DEC 1989). This clause applies only if tooling is acquired for or furnished by the Government and to be retained for use by the Seller.

52.245-18 Special Test Equipment (FEB 1993). Change "30 days" to "45 days" in paragraph (b) and (c). The notice of intent to procure special test equipment required by this clause shall be forwarded to the Buyer.

52.246-24 Limitation of Liability, High Value Items (APR 1984). This clause applies only if this contract exceeds \$100,000. "Government's" shall mean Government's or Buyer's in paragraph (e). Applies if requested by the Seller and approved by the Buyer's Customer.

52.247-63 Preference for U.S.-Flag Air Carriers (APR 1984). This clause only applies if this contract involves international air transportation.

2. The following contract clauses are incorporated by reference from the Department of Defense Federal Acquisition Regulation Supplement and apply to the extent indicated. In all of the following clauses, "Contractor" and "Offeror" mean Seller except as otherwise noted.

252.203-7001 Prohibition on Persons Convicted of Fraud or Other Defense-Contract Related Felonies (excluding paragraph (g)) (APR 1993). This clause applies only if this contract exceeds \$100,000 and does not apply to the purchase of commercial items or commercial components. "Contractor" and "contract" are not changed in paragraphs (a) and (b). In paragraph (e), "Government" shall mean Government or Buyer. In paragraph (f), "through the Buyer" is inserted after "Contracting Officer".

252.209-7000 Acquisition From Subcontractors Subject to On-site Inspection Under the Intermediate-Range Nuclear Forces Treaty (DEC 1991). This clause applies only if this contract exceeds \$100,000 and does not apply to the purchase of commercial items or commercial components.

252.211-7000 Acquisition Streamlining (DEC 1991). This clause applies only if this contract exceeds \$1 million.

252.215-7000 Pricing Adjustments (DEC 1991). This clause applies only if this contract exceeds \$500,000.

252.223-7001 Hazard Warning Labels (DEC 1991). This clause applies only if Seller delivers hazardous material under this contract.

252.223-7002 Safety Precautions for Ammunition and Explosives (DEC 1991). This clause applies only if this contract involves ammunition or explosives. "Government" means Government or Buyer in paragraph (b)(2), each time it appears in (e), (f)(1), (f)(2), the first time it appears in (g)(1)(i), and in (g)(3). "Government" means Buyer in paragraphs (c)(3), (c)(4), (c)(5), and the second time it appears in (g)(1)(i). "Contracting Officer" means Contracting Officer and Buyer in paragraph (g)(4). "Contracting Officer" means Buyer in paragraphs (c)(1), (c)(2), (c)(3), (c)(4), (c)(5), and each time it appears in (d).

252.223-7003 Change in Place of Performance – Ammunition and Explosives (DEC 1991). This clause applies only if DFARS 252.223-7002 is applicable to this contract. The term "Contracting Officer" means Buyer.

252.225-7002 Qualifying Country Sources as Subcontractors (DEC 1991)

252.225-7009 Duty-free Entry — Qualifying Country Supplies (End Products and Components) (DEC 1991).

252.225-7010 Duty-free Entry — Additional Provisions (DEC 1991). This clause applies in addition to FAR 52.225-10. The required information will be provided upon request.

52.225-7012 Preference for Certain Domestic Commodities (MAY 1994).

252.225-7014 Preference for Domestic Specialty Metals (NOV 1995), Alternate I (DEC 1991).

252.225-7016 Restriction on Acquisition of Ball and Roller Bearings (APR 1993). This clause does not apply to the purchase of commercial items other than ball or roller bearings or to items which contain no ball or roller bearings.

252.225-7022 Restriction on Acquisition of Polyacrylonitrile (PAN) Based Carbon Fiber (DEC 1991). "Contracting Officer" means Buyer. This clause applies only if the product furnished under this contract contains polyacrylonitrile carbon fibers (alternatively referred to as PAN-based carbon fibers or PAN-based graphite fibers).

252.225-7025 Restriction on Acquisition of Forgings (APR 1993). This clause applies only if this contract is for goods that contain restricted forging items per paragraphs (a) and (b) of the referenced clause.

252.225-7026 Reporting of Contract Performance Outside the United States (DEC 1991). This clause applies only if this contract exceeds \$100,000 and is not for commercial items, construction, ores, natural gases, utilities, petroleum products and crudes, timber (logs), or subsistence.

252.227-7013 Rights in Technical Data - Noncommercial Items (NOV 1995). This clause applies only if the delivery of data is required for noncommercial items under this contract.

252.227-7014 Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation (JUN 1995). This clause applies only if the delivery of noncommercial computer software or noncommercial computer documentation may be originated, developed or delivered under this contract.

252.227-7016 Rights in Bid or Proposal Information (JUN 1995).

252.227-7019 Validation of Asserted Restrictions - Computer Software (JUN 1995). This clause applies only if computer software may be originated, developed, or delivered under this contract.

252.227-7026 Deferred Delivery of Technical Data or Computer Software (APR 1988). This clause applies only if the delivery of data is required or if computer software may be originated, developed or delivered under this contract.

252.227-7027 Deferred Ordering of Technical Data or Computer Software (APR 1988). This clause applies only if technical data or computer software may be generated as part of the performance of this contract.

252.227-7030 Technical Data - Withholding of Payment (MAR 2000). In this clause, "Government" and "Contracting Officer" shall mean Buyer. This clause applies only if the delivery of technical data is required under this contract.

252.227-7036 Declaration of Technical Data Conformity (JAN 1997). This clause applies only if the delivery of data is required by this contract.

252.227-7037 Validation of Restrictive Markings on Technical Data (SEP 1999). This clause applies only if the delivery of data is required by this contract.

252.228-7005 Accident Reporting and Investigation Involving Aircraft, Missiles, and Space Launch Vehicles (DEC 1991).

252.231-7000 Supplemental Cost Principles (DEC 1991).

252.239-7016 Telecommunications Security Equipment, Devices, Techniques and Services (DEC 1991). This clause applies only if this contract requires securing telecommunications.

252.242-7005 Cost/Schedule Status Report (DEC 1991). If this contract is other than firm-fixed price, is 12 months or longer in duration, and either exceeds \$2 million or involves a task critical to the prime contract, the Seller shall furnish the required reports in a format acceptable to the Buyer.

252.244-7000 Subcontracts for Commercial Items and Commercial Components (DoD Contracts) (FEB 1997).

252.245-7001 Reports of Government Property (MAY 1994). Seller will provide information that the Buyer may require to complete Buyer's annual report.

252.247-7023 Transportation of Supplies by Sea (NOV 1995). This clause applies only if the supplies are of a type described in paragraph (b)(2) of this clause. In paragraph (d), "45 days" is changed to "60 days." In paragraph (g) "Government" means Buyer. If this contract is at or below \$100,000, paragraphs (f) and (g) are excluded.

252.249-7002 Notification of Anticipated Contract Terminations or Reduction (DEC 1996). This clause applies only if this contract is \$500,000 or more. Seller will comply with the notice and flowdown requirements of paragraph (d)(2) of the referenced clause.

3. If goods or services being procured under this contract are commercial items and Clause H203 is set forth in the purchase order, the foregoing Government clauses in Sections 1 and 2 above are deleted and the following FAR/DFARS clauses are inserted in lieu thereof:

52.222-26 Equal Opportunity (subparagraph (b)(1) through (11)) (APR 1984).

52.222-35 Affirmative Action for Special Disabled and Vietnam Era Veterans (APR 1984). This clause applies only if this contract exceeds \$10,000.

52.222-36 Affirmative Action for Handicapped Workers (APR 1984). This clause applies only if this contract exceeds \$2,500.

4. Cost Accounting Standards

(1) (Applicable if this contract incorporates clause H001). The version of FAR 52.230-2, Cost Accounting Standards, incorporated by clause H001 is the version dated August 1992.

(2) (Applicable if this contract incorporates clause H002). The version of FAR 52.230-3, Disclosure and Consistency of Cost Accounting Practices, incorporated by clause H002 is the version dated April 1998.

5. The following prime contract special provisions apply to this purchase order:

A. NOTIFICATION OF DEBARMENT/SUSPENSION STATUS

Seller shall provide immediate notice to Buyer in the event of being debarred suspended, or proposed for debarment by any Federal Agency during the performance of this Contract.

B. NOTIFICATION OF GOVERNMENT SECURITY ACTIVITY AND VISITOR GROUP SECURITY AGREEMENTS (Applies only work is performed on a Government installation)

This contract contains a DD Form 254, DOD Contract Security Classification Specification, and requires performance at a government location in the U.S. or overseas. Prior to beginning operations involving classified information on an installation identified on the DD Form 254, the Seller shall take the following actions:

(1) At least thirty days prior to beginning operations, notify the security police activity shown in the distribution block of the DD Form 254 as to:

- (a) The name, address, and telephone number of this contract company's representative and designated alternate in the U.S. or overseas area, as appropriate;
- (b) The contract number and military contracting command;

- (c) The highest classification category of defense information to which contractor employees will have access;
- (d) The Air Force installations in the U.S. (in overseas areas, identify only the APO number(s)) where the contract work will be performed;
- (e) The date Seller operations will begin on base in the U.S. or in the overseas area;
- (f) The estimated completion date of operations on base in the U.S. or in the overseas area; and
- (g) Any changes to information previously provided under this clause. This requirement is in addition to visit request procedures contained in DOD 5220.22-M, National Industrial Security Program Operating Manual.

(2) Prior to beginning operations involving classified information on an installation identified on the DD Form 254 where the Seller is not required to have a facility security clearance, the Seller shall enter into a Visitor Group Security Agreement (or understanding) with the installation commander to ensure that the Seller's security procedures are properly integrated with those of the installation. As a minimum, the agreement shall identify the security actions that will be performed:

- (a) By the installation for the Seller, such as providing storage and classified reproduction facilities, guard services, security forms, security inspections under DOD 5220.22-M, classified mail services, security badges, visitor control, and investigating security incidents; and
- (b) Jointly by the Seller and the installation, such as packaging and addressing classified transmittals, security checks, internal security controls, and implementing emergency procedures to protect classified material.

**C. HEALTH AND SAFETY ON GOVERNMENT INSTALLATIONS (Applies only work is performed on a Government installation)**

(1) In performing work under this contract on a Government installation, the Seller shall:

- (a) Comply with the specific health and safety requirements established by this contract;
- (b) Comply with the health and safety rules of the Government installation that concern related activities not directly addressed in this contract;
- (c) Take all reasonable steps and precautions to prevent accidents and preserve the health and safety of contractor and Government personnel performing or in any way coming in contact with the performance of this contract; and
- (d) Take such additional immediate precautions as the contracting officer may reasonably require for health and safety purposes.

(2) The contracting officer may, by written order, direct Air Force Occupational Safety and Health (AFOSH) Standards and/or health/safety standards as may be required in the performance of this contract and any adjustments resulting from such direction will be in accordance with the Changes clause of this contract.

(3) Any violation of these health and safety rules and requirements, unless promptly corrected as directed by the contracting officer, shall be grounds for termination of this contract in accordance with the Default clause of this contract.

**D. TEMPEST REQUIREMENTS (Applies if the Seller is required to meet Tempest Standards in performance of this contract)**

(1) The seller shall ensure that compromising emanations (tempest) conditions related to this contract are minimized. (S/NF) HQ USAF/SCT/AFSCS/SR letter, 12 JAN. 90, tempest policy (U) NACSIM 5203, NACSIM 5100a, NACSIM 5201 and NACSIM 5204 may be used as guidelines to meet this requirement.

(2) The seller shall provide vulnerability assessment data to the buyer in the form of a tempest vulnerability assessment request (TVAR). The TVAR shall be submitted to the buyer no later than ten (10) days prior to bringing classified M/TIS on line. The reply should be specific responses to the areas covered in paragraphs (1) through (3) below; a seller's standard security plan is unacceptable as a "stand-alone" response. This information will be used to complete a tempest vulnerability assessment (TVA) of

the seller's facility to be performed by the government tempest professional using current air force tempest directives.

(3) When any of the information required below changes (such as changing location or equipment or increasing the classification level or volume of processing that increases the control area established in the initial TVA), the seller shall notify the buyer of these changes so that a new TVA may be accomplished. The seller shall submit to the buyer a new TVAR, identifying the new configuration, at least sixty (60) days before the changes occur; the seller shall not commence secret or higher processing with the new configuration until receiving approval to do so from the buyer.

(a) System description -

(i) System/facility - full name and address of company submitting request and the prime contract number and duration. Also, provide a brief title identifying the overall system facility (e.g., xyz missile word processing system, ABC aircraft interactive graphics system, etc.).

(ii) Location - identify the address (include city, state, facility, building and room number) where the system or facility is located. Seller located in the areas defined by (S/NF) HQ USAF/SCT/AFSCS/SR, letter 12 JAN. 90, tempest policy (u), shall provide dimensioned maps showing their exact location(s) of classified processing at the secret or higher level.

(iii) Equipment - list the manufacturer and exact model number, nomenclature (terminal, disk drive, video systems, etc.) And quantity of each equipment involved in classified processing. Please do not provide the complete inventory of all the company's processing equipment.

(b) Responsible personnel -

(i) Security officer/manager - provide name, title, office symbol and telephone number. Include the same for the company appointed tempest authority (CATA), if applicable.

(ii) System custodian - if different from (a) above, provide name, title, office symbol, and telephone number.

(c) Operational risk - level/amount of classified: identify the levels of classification (including specific control designators, such as SCI, SAP, SIOP, etc.) That will be processing, the estimated hours per day/ month for each level, and the percent (of total material processed) for each level. If time-sharing a computer, list classification(s) and percentage(s) of use by other program(s).

(4) Tempest is applied on a case-by-case basis and further information may be required to complete the TVA; should this be the case, the seller shall provide this information to buyer when requested.

(e) The seller shall ensure that all subcontractors/vendors comply with tempest requirements as set forth in the DD form 254 when performing classified processing related to this contract.

(5) Classified processing shall not be done until the tempest approval is provided by the contracting officer and the M/TIS procedures have been approved by the defense investigative service (DIS) for non-SAR equipment/ systems or ASD/YF for SAR equipment/systems.

#### **E. INCORPORATION OF REFERENCED DOCUMENTS**

(1) All specifications, exhibits, drawings or other documents which are referred to in this contract, whether or not attached, are incorporated herein by reference.

(2) When federal or military specifications or standards, or other documents, are referenced in the specifications, standards, or other documents cited in this contract, the effective issue or revision of the referenced specifications, standards, or other documents shall be that listed in Parts i and ii of the DoD index of specifications and standards (DODIS) dated 1 Nov. 90, unless (i) specific issues are set forth



therefor in the cited specifications, standards, or other documents, or (ii) different issues are set forth therefor in this contract.

**F. REIMBURSEMENT, INTEREST CHARGES, AND PENALTIES FOR OVERPAYMENT** (Applies of certified cost or pricing data was furnished under this contract)

Notwithstanding any other provision of this contract, if the buyer makes any overpayment under this contract subject to 10 U.S. Code 2306(a) and the overpayment was due to contractor submission of inaccurate, incomplete or non-current cost or pricing data, the seller shall be liable to the government (i) for interest on the amount of such overpayment to be computed from the date the payment was made to the contractor to the date the government is repaid at the rate established by the Secretary of the Treasury under Section 6621 of the Internal Revenue Code of 1954 and (2) if such submission was a knowing submission, the contractor shall be liable to the government for an additional amount equal to the amount of the overpayment. (ASD/PM policy letter 87-071, 12 Aug. 87).

**G. MATERIAL SAFETY DATA SHEET**

(1) The seller shall mail two copies of the material safety data sheet (MSDS) required by the hazardous material identification and material safety data clause of this contract to the following address instead of the address given in the latest version of federal standard no. 313: USAF OEHL/ECH, Brooks AFB TX 78235-5000.

(2) The seller shall verify that the national stock number, trade or part name, federal supply code for manufacturers (FSCM), and prime contract number are included in the MSDS.

**H. SERIAL NUMBERS** (Applies if this contract requires hardware which is to be ultimately delivered to the Government as an end item)

The seller shall serially number the supplies called for hereunder with serial numbers of his own designation.

**I. LIST OF DATA TO BE PROVIDED WITH OTHER THAN UNLIMITED RIGHTS**

With the exception of the technical data or computer software set out elsewhere in this contract, all technical data and computer software to be delivered under this contract and which is identifiable at contract award, shall be furnished with unlimited rights as defined in DFARS 52.227-7013. Technical data that is not identifiable at contract award will be governed by DFARS 52.227-7013. Failure to identify data at the time of contract award does not impact the seller's rights otherwise set forth in DFARS 52.227-7013.

**J. FOREIGN NATIONALS - FOREIGN SOURCES**

(1) For the purposes of this clause,

(A) Foreign nationals are those persons not citizens of, not nationals of, or resident/immigrant aliens to, the United States;

(B) Foreign representative is anyone, regardless of nationality or citizenship, acting as an agent, representative, official, or employee of a foreign government, a foreign-owned or influenced firm, corporation, or person; and

(C) Foreign sources are those sources (vendors, subcontractors, and suppliers) not owned and controlled by citizens or immigrant aliens of the United States.

(2) Nothing in this clause is intended to waive any requirement imposed by any other U.S. Government agency with respect to employment of foreign nationals or export-controlled data and information.

(3) Seller acknowledges that equipment and technical data generated or delivered in the performance of this contract is controlled by the International Traffic in Arms Regulation (ITAR), 22 CFR Sections 121 through 128, and require an export license before assigning any foreign national to perform work under this contract or before granting access to foreign nationals to any equipment and technical data generated or delivered in performance of this contract (see 22 CFR Section 125). Seller agrees to notify and obtain the written approval of Buyer prior to assigning or granting access to any work, equipment, or technical

data generated or delivered in the performance of this contract to foreign nationals or their representatives. This notification will include the name and country of origin of the foreign national or representative, the specific work, equipment, or data to which the person will have access, and whether the foreign national is cleared to have access to technical data (DoD 5220.22-M, National Industrial Security Program Operating Manual (NISPOM)).

**K. RELEASE OF INFORMATION**

(1) "Information" includes, but is not limited to, news releases, articles, manuscripts, brochures, advertisements, still and motion pictures, speeches, trade association meetings, symposia, published professional papers, etc. Authors must submit materials proposed for release to ASC/PA in the following quantities:

- (a) News releases, articles, brochures, advertisements, and professional papers - 3 copies
- (b) Videos - 3 copies/transcripts - 3 copies
- (c) Briefings, speeches, symposia presentations - 3 copies
- (d) Photographs - 1 original and 2 legible photocopies

(2) Send release of information requests to:

ASC/PA  
1865 Fourth Street, Suite 15  
Wright-Patterson AFB OH 45433-7129

(3) Sponsored By:

Aeronautical System Center  
Wright-Patterson AFB OH 45433-7129

**L. REVIEW OF PROPRIETARY DATA**

The seller hereby grants its permission to disclose and release any data submitted hereunder marked with a limited, restricted or proprietary rights legend to a support contractor retained by the government to review the proprietary of such marking; provided that such support contractor shall be prohibited from further releasing, disclosing or otherwise using such data in accordance with a non-disclosure agreement. The seller shall include this clause in all subcontracts hereunder calling for data, with the exception of subcontracts for commercial items.

**M. CONTRACT SETTLEMENTS**

Any contract settlement or changes thereto are subject to Government review and approval.

**N. AUTHORIZATION TO USE OTHER THAN NEW MATERIAL**

(1) Support as a capability concept: A key aspect of the F-22 support program [Performance-based Agile Logistics Support (PALS)] is the concept of "Support as a Capability." This consists of "support services capability" and "support material capability." Support services capability is performance-based support of the flying hour program (e.g., field service representatives, heavy maintenance capability, support engineering, etc.). Support material capability provides spares as required to meet the flying hour program in a manner that is consistent with specific performance based results. In order to effectively implement this concept, the following authorization to use other than new material shall pertain to all F-22 contracts (see ASC/YFK-H-002).

(2) Authorization to use other than new material: In order to implement the support material capability concept in a manner that ensures maximum flexibility and efficiency, it may become necessary to utilize "other than new" materials in the performance of one or more contracts in the F-22 program. "Other than new" material is defined on the Engineering and Manufacturing Development (EMD) contract (F33657-91-C-0006) under the clauses at FAR 52.210-5, New Material (APR 1984) and FAR 52.210-7, Used or Reconditioned Material, Residual Inventory, and Former Government Surplus Property (APR 1984). On

the PRTV/PRTV II contract (F33657-97-C-0030) it is defined under the clause at FAR 52.211-5, Material Requirements (OCT 1997), and on the Lot 1 and Lot 2 contracts (F33657-99-C-0036 and F33657-00-C-0020 respectively) it is defined under the clause at FAR 52.211-5, Material Requirements (AUG 2000). These clauses (and any substantially similar clauses in later contracts) require the use of new materials in the performance of the contract requirements, unless the use of "other than new" material is authorized in writing by the Buyer and Contracting Officer. Subject to the conditions referenced in paragraph (c) below, the Buyer and Contracting Officer hereby authorize the use of "other than new" materials in the performance of this contract. To the extent allowed by paragraph (c) below, this authorization includes the use of material previously available to or accepted by the Government and returned to the Seller as Government Furnished Property (GFP).

(3) Conditions on the authorization to use other than new material: The above authorization to use "other than new" material in the performance of this contract is subject to the conditions listed below. Any potential use of "other than new" material that does not meet all the conditions listed below shall be evaluated on a case-by-case basis by the Buyer and Contracting Officer in accordance with the applicable clause(s) referred to in paragraph (b) above.

(a) Suitability for the intended use: The "other than new" material to be used in the performance of this contract must be suitable with respect to form, fit, function, and interface, and may not create limitations to the weapon system performance, supportability, or effectiveness in performance of the assigned mission.

(b) Condition: The "other than new" material to be used in the performance of this contract must be in a serviceable condition without creating additional operational limitations. All Time Change Items (TCIs) to be used as "other than new" material shall have at least 40% or not less than 400 flight hours of useful life remaining, whichever is higher. Parts or components identified as "bad actors" (as defined by Chapter 8, T.O. 00-35D-54) shall not be used.

(c) Safety of flight: The "other than new" material to be used in the performance of this contract must not create a safety of flight risk.

(d) Proper configuration: The "other than new" material to be used in the performance of this contract must conform to the authorized configuration of the end item for which such material is to be used. If a preferred sparing activity applies, the "other than new" material must conform to the preferred configuration.

(4) Asset Management Prioritization: The Seller shall make the day-to-day decisions and authorize the movement of assets in accordance with the Uniform Material Movement and Issue Priority System (UMMIPS) defined by Air Force Manual (AFMAN) 23-110. When the minimum requirements of the production program conflict with those of the field support or test programs (or vice versa), the Seller shall notify the Buyer and Contracting Officer prior to utilizing an asset otherwise needed to fulfill the minimum requirements of the affected program. Deviations from or exceptions to the above priority requirements shall require written direction from the Buyer and Contracting Officer. Any equitable adjustments to the contract(s) price and/or schedule (if appropriate) shall be executed in accordance with the "Changes" clause of this contract. This clause in no way relieves the Seller of any responsibilities or obligations under this or any other contract in the F-22 program.