

## NABHOLZ ATTACHMENT B

***Terms and Conditions Applicable to Subcontracts and Purchase Orders issued Under U.S. Government Contracts, Grants, and Projects receiving federal funding as defined by applicable federal law, Executive Order or regulation.***

The Subcontractor or Seller (sometimes hereinafter referred to as the "Contractor", "Vendor", or the "Subcontractor") agrees, with respect to this purchase order (sometimes hereinafter referred to as an "Order", "Contract", or "Subcontract"), to be bound by the following provisions:

### **I. RENEGOTIATION**

- (a) To the extent required by law, this Contract is subject to the Renegotiation Act of 1951 (50 U.S.C. App.1211, *et seq.*), as amended, and to any subsequent act of Congress providing for the renegotiations of contracts. Nothing contained in this clause shall impose any renegotiation obligation with respect to his Contract or any subcontract hereunder, which is not imposed by an act of Congress heretofore or hereafter enacted. Subject to the foregoing, this Contract shall be deemed to contain all the provisions required by section 104 of the Renegotiation Act of 1951, and by any such other act, without subsequent contract amendment specifically incorporating such provisions.
- (b) Contractor agrees to insert the provisions of this clause, including this paragraph (b), in all Subcontracts, as that term is defined in section 103g of the Renegotiation Act of 1951, as amended.

### **II. EQUAL EMPLOYMENT OPPORTUNITY AND NON-DISCRIMINATION**

***To the extent allowed by current federal laws, Contractor and Subcontractor shall abide by applicable requirements of 41 CFR §§ 60-1.4, 60-300.5(a) and 60-741.5(a), E.O. 11246, as amended. These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against qualified individuals based on their race, color, religion, sex, sexual orientation, gender identity, or national origin.***

### **III. CONTRACT WORK HOURS STANDARDS ACT-OVERTIME COMPENSATION**

This Contract, to the extent that it is of a character specified in the Contract Work Hours Standards Act (40 U.S.C. 327-330), is subject to the following provisions and to all other applicable provisions and exceptions of such act and the regulations of the Secretary of Labor thereunder.

- (a) Overtime requirements. No Contractor or Subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any laborer or mechanic in any workweek in which he is employed on such work to work in excess of eight (8) hours in any calendar day or in excess of forty (40) hours in such workweek or work subject to the provisions of the Contract Work Hours Standards Act unless such laborer or mechanic receives compensation at a rate not less than one and one-half times his basic rate for all such hours worked in excess of eight (8) hours in any calendar day or in excess of forty (40) hours in such workweek, whichever is the greater number of overtime hours.
- (b) Violations: liability for unpaid wages; liquidated damages. In the event of any violation of the provisions of paragraph (a), the Contractor and any Subcontractor responsible therefore shall be liable to any affected employee for his unpaid wages. In addition, such Contractor and Subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic employed in violation of the provisions of paragraph (a) in the sum of \$10 for each calendar day on which such employee was required or permitted to be employed on such work in excess of eight (8) hours or in excess of his standard workweek of forty (40) hours without payment of the overtime wages required by paragraph (a).
- (c) Withholding for unpaid wages and liquidated damages. The Contracting Officer may withhold from the Government Prime Contractor; from any moneys payable on account of work performed by the Contractor or Subcontractor for unpaid wages and liquidated damages as provided in the provisions of paragraph (b).
- (d) Subcontracts. The Contractor shall insert paragraphs (a) through (d) of this clause in all subcontracts and shall require their inclusion in all subcontracts of any tier.
- (e) Contractor shall indemnify and hold Nabholz harmless from and against any and all claims, losses, damages, judgments, penalties, costs and expenses (including, without limitation, all expenses with respect to any administrative or court proceedings and reasonable attorneys' fees) arising out of or in connection with any violation or alleged violation of the Contract Work Hours Standards Act or any applicable regulation, rulings, or interpretations thereunder, in the performance of any or all parts of this Order or subcontract by Contractor or any Subcontractor, Seller or other party, and that this indemnity shall survive the completion or termination of this Order or subcontract.

### **IV. EXAMINATION OF RECORDS**

Contractor agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until expiration of three years after final payment under this Contract, have access and the right to examine any directly pertinent books, documents, papers, and records of the Contractor involving transactions related to this Contract. This paragraph applies only to contracts exceeding \$100,000 and does not apply to agreements for public utility services at rates established for uniform applicability to the general public.

### **V. NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT**

The provisions of this clause shall be applicable only if the amount of this Contract exceeds \$100,000.

- (a) The Contractor shall report to the Contracting Officer, promptly and in reasonable written detail, each notice or claim of patent or copyright infringement based on the performance of this Contract of which the Contractor has knowledge.
- (b) In the event of any claim or suit against the Government on account of any alleged patent or copyright infringement arising out of the performance of this Contract or out of the use of any supplies furnished, or work or services performed hereunder, the Contractor shall furnish to the Government, when requested by the Contracting Officer, all evidence and information in possession of the Contractor pertaining to such suit or claim. Such evidence and information shall be furnished at the expense of the Government except where the Contractor has agreed to indemnify the Government.
- (c) This clause shall be included in all subcontracts.

### **VI. THE ANTI-KICKBACK ACT OF 1986**

(Ref. FAR 3.502-2) prohibits any person from providing or attempting to provide any kickback. This act further prohibits any person from soliciting, accepting, or attempting to accept any kickback, and from incorporating, directly or indirectly, the amount of the kickback into the contract price charged by the prime contractor to the United States or by the Subcontractor to the prime contractor or higher tier subcontractor.

### **VII. DEBARMENT**

This Contract is issued upon the understanding that the Seller is not a debarred, suspended, or ineligible party as defined in the rules implementing Executive Order 12549 and agrees to notify Nabholz immediately if it is placed on the Lists of Parties Excluded from Federal Procurement or Non-procurement Programs. A copy of the rules implementing Executive Order 12549 may be obtained from Nabholz.

A ***Debarment Certification Form*** must be completed by Subcontractors, Vendors of Procurements of \$25,000 or more, and by Trainees on federal training grants.

**VIII. NOTIFICATION OF EMPLOYEE RIGHTS UNDER FEDERAL LABOR LAWS**

To the extent required by the rules implementing Executive Order 13496, Contractor agrees to post a notice, of such size and in such form, and containing such content as the Secretary of Labor shall prescribe, in conspicuous places in and about its plants and offices where employees covered by the [National Labor Relations Act](#) engage in activities relating to the performance of the contract, including all places where notices to employees are customarily posted both physically and electronically. The text of the required notice may be found at 29 CFR part 471, appendix A to subpart A, which is incorporated in this Contract by reference.

**IX. CLAUSES AND CERTIFICATIONS**

(Refer to Attachment "B.1") This Contract incorporates the following clauses by reference, with the same force and effect, as if they were given in full text. Upon request, Nabholz will make their full text available. Also, full text and additional clauses may be accessed electronically at [www.acquisition.gov](http://www.acquisition.gov).

**X. CONTRACT CLAUSES INCLUDED IN FULL TEXT**

This Contract incorporates the following clauses in full text. FEDERAL ACQUISITION REGULATION (FAR) (48 CFR CHAPTER 1) CLAUSES:

**FAR Clause 52.244-6, SUBCONTRACTS FOR COMMERCIAL ITEMS AND COMMERCIAL COMPONENTS (OCTOBER 1998)**

**Commercial item**, as used in this clause, has the meaning contained in the clause at 52.202-1, Definitions. **Subcontract**, as used in this clause, includes a transfer of commercial items between divisions, subsidiaries, or affiliates of the Contractor or SUBCONTRACTOR at any tier.

- A) To the maximum extent practicable, Contractor shall incorporate and require its SUBCONTRACTORS at all tiers to incorporate commercial items or non-developmental items as components of items to be supplied under this Contract.
- B) Notwithstanding any other clause of this Contract, the Contractor is not required to include any FAR provision or clause, other than those listed below *only to the extent they are applicable and enforceable under current law*, and as may be required to establish the reasonableness of prices in a subcontract at any tier for commercial items or commercial components:
  - 1) 52.222-26, Equal Opportunity (E.O. 11246, as amended);
  - 2) 52.222-35, Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era (38 U.S.C. 4212(a), as amended); and
  - 3) 52.222-36, Affirmative Action for Workers with Disabilities (29 U.S.C. 793, as amended).

**XI. PROCUREMENTS ISSUED UNDER GOVERNMENT GRANTS**

Procurements made with Federal funds are subject to compliance with the standards and requirements as set forth in OMB Circular A-110, Appendix A (Contract Provisions) and OMB Circular A-133, Paragraph 5. All procurement requirements contained in the above referenced Circulars are incorporated herein by reference. A *Debarment Certification Form* is required (See **VII. Debarment**). An Anti-Lobbying Certification is to be provided to the Nabholz Project Manager when required by applicable law or regulation.

**XII. OCCUPATIONAL SAFETY AND HEALTH ACT**

To the extent that the products sold and/or services rendered to the buyer are covered by standards or regulations promulgated by the U.S. Department of Labor under the Occupational Safety and Health Act of 1970 (29 U.S. Code Sec. 651, Public Law 91-596, as amended), the Seller agrees to comply with such standards or regulations.

**ATTACHMENT B.1**

**FEDERAL ACQUISITION REGULATION (FAR) (48 CFR CHAPTER 1) CLAUSES:**

Clause No.	Title	Clause No.	Title
52.202-1	Definitions	52.222-14	Disputes concerning Labor Standards
52.203-3	Gratuities (over \$100,000)	52.222-15	Certification of Eligibility
52.203-5	Covenant Against Contingent Fees (over \$100,000)	52.222-21	Certification on Non-segregated facilities
52.203-6	Restrictions on SUBCONTRACTOR Sales to the Gov't (Over \$100,000)	52.222-26	Equal Opportunity
52.203-7	Anti-Kickback Procedures (Over \$100,000)	52.222-35	Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era
52.203-8	Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity (Over \$100,000)	52.222-36	Affirmative Action for Worker's with Disabilities
52.203-10	Price or Fee Adjustment for Illegal or Improper Activity (Over \$100,000)	52.222-37	Employ. Reports on Disabled Veterans and Vets of the Vietnam Era
52.203-11	Certification and disclosure regarding payments to influence Federal transactions	52.222-41	Service contract Act of 1965 as Amended
52.203-12	Limitation on Payments to Influence Certain Federal Transaction (Over \$100,000)	52.223-1	Clean Air and Water Certification **
		52.223-2	Clean Air and Water (Over \$100,000)
52.204-2	Security Requirements	52.223-3	Hazardous Material Identification and Material Safety Data
52.208-1	Requires sources for Jewel Bearings	52.223-6	Drug-Free Workplace
52.209-5	Certification regarding debarment, suspension, proposed debarment, and other responsibility matters	52.223-14	Toxic Chemical Release Reporting
		52.225-1	Buy American Act Balance of Payments Program
52.209-6	Protecting the Government's Interests when subcontracting with contractors debarred, suspended, or proposed for debarment (over \$25,000)	52.225-9	Trade Agreements Act
		52.225-11	Restriction on Certain Foreign Purchases
		52.225-13	Restriction on Foreign Purchases
52.215-2	Audit and Records - Negotiation (Over \$100,000)	52.227-1	Authorization and Consent, Alternate I (April 1984)
52.215-8	Order of Precedence - Uniform Contract Format	52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement Over \$100,000
52.215-10	Price Reduction for Defective Cost or Pricing data	52.227-10	Filing of Patent Application, classified subject matter
52.215-12	SUBCONTRACTOR Cost or Pricing Data (Over \$500,000)	52.227-11	Patent Rights - Retention by the Contractor (short form)
52.215-14	Integrity of Unit Prices (Over \$100,000)	52.227-12	Patent Rights (long form)
52.215-15	Pension Adjustments and Asset Reversions	52.227-14	Rights in Data - General, Alternate IV (June 1987)
52.215-18	Reversion or Adjustment of Plans-for Post-Retirement Benefits (PRB) other than Pensions	52.232-9	Limitation on Withholding of Payments
		52.232-22	Limitation of Funds
52.215-19	Notification of Ownership changes	52.232-23	Assignment of Claims
52.215-21	Requirements for cost or pricing Data or Information Other than Cost or Pricing Data - Modifications	52.232-25	Prompt Payment
		52.232-34	Payment by Electronic Funds Transfer - Other than Cent.Cont.Reg.
52.215-24	Subcontractor Cost or Pricing Data	52.233-1	Disputes
52.215-26	Integrity of Unit Prices	52.233-3	Protest after Award
52.219-8	Utilization of Small Business Concerns (Over \$100,000)	52.242-13	Bankruptcy (Over \$100,000)
52.219-9	Woman-owned small business subcontracting plan (Over \$500,000)	52.242-1	Stop Work Order
52.219-16	Liquidated Damages - Subcontracting Plan (Over \$500,000)	52.244-2	Subcontracts, Alternate (Aug. 1998) If written consent to

52.220-3	Labor Area Surplus Concerns		subcontract is required, the identified subcontracts are listed in Article B
52.222-1	Notice to the government of labor dispute	52.244-5	Competition in Subcontracting (Over \$100,000)
52.222-3	Convict Labor	52.245-2	Government Property (Fixed-Price Contracts, Time, Material, Labor)
52.222-6	Davis Bacon Act - Standards Overtime Compensation	52.246-23	Limitation of Liability (Over \$100,000)
52.222-7	Withholding of funds	52.247-63	Preference for US Flag Air Carriers
52.222-8	Payroll and basic records	52.247-64	Preference for privately owned US Flag Commercial Vessels
52.222-9	Apprentices and trainees	52.249-4	Termination for the Convenience of the Gov't (Services/short form)
52.222-10	Compliance with Copeland Act	52.253-1	Computer generated forms
52.222-12	Contract Termination - Debarment	**	Certification provided to Harvard Office of Sponsored Research