

HONEYWELL FEDERAL MANUFACTURING & TECHNOLOGIES, LLC

TERMS AND CONDITIONS OF PURCHASE, FIXED-PRICE PURCHASE ORDERS/CONTRACTS (COMMERCIAL ITEMS)

Effective: 4/2016

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1. INTRODUCTION

- (a) Goods and services covered by this purchase order/contract shall be furnished subject to terms and conditions set forth herein.
- (b) This purchase order/contract is the complete and exclusive statement of the terms of agreement between Seller and Buyer.

- (c) No modification of this purchase order/contract (including any addition, deletion, or other modification proposed in Seller's acceptance) shall be binding on Buyer unless agreed to by Buyer in a writing signed by Buyer's Purchasing Department Representative.

2. DEFINITIONS

As used throughout this purchase order/contract, the following terms shall have the meaning set forth below:

- (a) "Buyer" means Honeywell Federal Manufacturing & Technologies, LLC, in the performance of its prime contract with The United States of America and includes any duly authorized representative thereof acting within authorized limits.
- (b) "Commercial Item" or "Commercial Component" means the same as the definitions for these terms at FAR 2.101.
- (c) "Contract" means the same as the definition at FAR 2.101 and specifically includes this purchase order/contract.
- (d) "Contracting Officer" means the same as the definition at FAR 2.101 and specifically includes "Buyer" to the extent necessary to enable Buyer to administer this purchase order/contract and to perform its obligations under its Government prime contract.
- (e) "Contractor" means "Buyer" when used in the context of referring to a prime contractor with the US Government in a FAR or DEAR clause/provision incorporated into this purchase order/contract. In all other instances, "Contractor" means "Seller."
- (f) "Counterfeit Item" A counterfeit item is one that has been copied or substituted without legal right or authority or whose material, performance or characteristics have been misrepresented by the supplier or manufacturer.
- (g) "DOE" means US Department of Energy or any duly authorized representative thereof, including the Contracting Officer.
- (h) "DEAR" means Department of Energy Acquisition Regulation, including all amendments and changes thereto in effect on the date of issuance of this purchase order/contract.
- (i) "FAR" means Federal Acquisition Regulation, including all amendments and changes thereto in effect on the date of issuance of this purchase order/contract.
- (j) "Government" means The United States of America, and shall include Buyer to the extent necessary to enable Buyer to administer this purchase order/contract and to perform its obligations under its Government prime contract.
- (k) "Order" means purchase order/contract when used in the context of referring to a contractual relationship between Buyer and Seller.
- (l) "Subcontract(s)" and "Subcontractor(s)" includes this purchase order/contract when used in a FAR or DEAR clause referring to a prime and subcontractor relationship. Otherwise, it means Seller's lower tier subcontract(s) and subcontractor(s), respectively. The term "subcontract" includes purchase orders

and changes, modifications, or amendments to subcontracts and purchase orders.

- (m) "Suspect Item" An item is suspect when inspection or testing indicates that it may not conform to established Government or industry-accepted specifications or national consensus standards or whose documentation, appearance, performance, material or other characteristics may have been misrepresented by the supplier or manufacturer.

3. CHANGES

- (a) Buyer may at any time, by written order, and without notice to sureties, if any, make changes within the general scope of this purchase order/contract.
- (b) If any such change causes an increase or decrease in the cost of, or time required for, performance of any part of work under this purchase order/contract, regardless of whether changed by a written order, Buyer shall make an equitable adjustment in purchase order/contract price, delivery schedule, or both, and shall modify purchase order/contract accordingly in writing.
- (c) Seller must assert any right it may have to an adjustment in writing to Buyer and any such written assertion must be received by Buyer within 30 days from date of receipt of Seller's written order. However, if Buyer decides the facts justify it, Buyer may receive and act upon any such claim asserted at any time prior to final payment under this purchase order/contract.
- (d) If Seller's proposal for adjustment includes cost of property made obsolete or excess as a result of Buyer's written change order, Buyer shall have the right to prescribe the manner of disposition of the property.
- (e) Failure to agree to any adjustment shall be a Dispute under the Disputes clause. However, nothing in this clause shall excuse Seller from proceeding with purchase order/contract as changed.

4. SHIPPING INSTRUCTIONS AND INSURANCE

A packing list must accompany each shipment; otherwise, Buyer's count will be accepted as final and conclusive. Packing list must indicate Buyer's purchase order/contract number and part number or code number. If shipment is made by Seller's supplier, Seller's name must be shown on packing list in addition to the above information. Seller shall mark Buyer's purchase order/contract number on all packages and consolidate daily shipments. If transportation charges are dependent on released valuation, Seller shall release shipment at value resulting in the lowest charges. Bill of lading advice of shipment must be sent as soon as material is forwarded, giving correct purchase order/contract, part, or requisition number, description of material and full forwarding information. All material must be forwarded in accordance with routing specified on this purchase order/contract or additional instructions issued by Buyer. Seller shall not insure item(s) shipped FOB shipping point.

5. TITLE

Title to items or services furnished under this purchase order/contract shall pass to the Government upon acceptance by

Buyer, regardless of when or where Buyer takes physical possession.

6. RISK OF LOSS

Regardless of point of inspection or acceptance, risk of loss or damage to items provided under this purchase order/contract shall remain with Seller until, and shall pass to Buyer upon delivery of items to:

- (a) Shipping point carrier, if Buyer pays carrier's transportation costs; or
- (b) Buyer or Buyer's designee at final delivery destination specified in purchase order/contract, if Seller pays transportation costs.

7. PRICES AND NEW MATERIAL

Unless otherwise provided in this purchase order/contract:

- (a) Prices appearing herein include all packaging and crating.
- (b) Seller warrants that items furnished under this purchase order/contract are new and are not of such age or so deteriorated as to impair their usefulness or safety. Used items that have been refurbished and warranted as new are considered used.

8. VARIATION IN QUANTITY

Buyer shall not be obligated to accept any variation in quantity of any item called for by this purchase order/contract unless such variation has been caused by conditions of loading, shipping, or packing, or allowances in manufacturing processes, and then only to extent, if any, specified elsewhere in purchase order/contract.

9. QUALITY ASSURANCE/BUYER ACCEPTANCE

- (a) Unless otherwise specified in this purchase order/contract, Seller shall be responsible for all quality assurance measures necessary to ensure that only items and services conforming to the requirements of this purchase order/contract are tendered to Buyer for acceptance. This shall include such testing, in process inspection and other verification measures as are customary in the industry to ensure that parts, components, and materials furnished by seller's suppliers and incorporated into end items furnished to Buyer are not counterfeit or of suspect quality.
- (b) Notwithstanding Seller's responsibility for all quality assurance measures as described in paragraph (a) above, Buyer has the right to conduct in process inspections, if this purchase order/contract is for services. Seller shall provide all reasonable facilities and assistance for the safe and convenient performance of such inspections without additional charges.
- (c) Buyer reserves the right to inspect and test all items and services that have been tendered for acceptance. Buyer has the right to reject nonconforming items and services with or without disposition instructions from Seller; the right to require their correction, replacement, reperformance; the right to accept nonconforming items or services and reduce the purchase order/contract amount to reflect the reduced value of the nonconformance(s); or the right to terminate this purchase order/contract for cause.

10. PREFERENCE FOR DOMESTIC PRODUCTS

Provisions of the Buy American Act do not directly apply to this procurement transaction; however, Buyer does state a preference for use of domestic products and delivery of domestic end products when feasible and appropriate.

11. FEDERAL, STATE AND LOCAL TAXES

Sales taxes, gross receipts taxes, and use taxes may be applicable to this purchase order/contract unless buyer provides Seller with evidence of exemption from such taxes. No other taxes are applicable and Seller warrants that purchase order/contract price does not include any amount for taxes of any kind.

12. INVOICES, DISCOUNTS, AND PAYMENTS

- (a) Seller shall be paid, upon submission of proper invoice(s), the

prices stipulated herein for items and services accepted by Buyer, less any deductions, set-offs or recoupments. Seller shall submit an original invoice (electronic submission preferred) to the billing address specified in the purchase order/contract. Unless otherwise specified in the purchase order/contract billing instructions, each invoice must include the following information:

- (1) Unique or non-repeating invoice number;
- (2) Invoice date;
- (3) Buyer's purchase order/contract number;
- (4) Purchase order/contract line item number, description of product or service, quantity, unit of measure, unit price, and extended price for each line item for which payment is being requested;
- (5) Total invoice price;
- (6) Seller standard payment terms, or;
- (7) Discount payment terms offered;
- (8) If applicable, identify shipping number and date of shipment, including bill of lading number and weight if shipped on a Government bill of lading;
- (9) Seller name;
- (10) Seller remit payment address;
- (11) Name, address, and phone number of Seller representative to contact in the event of a defective invoice.

(b) Unless otherwise specified in the purchase order/contract, Buyer's standard payment terms are "Net 30 days" from the date of invoice receipt. Buyer will, however, consider early payment where discounts for prompt payment are specified either in the terms of the purchase order/contract or stated on Seller's invoice. In connection with any discount offered for early payment, time shall be computed from the latest of the following dates:

- (1) Date of delivery to the carrier when delivery is f.o.b. shipping point;
- (2) Date of delivery at destination when delivery is f.o.b. destination;
- (3) Date a correct invoice is received in the office specified in Buyer's purchase order/contract.

13. DISPUTES

- (a) Unless otherwise provided in this purchase order/contract, all disputes arising under or relating to this purchase order/contract which are not disposed of by mutual agreement of the parties, shall be resolved under this clause.
- (b) "Claim," as used in this clause, means a written demand or written assertion by one of the parties to this purchase order/contract seeking, as a matter of right, payment of money in a sum certain, adjustment or interpretation of purchase order/contract terms, or other relief arising under or relating to this purchase order/contract. A claim arising under this purchase order/contract, unlike a claim relating to this purchase order/contract, is a claim that can be resolved under a purchase order/contract clause that provides for the relief sought by claimant. However, a written demand or written assertion by Seller seeking payment of money exceeding \$100,000 is not a claim until certified as required by

subparagraph (c) (2) below. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim. The submission may be converted to a claim by complying with the submission and certification requirements of this clause if it is disputed either as to liability or amount, or is not acted upon in a reasonable time.

- (c) (1) A claim by Seller shall be made in writing and submitted to the head of Buyer's Purchasing Organization for a written decision. A claim by Buyer against Seller shall be subject to a written decision by the head of Buyer's Purchasing Organization.
- (2) For Seller claims exceeding \$100,000, (or any amount when the parties have agreed to a form of alternative dispute resolution per paragraph (h) below) Seller shall submit with claim a certification that—
 - (i) Claim is made in good faith; and
 - (ii) Supporting data are accurate and complete to the best of Seller's knowledge and belief; and
 - (iii) Amount requested accurately reflects the purchase order/contract adjustment for which Seller believes Buyer is liable; and
 - (iv) Statement by the person certifying the claim that they are duly authorized to certify the claim on behalf of Seller.
- (d) The head of Buyer's Purchasing Organization shall, within 60 days, decide the claim or notify Seller of date by which decision will be made.
- (e) The decision rendered by the head of Buyer's Purchasing Organization shall be final and conclusive and not subject to review or revision by any forum, tribunal or Government agency unless suit is filed as provided in this clause. Within one (1) year after issuance of the decision, or upon the failure to issue such a decision within a reasonable time as provided in (d) above, the claimant party may seek relief on its claim by commencing suit in the State of Missouri. Any such suit must be filed in the District Court for the Western District of Missouri, or, in the event that such court lacks jurisdiction, in the highest level trial court of the State of Missouri having jurisdiction. The parties agree that the determination of any substantive issues of law shall be based upon applicable Federal Law. Each party also agrees that any trial resulting from such suit shall be made to a court and not to a jury. Thus, as a part of the consideration in entering into this purchase order/contract, each party waives any right it may have to a trial by jury for any dispute arising under or related to this purchase order/contract.
- (f) Buyer shall pay interest on the amount found due and unpaid from (1) the date Buyer receives the claim (properly certified if required), or (2) the date payment otherwise would be due, if that date is later, until date of payment. Simple interest on claims shall be paid at the rate fixed by the Secretary of the Treasury under the Contract Disputes Act of 1978 (P.L. 95-563), which is applicable to the period during which Buyer receives the claim and then at the rate applicable for each 6-month period as fixed by the Treasury Secretary during the pendency of the claim.
- (g) Seller shall proceed diligently with performance of this purchase order/contract, pending final resolution of any request for relief, claim, or action arising under or relating to this purchase order/contract, and shall comply with any decision of the head of Buyer's Purchasing Organization.
- (h) Notwithstanding any other provision of this clause, parties may, by mutual consent, agree to a form of alternative dispute resolution involving an impartial third party to mediate or

arbitrate disputes.

14. APPLICABLE LAW

Rights and obligations of the parties hereto shall be governed by, and this purchase order/contract shall be interpreted in accordance with, Federal law.

15. RIGHTS AND REMEDIES OF BUYER

Rights and remedies of Buyer set forth herein shall be in addition to any other rights and remedies provided in law or equity and failure or delay of Buyer to exercise any rights or remedies under this purchase order/contract shall not operate as a general waiver thereof.

16. EXCUSABLE DELAYS

- (a) Seller shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of Seller and without its fault or negligence such as acts of God or public enemy, acts of the Government in its sovereign capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. Seller shall notify Buyer in writing as soon as is reasonably possible after commencement of any excusable delay, setting forth full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to Buyer of cessation of such occurrence.
- (b) Buyer shall not be in default for nonperformance caused by an occurrence beyond the reasonable control of the Buyer and without Buyer's fault or negligence such as acts of God or public enemy, acts of the Government in its sovereign capacity, fires, floods or other natural disaster, epidemics, quarantine restricts, strikes, unusually severe weather, and government shutdowns. Buyer shall notify Seller in writing as soon as is reasonably possible after commencement of any excusable delay, setting forth full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to Seller of cessation of such occurrence.

17. STOP WORK ORDER

If this purchase order/contract is for services, Buyer reserves the right to require Seller to temporarily stop work in accordance with terms of FAR clause FAR 52.242-15, Stop Work Order (AUG 1989) ALTERNATE I (APR 1984)

18. TERMINATION FOR BUYER'S CONVENIENCE

Buyer reserves the right to terminate this purchase order/contract, or any part hereof, for its sole convenience. In the event of such termination, Seller shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to terms of this purchase order/contract, Seller shall be paid a percentage of the purchase order/contract price reflecting the percentage of work performed prior to notice of termination, plus reasonable charges Seller can demonstrate to the satisfaction of Buyer using its standard record keeping system, have resulted from the termination. Seller shall not be paid for any work performed or costs incurred which reasonably could have been avoided.

19. TERMINATION FOR CAUSE

Buyer may terminate this purchase order/contract, or any part hereof, for cause in the event of any default by Seller, or if Seller fails to comply with any purchase order/contract terms and conditions, or fails to provide Buyer, upon request, with adequate assurances of future performance. In the event of termination for cause, Buyer shall not be liable to Seller for any amount for items or services not accepted, and Seller shall be liable to Buyer for any and

all rights and remedies provided by law. If it is determined that Buyer improperly terminated this purchase order/contract for default, such termination shall be deemed a termination for convenience.

20. PATENT INDEMNITY

Except for an infringement resulting from compliance with specific written instructions of Buyer directing a change in items to be delivered or in materials or equipment to be used, or directing a manner of performance not normally used by Seller, Seller shall indemnify Buyer, the Government, and their officers, agents, and employees against liability, including costs for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark or copyright, arising out of or relating to performance of this purchase order/contract.

21. SUSPECT/COUNTERFEIT ITEMS

Seller warrants that all items, including subassemblies, components, and parts, tendered to Buyer shall be genuine, new and unused, and conform to the requirements of this purchase order/contract, unless otherwise approved in writing by Buyer prior to delivery. Seller further warrants that all components, parts, materials, and supplies incorporated into Buyer facilities or equipment by Seller during performance of work at Buyer's facilities, shall be genuine, new and unused, and original-equipment-manufacturer items, unless otherwise approved in writing by Buyer as suitable for the intended purpose prior to use. Seller's warranty also extends to labels and/or trademarks or logos affixed, or designed to be affixed, to items supplied to Buyer, and to certifications, affirmations, information, or documentation related to the authenticity and quality of items supplied or delivered to Buyer under this purchase order/contract.

Seller shall indemnify Buyer, its agents, and assignees for any financial loss, injury, or property damage resulting directly or indirectly from material, components, or parts furnished or used under this purchase order/contract that are not genuine, original, and new and unused, or otherwise not suitable for the intended purpose. Seller's indemnity includes any financial loss, injury, or property damage resulting directly or indirectly from items furnished or used under this purchase order/contract that are defective, suspect, or counterfeit, or that have been provided under false pretenses, or that are materially altered, damaged, deteriorated, degraded, or result in product failure.

Suspect/counterfeit items furnished under this purchase order/contract will be impounded by Buyer. Seller must promptly replace them, at no cost, with items acceptable to Buyer, and Seller shall be liable for all costs relating to discovery, removal, impoundment, and replacement of materials and equipment that exhibit suspect or counterfeit item characteristics or conditions.

Because falsification of information or documentation may constitute criminal conduct, Buyer will segregate impounded items and related paperwork, that are suspected S/CI, pending a determination by National Nuclear Security Administration (NNSA) or Department of Energy (DOE) officials whether the segregated/impounded items should be utilized as evidence.

No liability shall be asserted or enforceable against Buyer, NNSA, or DOE because of impoundment, all such liability being expressly waived by Seller or any person claiming any right or interest under this purchase order/contract, in the impounded items.

Buyer shall incur no liability for failure to return impounded items to Seller and does not assume any liability for loss or damage to items impounded pursuant to this clause regardless of the circumstances under which said loss or damage may have occurred, and whether impounded items are in Buyer's possession or under its control.

Nothing in this clause shall limit Buyer's right to reject S/CI and related paperwork, as non-conforming, to deny payment for such items, to return such items to Seller once NNSA/DOE has released

the items, or to assert other remedies provided under this purchase order/contract or by law.

Seller shall include this clause in subcontracts hereunder.

22. WARRANTY

- (a) Seller warrants and implies that items delivered hereunder are merchantable and fit for use for the particular purpose described in this purchase order/contract. Seller further agrees that supplies or services furnished under this purchase order/contract shall be covered by the most favorable warranties Seller gives to any customer for the same or substantially similar supplies or services and that rights and remedies provided by this clause shall extend to the Government and are in addition to and do not limit any rights afforded Buyer by any other clause of this purchase order/contract.
- (b) Seller shall furnish to Buyer copies of the most favorable warranties Seller gives to any customer for the same or substantially similar supplies and services, and such warranties shall be deemed a part of this purchase order/contract.

23. ASSIGNMENT

This purchase order/contract is assignable by Buyer to the Government or its designee. Neither this purchase order/contract nor any interest therein nor claim thereunder shall be assigned or transferred by Seller except as expressly authorized by Buyer.

24. INDEPENDENT CONTRACTOR

Seller shall act solely as an independent contractor in the performance of this purchase order/contract and nothing herein shall be construed to create a relationship of employment, partnership, agency or joint venture between Buyer and Seller or between Buyer and any of Seller's employees in connection with the work under this purchase order/contract.

25. NOTIFICATION OF CONFLICTS OF INTEREST REGARDING PERSONNEL

(Applicable if procurement is \$150,000 or greater and is for advisory and assistance services)

The following terms with regard to Seller's personnel performing under this purchase order/contract shall apply until the earlier of two dates: the termination of the affected employee(s) or the expiration date of the purchase order/contract.

Seller shall immediately notify Buyer of (1) any actual or potential personal conflict of interest with regard to any of its employees working on or having access to information regarding this purchase order/contract, or (2) any such conflicts concerning Seller's employees or consultants working on or having access to information regarding this purchase order/contract, when such conflicts have been reported to Seller. A personal conflict of interest is defined as a relationship of an employee, subcontractor employee, or consultant with an entity that may impair the objectivity of the employee, subcontractor employee, or consultant in performing purchase order/contract work.

Seller shall notify Buyer prior to incurring costs for that employee's work when an employee may have a personal conflict of interest. In the event that the personal conflict of interest does not become known until after performance on the purchase order/contract begins, Seller shall, immediately notify Buyer of the personal conflict of interest. Seller shall continue performance of this purchase order/contract until notified by Buyer of the appropriate action to be taken.

This clause shall flow down to all subcontracts placed hereunder unless otherwise authorized by Buyer.

26. SELLER USE OF GOVERNMENT-OWNED/BUYER-SUPPLIED EQUIPMENT

It is Buyer's policy and intent that Government-owned/Buyer-supplied equipment not be used by contractors and that terms of our contracts require contractors to supply all equipment necessary to perform their required work. It is recognized, however, that exceptional circumstances could result in the necessity for limited use of Government-owned/Buyer-supplied equipment; therefore, when such occasions arise, the following Indemnification and Hold Harmless provision will be applicable to such use:

Contractor/Seller agrees to hold harmless and indemnify Buyer and the United States Government, their officers, agents and employees for any and all damages whatsoever, including, but not limited to, personal injury and property damage sustained as a result of, or arising out of, performance of any work involving the use of Government-owned/Buyer-supplied equipment. Neither Buyer, the United States Government, nor persons acting on their behalf shall be liable for any injury to or death of persons or other living things or damage to or destruction of property or for any other loss, damage, or injury of any kind whatsoever, including costs and expenses incurred, resulting from Contractor/Seller use and operation of Government-owned/Buyer-supplied equipment.

This clause shall flow down to all appropriate subcontracts.

27. COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAWS, CODES, RULES, AND REGULATIONS

Unless otherwise stated in this purchase order/contract, Seller shall, without additional expense to Buyer, be responsible for obtaining any necessary licenses and permits, and for complying with any Federal, State, and municipal laws, executive orders, codes, rules, and regulations applicable to performance of this purchase order/contract.

28. SELLER RESPONSIBILITY FOR CONTROL OF TECHNICAL DATA **(Applicable if Buyer-furnished data is provided to Seller)**

Export Regulations:

Seller agrees that all applicable import and export control laws, regulations, orders and requirements, including without limitation those of the United States and the jurisdictions in which Seller is established or from which **Products** may be supplied, will apply to their receipt and use. In no event shall Seller use, transfer, release, import, export, Products in violation of such applicable laws, regulations, orders or requirements. Exports and re-exports to parties who have been denied export privileges or debarred from an export transaction are prohibited. Seller shall not undertake any activities that violate U.S. export policies which seek to control nuclear proliferation, missile technology, chemical and biological weapons, as they relate to nations to support international terrorism. Violations against any U.S. export laws and regulations, including but not limited to the Export Administration Regulations (EAR), International Traffic in Arms Regulations (ITAR), Office of Foreign Asset Controls (OFAC), may result in termination by Buyer of this agreement. For information identified as Unclassified Controlled Nuclear Information (UCNI), the access requirements found in 10 CFR, Chapter 10, Part 1017 and Subpart D must be followed.

If Seller intends to export or release the hardware and/or data to Foreign Persons, Seller shall assume the responsibility for obtaining an export license or other approval from the U.S. Department of State. Seller shall first obtain the written consent of Buyer prior to submitting any request for authority to export any such technical data. These clauses are applicable to and shall flow down to all appropriate subcontractors.

Seller shall indemnify Buyer, its agents, and assignees for any financial loss, penalties or fines resulting directly or indirectly from Seller's violation of the U.S. Department of State International Traffic

in Arms Regulations (ITAR) 22 CFR 120-130 or the U.S. Department of Commerce Export Administration Regulations (EAR).

FCPA Regulations:

Seller represents and warrants that it understands, shall comply with the requirements of the United States Foreign Corrupt Practices Act, 15 U.S.C. 78dd-1 et. Seq (the "Act") and shall communicate requirements of the Act to its directors, employees, any agents, consultants, and other third parties affiliated, retained, or otherwise used by Customer in accordance with the terms of this Agreement. A copy of the Act can be found at <http://www.justice.gov/criminal/fraud/fcpa/statutes/regulations.html>. Seller and any Sub-contractor, certify that on the date of this Agreement neither they nor any of their officers, directors, employees or agents is, or during the term of this Agreement shall become, an official, agent or employee of any government, governmental agency, or political party or a candidate for any political office. Seller shall promptly notify Honeywell FM&T of the occurrence of any event that would or may result in and exception to the foregoing representation.

Seller or any of its Sub-contractors may not, directly or indirectly, in the name of, on behalf of, or for the benefit of Honeywell FM&T offer, promise, or authorize to pay, or pay any compensation, or give anything of value to, any official, agent, or employee of any government or governmental agency, or to any political party or officer, employee, or agency thereof, or any candidate for political office, or to any customer, end-user of **Products**, or employee of Honeywell FM&T.

29. RELEASE OF INFORMATION TO THE PUBLIC

Seller shall not, without prior written consent from Buyer, make any release of information in any form (other than to Seller's employees and subcontractors which is required for performance of their work under this purchase order/contract) which identifies or could lead to identification of Buyer's name or Buyer's product or which uses Buyer's name or Buyer's product in any advertising, publicity or promotional material, or on Seller's website.

30. CONFIDENTIALITY OF INFORMATION

- (a) To the extent that work under this purchase order/contract requires that Seller be given access to confidential or proprietary business or financial information belonging to the Government, Buyer or other companies, Seller shall, after receipt thereof, treat such information as confidential and agrees not to appropriate such information for its own use or to disclose such information to third parties, including its corporate parent, unless specifically authorized in writing by Buyer.
- (b) Seller shall obtain written agreement, in a form satisfactory to Buyer, of each employee permitted access, whereby such employee agrees that he will not discuss, divulge or disclose any such information to any person or entity except those persons within Seller's organization directly concerned with performance of the purchase order/contract.
- (c) Seller agrees, if requested by Buyer, to sign an agreement identical, in all material respects, to provisions of this clause, with each company supplying information to Seller under this purchase order/contract, and to supply a copy of such agreement to Buyer.
- (d) Seller agrees that upon request by Buyer it will execute a Buyer-approved agreement with any party whose facilities or information it is given access to or is furnished, restricting use and disclosure of information obtained from those facilities. Upon request by Buyer, such an agreement shall also be signed by Seller personnel.
- (e) The clause shall flow down to all appropriate subcontracts.

31. OBTAINING SECURITY CLEARANCES

(Applicable if work requires access to classified information or to areas of restricted access.)

- (a) Seller shall furnish Buyer advance written notice identifying all subcontractor organizations requiring access to the work site, other areas of FM&T's Plant, or other controlled access facilities.
 - (b) Should "L" or "Q" security clearances be required for Seller or lower-tier subcontractor personnel, Seller shall furnish Buyer a letter listing name, citizenship, status and craft of each person.
 - (c) Due to length of time and expense required to obtain a security clearance, Seller shall apply for clearances only for permanent employees whose continued employment is anticipated during the overall performance term of purchase order/contract.
 - (d) Buyer will furnish Seller with required forms to initiate processing of security clearances. Seller is responsible for distribution and return of completed forms to Buyer by applicants.
- 32. NOTIFICATION OF "L" AND "Q" CLEARED OR "UNCLEARED WITH A BADGE" EMPLOYEE TERMINATIONS**

(Applicable if Seller has "L" or "Q" cleared or "Uncleared With A Badge" employees.)

Seller shall notify Buyer's designated security representative by telephone within eight hours after termination of any "L" or "Q" cleared or "Uncleared With A Badge" seller employee who has been assigned to work under this purchase order/contract. If seller fails to notify Buyer's designated security representative within eight hours, Seller shall be responsible for any damage or injury resulting from or arising out of the actions or omissions of Seller's former employees. Such notice shall be confirmed by facsimile or e-mail to Buyer's Personnel Security Department.

33. OFCCP VETERANS DISABILITY AFFIRMATIVE ACTION PROGRAM

41 CFR 60-741.5(a) & 41 CFR 60-300.5(a): To the extent employment activities occur in the United States and if otherwise applicable **this contractor and subcontractor shall abide by the requirements of 41 CFR §§ 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals on the basis of protected veteran status or disability, and require affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and individuals with disabilities.**

34. ORDER OF PRECEDENCE

Unless otherwise specified, for any inconsistency between the purchase order/contract, these terms and conditions, or the specifications and drawings, the inconsistency shall be resolved by giving precedence in the following order:

- (a) The purchase order/contract document, including these terms and conditions of purchase;
- (b) Product drawings/specification/SS prefix documents;
- (c) Design/Production Agency material/process specifications and standards;
- (d) Federal, military, industrial or technical society material/process specifications and standards;
- (e) Product data forms;
- (f) Equipment manufacturer's operating procedures.

35. FAR AND DEAR CLAUSES/PROVISIONS INCORPORATED BY REFERENCE

This purchase order/contract incorporates one or more FAR/DEAR provisions/clauses by reference with the same force and effect as if

they were given in full text. Such clauses are identified below and elsewhere in this purchase order/contract by their title, effectivity date, and reference where they appear in the FAR/DEAR. The FAR/DEAR may be obtained from the Superintendent of Documents, US Government Printing Office and is available for viewing/downloading at a variety of Internet Sites including URL: <http://farsite.hill.af.mil/vfdoea.htm>.

(A) Applicable to purchase order/contract:

- (1) FAR 52.203-15, Whistleblower Protections Under The American Recovery And Reinvestment Act Of 2009 (JUN 2010)
- (2) FAR 52.222-26, Equal Opportunity (MAR 2007)
- (3) FAR 52.222-50, Combating Trafficking In Persons (FEB 2009)
- (4) FAR 52.247-64, Preference For Privately Owned U.S.-Flag Commercial Vessels (FEB 2006) (When purchase involves ocean transportation)
- (5) FAR 52.208-8, Required Sources for Helium and Helium Usage Data (APR 2014). Applicable when subcontract involves a major helium requirement. This clause shall flow down to all subcontracts.
- (6) FAR 52.209-10, Prohibition on Contracting with Inverted Domestic Corporations (DEC 2014)

... And there are subcontracts for commercial items:

- (7) FAR 52.225-26, Contractors Performing Private Security Functions Outside the United States (JUL 2013)
- (8) FAR 52.232-40, Providing Accelerated Payments to Small Business Subcontractors (DEC 2013)
- (9) FAR 52.244-6, Subcontracts For Commercial Items (OCT 2014)

... And Buyer furnishes Government property to Seller in the performance of purchase order/contract, including Seller acquired property to which title vests in the Government under purchase order/contract:

- (10) FAR 52.245-1, Government Property (APRIL 2012), ALTERNATE I (APRIL 2012)
- (11) FAR 52.245-9, Use And Charges (APRIL 2012)

... And purchase order/contract is for commercial computer software:

- (12) FAR 52.227-19, Commercial Computer Software – Restricted Rights (DEC 2007)

(B) Applicable if purchase order/contract value exceeds \$3,000:

- (1) FAR 52.222-54, Employment Eligibility Verification (AUG 2013). This clause shall flow down to all subcontracts.
- (2) FAR 52.223-18, Encouraging Contractor policies To Ban Text Messaging While Driving (AUG 2011). This clause shall flow down to all subcontracts that exceed the micro-purchase threshold.

(C) Applicable if purchase order/contract value exceeds \$15,000:

- (1) FAR 52.222-36, Affirmative Action For Workers With Disabilities (JUL 2014)

(D) Applicable if purchase order/contract value is \$100,000 or more:

- (1) FAR 52.222-35, Equal Opportunity For Veterans (JUL 2014)

(E) Applicable if purchase order/contract value is \$150,000 or

more:

- (1) FAR 52.219-8, Utilization Of Small Business Concerns (OCT 2014)
- (2) FAR 52.203-16, Preventing Personal Conflicts of Interest (DEC 2011). This clause does not apply to subcontracts with self-employed individuals. This clause shall flow down to all subcontracts.
- (3) FAR 52.203-17, Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights (APR 2014). This clause shall flow down to all subcontracts that exceed the simplified acquisition threshold.

(F) Applicable if purchase order/contract value exceeds \$5,000,000 and performance period is 120 days or more:

- (1) FAR 52.203-13, Contractor Code Of Business Ethics And Conduct (APR 2010)

(G) Applicable when procurement includes requirements for one or more commercial services:

... And work is performed on DOE site:

- (1) FAR 52.237-2, Protection Of Government Buildings, Equipment, And Vegetation (APR 1984)
- (2) DEAR 952.203-70, Whistleblower Protection For Contractor Employees (DEC 2000)
- (3) DEAR 970.5223-1, Integration Of Environment, Safety, And Health Into Work Planning And Execution (DEC 2000)
- (4) DEAR 970.5223-4, Workplace Substance Abuse Programs At DOE Sites (DEC 2010)
- (5) FAR 52.204-9, Personal Identity Verification of Contractor Personnel (JAN 2011). This clause shall flow down to all subcontracts. This clause does not apply for intermittent access to site.

... And Seller or its Subcontractors have access to classified information:

- (6) DEAR 952.204-2, Security (MAR 2011)
- (7) DEAR 952.204-70, Classification/Declassification (SEP 1997)
- (8) DEAR 952.204-73, Facility Clearance (MAR 2011)

... And access to computers owned, leased or operated on behalf of the DOE may be provided:

- (9) DEAR 952.204-77, Computer Security (AUG 2006)

... And if purchase order/contract exceeds \$150,000 and is for advisory and assistance services:

- (10) DEAR 952.209-72, Organizational Conflicts Of Interest (AUG 2009), ALTERNATE 1