



FEDERAL RESOURCES SUPPLY COMPANY

PURCHASE ORDER TERMS AND CONDITIONS (“TERMS AND CONDITIONS”)

Federal Resources Supply Company (“FR” or “Federal Resources”) hereby issues the attached Purchase Order (“PO”) to Vendor and incorporates the following Terms and Conditions, which are accepted and agreed by Vendor. Additional terms and conditions may be established by Federal Resources in the Purchase Order. Any and all terms and conditions submitted by Vendor as part of an invoice or otherwise are of no force or effect. To the extent any terms and conditions contained in the PO are in direct conflict with these Terms and Conditions, these Terms and conditions shall prevail unless the conflicting PO terms and conditions specifically cite the provision of these Terms and Conditions to be overridden.

FR is the parent company of KDA LLC (“KDA”) and COTS Solutions LLC (“COTS”). These terms and conditions shall apply to purchase orders issued by KDA and COTS, and any other subsidiary of FR, and in that event, “FR” and “Federal Resources” will be interpreted as “KDA” or “COTS” (or the name of the subsidiary) as applicable. FR may freely assign its rights and obligations under any FR purchase order to KDA or COTS, or any other FR subsidiary, as applicable, where such entity shall be the procuring company.

1. ACCEPTANCE

Federal Resources may, at its option, accept any offer submitted by Vendor in response to a Request for Quotation by Federal Resources as a binding agreement. Fulfillment by Vendor of the items and/or services ordered by Federal Resources constitutes consent by the Vendor to these Terms and Conditions. Correspondence (including, for example, letter, facsimile and electronic mail) confirming FR’s order, or any signed Purchase Order (which shall include any kind of signed order or agreement for the goods and/or services in question) shall also constitute acceptance by Vendor of these Terms and Conditions.

2. BRAND NAMES

The Vendor shall provide the goods and/or services as proposed to include brand names and part numbers proposed. Strict compliance with the Purchase Order is required and no substitutions are acceptable without the prior written consent of Federal Resources.

3. FREIGHT

All item(s) unless otherwise specified in the Purchase Order shall be FOB Destination, Freight Prepaid. If “Freight Prepaid and Add” has been arranged in advance, charges for freight must be accompanied by a copy of the freight bill. No payments for freight will be made without a copy of the freight bill that includes Federal Resources’ Purchase Order number.

4. DELIVERY; FAILURE TO MEET DELIVERY DATE

The goods and services required by the Purchase Order shall be delivered in accordance with the delivery schedule contained in the Purchase Order. The time of delivery stated is of the essence. The date specified for delivery is the required delivery date at the designated destination, unless otherwise expressly noted in the Purchase Order. Delivery shall not be deemed complete until the goods have



been actually received and accepted by Federal Resources, notwithstanding delivery to any carrier, or until orders for services have been performed, received, and accepted by Federal Resources. Vendor acknowledges that Federal Resources may be reselling the goods and/or services provided by Vendor and a failure to meet delivery requirements may result in damages to Federal Resources, for which Vendor will be liable.

In addition to any other remedies Federal Resources may have, in the event the Vendor fails to provide goods or services upon the date agreed in the applicable PO, Federal Resources may charge at its sole discretion, and Vendor shall pay the following amounts (including the right of Federal Resources to set-off such amounts against other amounts due Vendor):

(a) The total of (a) any amount already paid to Vendor by Federal Resources for such late goods and/or services, plus (b) damages incurred by Federal Resources arising from or related to any agreement Federal Resources may have with its customer to provide the late goods and/or services, plus (b) any additional cover damages incurred by Federal Resources to obtain the goods and services from another source; or

(b) The total of (a) any amount already paid to Vendor by Federal Resources for such late goods and/or services, plus (b) liquidated damages in the amount of five percent (5%) of the value of the goods and services per day of lateness of delivery.

5. INSPECTION

All materials furnished and services performed pursuant hereto shall be subject to inspection and testing by Federal Resources and its agents and by its customers. In the event that goods supplied are not provided in accordance with the Purchase Order, Vendor product descriptions and any applicable specifications and instructions of Federal Resources, Federal Resources may require immediate correction thereof, or as to services, require that the services be immediately corrected or rendered again at Vendor's expense. If such defects exist, and if Vendor is unable or refuses to immediately replace the goods or correct the services to conform to the Purchase Order, Federal Resources may terminate the Purchase Order for default, with no liability to Federal Resources.

6. FEES; PAYMENT

Except where the parties have otherwise agreed in writing, invoices will be paid by Federal Resources within forty-five (45) days of Federal Resources' receipt of a proper invoice. Federal Resources may make any adjustments in Vendor's invoices due to shortages, late delivery, rejections, or other failure to comply with the requirements of the Purchase Order before payment. Vendor's invoices shall contain such detail and information as reasonably requested by Federal Resources. Payment shall not constitute final acceptance by Federal Resources. Federal Resources may offset against any payment hereunder any amount owed to Federal Resources by Vendor.

Vendor's total charges shall be set forth in the Purchase Order. The charges specified in the Purchase Order are the total charges, including all amounts Vendor shall charge to Federal Resources to complete Vendor's obligations under the Purchase Order; no other fees, costs or expenses may be charged to Federal Resources except as set forth in the Purchase Order. Vendor shall not be entitled to charge for any services after ninety (90) days from the provision of such services.



All amounts payable under the Purchase Order are inclusive of any value added, goods and services, sales, excise or other applicable taxes (“Taxes”). If required by any law, statute, or regulation, Vendor will collect from Federal Resources and remit to the appropriate authorities, any Taxes applicable to the provision of the goods or services, if any. Vendor will issue the required tax invoice to Federal Resources unless Federal Resources provides Vendor with a timely and valid tax exemption certificate authorized by the appropriate taxing authority. Vendor shall indemnify and hold harmless Federal Resources from Vendor’s failure to comply with its obligation to collect and remit Taxes pursuant to this Section 6.

Federal Resources will only pay “Restocking Fees” specifically agreed upon in the Purchase Order.

7. REPRESENTATIONS AND WARRANTIES

Vendor represents and warrants:

- (a) that all goods delivered pursuant hereto will be new, unless otherwise expressly permitted by Federal Resources, and free from defects in material and workmanship, and that all services will be delivered in a professional and workmanlike manner;
- (b) that all goods and services will conform to applicable specifications, drawings, and industry standards of quality and performance, and that all items will be free from defects in design and suitable for their intended purpose;
- (c) that the goods covered by this order are fit and safe for consumer use, if so intended;
- (d) Vendor’s performance hereunder, including its provision of goods and services, will be in accordance with all applicable laws, rules and regulations;
- (e) that Vendor has sufficient right, title and interest in the goods and services to provide them to Federal Resources (including its customers) as contemplated hereunder;
- (f) all Original Equipment Manufacturer (“OEM”) warranties and any other applicable Vendor warranties flow to Federal Resources, which may then be assigned by Federal Resources to its customer(s) and such warranties do not commence until the goods and services are accepted by Federal Resources’ customer;
- (g) all goods and services delivered pursuant hereto are provided free and clear of any liens or encumbrances; and
- (h) no goods or services delivered pursuant hereto shall infringe the intellectual property rights of any third party.

All representations and warranties of Vendor, together with its service warranties and guarantees, if any, shall run to Federal Resources and Federal Resources’ customers. The foregoing representations and warranties shall survive any delivery, inspection, acceptance, or payment by Federal Resources.

Vendor shall comply with the minimum service life for the offered good as provided for in the Purchase Order, Vendor’s documentation related to the good, or in Vendor’s quote to Federal Resources (if one



was provided), whichever service life is longer.

8. PRICE PROTECTION

Vendor warrants that, with respect to each good and/or services sold by Vendor hereunder, the prices charged for the good and/or service purchased pursuant hereto shall be no higher than Vendor's current price to any other customer for substantially the same quality and quantity of such good and/or service. Vendor agrees to protect Federal Resources against general price decline and in the event that during the period of awarded Purchase Order Vendor reduces said prices to any of its other customers for the same or similar products of the same or similar quantity, then the prices specified in the Purchase Order shall be lowered to reflect the reduced prices effective as of the date the lower prices shall were offered to Vendor's other customers.

9. CHANGES

Federal Resources may, by written notice to Vendor at any time before completion of the Purchase Order or complete delivery is made under the Purchase Order, make changes within the general scope of the Purchase Order in any one or more of the following: (a) drawings, designs, or specifications; (b) quantity; (c) place of delivery; (d) method of shipment or routing; and/or (e) make changes in the amount of Federal Resources furnished property. If any such change causes a material increase or decrease in the cost of, or the time required, for the performance of any part of the work under the Purchase Order, Federal Resources shall make an equitable adjustment in the Purchase Order price or delivery schedule, or both, and shall modify the Purchase Order via amendment thereto. The Vendor must have notified Federal Resources in writing of any request for such adjustment within seven (7) days from the date of such notice from Federal Resources or from the date of any act of Federal Resources that Vendor considers constitutes a change. Vendor shall proceed with the work as changed without interruption.

10. CONFIDENTIALITY; NON-DISCLOSURE; INTELLECTUAL PROPERTY

Federal Resources and Vendor agree that they will keep confidential and not disclose, disseminate or publish the features of any equipment, tools, gauges, patterns, designs, drawings, engineering data, computer programs and software or other technical or proprietary information furnished, loaned or bailed by Federal Resources or Vendor hereunder (hereinafter collectively referred to as "Items/Information"), and Federal Resources and Vendor further agree that they will use such Items/Information only in the performance of the Purchase Order or, if authorized, other Purchase Orders from Federal Resources and not otherwise without Federal Resources' or Vendor's prior written consent. Notwithstanding any other provision herein, Federal Resources and Vendor shall each retain ownership of, and all right, title and interest in and to, their respective pre-existing intellectual property unless there is a requirement for the assignment of intellectual property rights in the terms of the Purchase Order or the corresponding Request for Quotation issued by Federal Resources.

All Items/Information furnished, loaned or bailed by Federal Resources hereunder, or fabricated, manufactured, purchased, or otherwise acquired by Vendor for the performance of the Purchase Order and specifically charged to Federal Resources, are the property of Federal Resources.

Upon completion, expiration or termination of the Purchase Order, Vendor shall return all Items to Federal Resources in good condition, reasonable wear only excepted, together with all spoiled and



surplus Items to Federal Resources, or make such other disposition thereof as may be directed or approved by Federal Resources. Vendor agrees to replace, at its expense, all such Items not so returned. Vendor shall make no charge for any storage, maintenance or retention of such Items. Vendor shall bear all risk of loss for all such Items in Vendor's possession.

Vendor also agrees to use any designs or data contained or embodied in such Items in accordance with any restrictive legends placed on such Items by the Federal Resources or any third party. If Federal Resources furnishes any material for fabrication hereunder, Vendor agrees:

- (a) not to substitute any other material for such fabrication without Federal Resources' prior written consent, and
- (b) that title to such material shall not be affected by incorporation in or attachment to any other property.

Vendor shall not disclose information regarding the Purchase Order to any third party, unless such disclosure is necessary for the performance of Vendor's obligations under the Purchase Order, and then only to the extent necessary for such performance. No news releases, public announcement, denial or confirmation of any part of the subject matter of any Purchase Order or any phase of any program hereunder shall be made without prior written consent of Federal Resources. The restrictions of this Section 10 shall continue in effect for a period of five (5) years upon completion of the Purchase Order or as the parties may mutually agree in writing upon termination of the Purchase Order. Failure to comply with the provisions of this clause may be cause for termination of the Purchase Order. If Vendor and Federal Resources have entered into a separate agreement regarding confidentiality and/or non-disclosure, then the terms of that agreement shall supplement the terms and conditions of this clause, and where more restrictive, supersede the terms and conditions of this clause.

Subject to the confidentiality provisions of the Purchase Order, each party retains the right to use its skill and the knowledge, experience, and know-how, including ideas, concepts, and techniques, whether developed prior to, independently of, or in the course of performing, receiving, or using the services provided by Vendor. If any written materials or other deliverables ("Deliverables") are provided by Vendor and identified in the Purchase Order as a "Deliverable," the following terms and conditions shall apply with respect to the intellectual property rights of Federal Resources in such Deliverable:

Vendor hereby grants to Federal Resources a nonexclusive, irrevocable, world-wide, perpetual, fully paid up and royalty-free license to use, copy, modify, maintain, support, and create derivative works of any Vendor Materials. "Materials" means any and all reports, computer programs, documentation, specifications, products, work product, software, source code, algorithms, routines, graphics, files, software patches, enhancements, modifications, diagrams, charts, functional descriptions, photographs, surveys, or other materials, writings, or derivatives thereof however delivered. Federal Resources may not extract such licensed Vendor Materials from the Deliverables for use separately therefrom, unless so permitted in writing by Vendor. The foregoing license shall include use by Federal Resources' and Federal Resources' employees, consultants, auditors, agents, and service providers, to the extent providing services to or on behalf of Federal Resources. Federal Resources may sublicense its rights to Federal Resources' customers for their internal use only. Any additional license terms and conditions



shall be as mutually agreed by the parties in the Purchase Order.

If the parties do not set forth the ownership of any newly created deliverables expressly identified in the Purchase Order (“Newly Created Deliverables”), the following provisions shall apply: Federal Resources shall own all rights, including all intellectual property rights, in the Newly Created Deliverables (including all components comprising same) and Vendor hereby assigns and agrees to assign to Federal Resources all worldwide right, title and interest in, to and under all Newly Created Deliverables including the intellectual property rights therein. To the extent the Newly Created Deliverables, or any portion thereof, are works of authorship (as defined in the U.S. Copyright Act), Vendor expressly acknowledges and agrees that such Newly Created Deliverables, and/or the applicable portions thereof, shall be considered “works made for hire” with Federal Resources deemed the author and owner. Vendor shall affix the following proprietary rights notice to Newly Created Deliverables and copies thereof: “Copyright [Date] by Federal Resources Supply Company, Inc. All rights reserved.” Vendor shall also affix such other notices concerning proprietary rights, trademarks, service marks, and similar matters as Federal Resources may reasonably direct from time to time.

11. INSURANCE PROVISION FOR PROCUREMENT PURCHASE ORDERS /SUBCONTRACTS

Without prejudice to Vendor’s liability to indemnify Federal Resources, Vendor shall procure at its expense and maintain for the duration of any properly awarded Purchase Order, and ensure that any of its subcontractors used in connection with the Purchase Order procure and maintain, the insurance policies required below with financially responsible insurance companies, and with policy limits not less than those indicated below.

(a) **Workers’ Compensation:** Coverage for statutory obligations imposed by laws of any State in which the work is to be performed, including where applicable, coverage under the United States Longshoremen’s and Harbor Workers’ Act (“USL&H”), the Jones Act, and the Defense Base Act (“DBA”). In addition, the policy shall be endorsed to waive the insurer’s rights of subrogation in favor of Federal Resources.

(b) **Employer’s Liability:** Coverage for injuries to employees not covered by workers’ compensation with limits of at least \$1,000,000 each accident, \$1,000,000 each employee by disease, and \$1,000,000 policy limit by disease. In addition, the policy shall be endorsed to waive the insurer’s rights of subrogation in favor of Federal Resources.

(c) **Commercial General Liability:** Coverage for third party bodily injury and property damage, personal injury, products and completed operations, contractual liability, and independent subcontractors’ liability with limits not less than \$2,000,000 per occurrence and \$5,000,000 in the aggregate. Federal Resources, its officers and employees, and Federal Resources’ customer where required by Federal Resources’ agreement with its customer, shall be named as additional insured and a waiver of subrogation shall be provided in favor of Federal Resources.

(d) **Business Automobile Liability:** Coverage for use of all owned, non-owned, and hired vehicles with limits of not less than \$1,000,000 per occurrence combined single limit for bodily injury and property damage liability. Federal Resources, its officers and employees, and Federal Resources’ customer where required by Federal Resources’ Purchase Order with its customer, shall be named as



additional insured and a waiver of subrogation shall be provided in favor of Federal Resources.

(e) Professional Liability: If Vendor is performing any professional services, coverage for damages (including financial loss) caused by any acts, errors and omissions arising out of Vendor's performance of professional services with limits of not less than \$2,000,000 per claim and \$5,000,000 in the aggregate.

(f) All-Risk Property Insurance: Coverage to repair or replace property, including goods covered by the Purchase Order, of Federal Resources and/or Federal Resources' customer which may be in the possession or control of Vendor. Federal Resources shall be named as a loss payee with respect to loss or damage to said property and/or goods furnished by Federal Resources. Further, Vendor assumes the risk of loss or destruction of or damage to any of its property and its employees' property, whether owned, hired, rented, borrowed, or otherwise. Vendor waives and shall ensure that its employees waive all rights of recovery against Federal Resources and Federal Resources' customer and their respective employees for any loss, destruction of or damage to any such property.

The required insurance coverage above shall be primary and non-contributing with respect to any other insurance that may be maintained by Federal Resources and notwithstanding any provision contained herein, the Vendor, and its employees, agents, representatives, consultants, subcontractors and suppliers, are not insured by Federal Resources, and are not covered under any policy of insurance that Federal Resources has obtained or has in place.

Vendor shall make available upon request of Federal Resources current certificates of insurance evidencing the insurance policies above, including evidence of additional insured status and waivers of subrogation where required. Federal Resources reserves the right to refuse to accept policies from companies with an A.M. Best Rating of less than A- VII. Vendor, or its insurers, shall provide thirty (30) days advance written notice to Federal Resources in the event of cancellation or material modification of any policy. Failure of Federal Resources to demand such certificates or to identify any deficiency in the insurance provided shall not be construed as or deemed to be a waiver of Vendor's, or its subcontractors', obligations to maintain the above insurance.

12. INDEMNIFICATION

Vendor shall defend, indemnify and hold Federal Resources and Federal Resources' customers, and their directors, officers, employees and agents, harmless from and against any and all damages, losses, liabilities, costs and expenses (including reasonable attorneys' fees) ("Damages") arising out of or relating to any actual or threatened claims, causes of action, lawsuits or other proceedings ("Claims"), regardless of legal theory, resulting in whole or in part, from:

- (a) Vendor's (or any of Vendor's subcontractors, suppliers, employees, agents or representatives) intentional misconduct, negligence, or fraud;
- (b) breach of any representation, warranty or covenant made by Vendor herein,
- (c) Vendor's (or any of Vendor's subcontractors, suppliers, employees, agents or representatives) non-compliance with any applicable law, rule or regulation; or



(d) any claims that the products and/or services provided by Vendor infringe any patent, copyright, trademark, trade secret or any other proprietary right of any third party.

Federal Resources shall promptly notify Vendor of any claim against Federal Resources that is covered by this indemnification provision and shall, at its option, authorize representatives of Vendor, at Vendor's sole cost and expense, to settle or defend any such Claim, subject to approval by Federal Resources, and to represent Federal Resources in, or to take charge of, any litigation or other form of dispute resolution in connection therewith. In no event may Vendor settle any Claim on Federal Resources behalf without Federal Resources prior written authorization, which authorization shall not be unreasonably withheld.

13. TERMINATION AND DEFAULT

Federal Resources may, by written notice of default for cause, as specified below, to the Vendor and in addition to any other remedies it may have, immediately terminate the whole or any part of any Purchase Order, without a restocking fee, in any one of the following circumstances:

(a) if, in Federal Resources' reasonable discretion, Vendor fails to make progress in the work so as to endanger performance or delivery of the goods or to perform the services within the time specified herein or any extension thereof;

(b) if Vendor misses a delivery date specified in a Purchase Order;

(c) if Vendor fails to perform any of the other provisions of the Purchase Order and does not cure such failure within a period of ten (10) days (or such longer period as Federal Resources may authorize in writing) after receipt of notice from the Federal Resources specifying such failure; or

(d) Vendor becomes insolvent or the subject of proceedings under any law relating to bankruptcy or the relief of debtors or admits in writing its inability to pay its debts as they become due.

Federal Resources may also terminate any Purchase Order for its convenience or its customers' convenience.

If the Purchase Order is terminated by Federal Resources for cause, Federal Resources may procure or otherwise obtain, upon such terms and in such manner as Federal Resources may deem appropriate, goods and/or services similar to those terminated, and Vendor, subject to the exceptions set forth below, shall be liable to Federal Resources for any excess procurement costs of such similar goods or services and any liability of Federal Resources to its customer resulting from such Vendor default.

If the termination by Federal Resources is for reasons other than for cause, Vendor shall submit a final termination settlement proposal to the Federal Resources. The Vendor shall submit the proposal promptly but no later than ten (10) days from the effective date of the termination. If Vendor fails to submit the proposal within the time allowed, Federal Resources may determine the amount, if any, due the Vendor resulting from the termination.

Upon termination, Vendor shall transfer title and deliver to Federal Resources, in the manner and to the extent requested in writing by Federal Resources, such complete articles, partially completed articles



and materials, parts, tools, dies, patterns, jigs, fixtures, plans, drawings, Deliverables, information and rights as Vendor has produced or acquired for the performance of the terminated part of the Purchase Order, and Federal Resources will pay Vendor the Purchase Order price for complete articles delivered to and accepted by Federal Resources (unless such acceptance has been impaired by Vendor's breach) and the fair value of the other property of Vendor so requested and delivered.

Vendor shall continue performance of the Purchase Order to the extent not terminated. In case of Vendor's default, Federal Resources' rights as set forth herein shall be in addition to Federal Resources' other rights although not set forth in the Purchase Order.

14. NON-WAIVER OF RIGHTS

The failure of Federal Resources to insist upon strict performance of any of the terms and conditions in the Purchase Order, or to exercise any rights or remedies, shall not be construed as a waiver of its rights to assert any of the same or to rely on any such terms or conditions at any time thereafter. The invalidity in whole or in part of any term or condition of these Terms and Conditions shall not affect the validity of other parts hereof.

15. APPLICABLE STATE LAW; JURISDICTION

This Purchase Order shall be governed by and construed in accordance with the laws of the State of Maryland, excluding the Maryland Uniform Computer Information Transaction Act, which the parties expressly opt out of to the maximum extent permitted by law. Vendor consents to the exclusive jurisdiction of the Maryland state and federal courts to resolve disputes arising under or related to these Terms and Conditions.

16. EXPORT CONTROL COMPLIANCE FOR FOREIGN PERSONS

The subject technology of the Purchase Order (together including data, services, and hardware provided hereunder) may be controlled for export purposes under the International Traffic in Arms Regulations ("ITAR") controlled by the U.S. Department of State or the Export Administration Regulations ("EAR") controlled by the U.S. Department of Commerce. ITAR controlled technology may not be exported without prior written authorization and certain EAR technology requires a prior license depending upon its categorization, destination, end-user and end-use. Exports or re-exports of any U.S. technology to any destination under U.S. sanction or embargo are forbidden.

Access to certain technology by Foreign Persons (working legally in the U.S.), may require an export license if the controlled technology would require a license prior to delivery to the Foreign Person's country of origin. Vendor is bound by U.S. export statutes and regulations and shall comply with all U.S. export laws. Vendor shall have full responsibility for obtaining any export licenses or authorization required to fulfill its obligations under the Purchase Order.

Vendor hereby certifies that all Vendor employees who have access to controlled technology are U.S. citizens, have permanent U.S. residency or have been granted political asylum or refugee status in accordance with 8 U.S.C. §1324b(a)(3). Any non-citizens who do not meet one of these criteria are "Foreign Persons" within the meaning of this clause but have been authorized under export licenses to perform their work hereunder.



17. STANDARDS OF BUSINESS ETHICS & CONDUCT

Federal Resources believes in fair and open competition and is committed to conducting its business fairly, impartially and in an ethical and proper manner. Federal Resources is a small business with the highest quality and ethical standards. These characteristics make it imperative that Federal Resources employees adhere to a particularly high ethical standard. Federal Resources ownership both demands and fosters highly ethical conduct because Federal Resources can be successful only when employees look after long-term interests of the company and resist pressures to compromise Federal Resources' standards. Federal Resources' expectation is that Vendor also will conduct its business fairly, impartially and in an ethical and proper manner. If Vendor has cause to believe that Federal Resources or any employee or agent of Federal Resources has acted improperly or unethically under this Purchase Order, Vendor shall report such behavior to the Federal Resources Human Resources Manager at 1-800-892-1099. Copies of the Federal Resources Code of Business Ethics and Conduct are available from the Federal Resources Human Resources Manager.

18. INTELLECTUAL PROPERTY MANAGEMENT PLAN

Where applicable, Vendor agrees to develop an Intellectual Property Plan ("IPP") for each product developed under the Purchase Order that can be utilized as a research resource or tool by not-for-profit and for-profit organizations. The IPP must:

- (a) be in compliance with the provisions and spirit of the Bayh-Dole Act (35 U.S.C. §§ 200, *et seq.*);
- (b) be consistent with the Bayh-Dole Act and provide for the Government acquiring a non-exclusive license for the use of the product;
- (c) be in compliance with the provisions and spirit of the: Principles and Guidelines for Recipients of NIH Grants and Purchase Orders on Obtaining and Disseminating Biomedical Research Resources (64 FR 72090, December, 1999; available at <http://ott.od.nih.gov/pdfs/64FR72090.pdf>);
- (d) provide for the subject product being freely available for use within the DOD Project, and
- (e) not impose inappropriate reach-through royalty terms on the sale of an end item developed using the product.

An IPP for a product that is developed under the Purchase Order must be submitted to Federal Resources and approved prior to initial sale or transfer of the product other than as provided in (d) above.

19. PACKAGING, MARKING, AND SHIPPING

All goods provided by Vendor shall be packaged, marked, and shipped in accordance with the Purchase Order. The Vendor shall guarantee that all required reports should be delivered in legible and acceptable condition.

- (a) Packaging: For the purpose of reports, "immediately usable and acceptable condition"



includes securing the pages together in a suitable and reasonable manner to be agreed upon by Federal Resources. Boxes and/or other types of outer packaging, i.e., containers, wraps, etc., shall be suitable to the type of items being transmitted; and the mode of transportation utilized shall assure that such materials be received in an undamaged condition, in compliance with these Terms and Conditions.

(b) Marking: All reports and/or other deliverable items under the Purchase Order shall be marked on the cover and cover page with the following identifiers: 1. Purchase Order Number; 2. Name of Vendor; 3. Vendor Address and contact information; 4. Part Number/Rev/Description; 5. Quantity, and; 6. Unit of Measure

(c) Shipping: Shipping shall be accomplished by reasonable and suitable means that will ensure the integrity of the product delivered, in compliance with these Terms and Conditions.

20. PRODUCT RETURNS

In the event that the Vendor delivers broken or defective materials under the Purchase Order, the Vendor shall immediately issue to Federal Resources a Return Materials Authorization ("RMA") number, designate the address for the return, and replace the defective materials, at their expense. If Federal Resources' customer directs Federal Resources to reduce the quantity of item(s) ordered, the Vendor shall immediately issue to Federal Resources an RMA number, designate the address for the return, and notify Federal Resources of any restocking fee (which fee is waived if not quoted as part of the Purchase Order). The Vendor shall refund Federal Resources any monies received, less any applicable restocking fee (if previously agreed by FR), within 14 days of receipt of returned materials at the Vendor's location.

21. FLOWDOWN CLAUSES

If applicable, attached as Exhibit A hereto is a list of clauses incorporated into these Terms and Conditions by reference from the prime contract to which this order from Federal Resources supports, or from the applicable Federal Acquisition Regulations or the agency supplement thereto ("FAR"). For such flowdown clauses, the terms "Government," "Contractor" and "Contracting Officer" shall mean "FR," "Vendor" and "FR's Director of Contracts," respectively. There will be no substitution of "Government" where: 1) access to Vendor's confidential or proprietary cost data is required, or such access shall be reserved to the Government; or 2) the Government is acting in its sovereign capacity; or 3) the provision relates to intellectual property rights, termination rights or limitation of liability rights as between the parties. None of the flowdown clauses shall be read to restrict these Terms and Conditions.

22. MISCELLANEOUS

Vendor may not assign the Purchase Order or any interest herein, or delegate any obligation hereunder without the prior written consent of Federal Resources. If Vendor fails to obtain Federal Resources' prior written consent, any such assignment or delegation shall be null and void. For all permitted assignments and delegations, the Purchase Order shall bind and inure to the benefit of the parties and their successors and assigns. Any signed Purchase Order shall be binding on the parties through original, facsimile or scanned and emailed signatures. All notices, requests and demands, other than routine communications under the Purchase Order, shall be in writing and shall, if properly addressed, be deemed to have been duly given when delivered, or when transmitted by confirmed facsimile, or one business day after being given to an overnight courier with a reliable system for tracking delivery, or



three (3) business days after the day of mailing, when mailed by United States mail, registered or certified mail, return receipt requested, postage prepaid. Both parties agree that they are independent entities. Nothing in the Purchase Order shall be construed to create a partnership, joint venture, or agency relationship between the parties. Each party is responsible for the supervision, management, direction, employment costs, and payment of compensation of its own employees. Unless otherwise expressly set forth in the Purchase Order, all remedies available to either party for breach of the Purchase Order are cumulative and may be exercised concurrently or separately, are in addition to any other rights and remedies provided by law, and the exercise of any one remedy will not be deemed an election of such remedy to the exclusion of other remedies. No failure of either party to exercise any power or right granted hereunder to insist upon strict compliance with any obligation hereunder, and no custom or practice of the parties with regard to the terms and performance hereof shall constitute a waiver of the rights of such party to demand full and exact compliance with the terms of the Purchase Order. These Terms and Conditions, the Purchase Order and its exhibits, appendices, or any other attachments constitutes the entire understanding of the parties with respect to the subject matter herein. This Purchase Order may not be amended or modified by a purchase order, invoice or similar form, conduct manifesting assent, or by electronic signature, and each party is hereby put on notice that any individual purporting to amend or modify the Purchase Order by a purchase order, invoice or similar form, conduct manifesting assent or by electronic signature is not authorized to do so. No effect will be given to any click-wrap, browse-wrap or other pre-printed standard license agreement for any deliverable supplied by Vendor under the Purchase Order. No waiver of any provision or right hereunder will be valid unless it is in writing and signed by the party giving such waiver. If any provision of the Purchase Order is held by a court of competent jurisdiction to be overly broad, excessive, or unenforceable in any circumstances or to any extent, then the remainder of the Purchase Order and the application of such provision or portion in all other circumstances shall be valid and enforceable to the fullest extent permitted by law or equity.



EXHIBIT A

FAR FLOWDOWN PROVISIONS

FAR Number	Title	Latest Update
52.202-1	DEFINITIONS	NOV 2013
52.203-3	GRATUITIES	APR 1984
52.203-5	COVENANT AGAINST CONTINGENT FEES	APR 1984
52.203-6	RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT	SEP 2006
52.203-6	RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (ALTERNATE 1)	OCT 1995
52.203-7	ANTI-KICKBACK PROCEDURES	OCT 2010
52.203-8	CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY	JAN 1997
52.203-10	PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY	JAN 1997
52.203-12	LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS	OCT 2010
52.203-13	CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT	APR 2010
52.203-16	PREVENTING PERSONAL CONFLICTS OF INTEREST	DEC 2011
52.204-2	SECURITY REQUIREMENTS	AUG 1996
52.204-9	PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL	JAN 2011
52.204-10	REPORTING EXECUTIVE COMPENSATION AND FIRST-TIER SUBCONTRACTING AWARDS	JUL 2013
52.209-6	PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED OR PROPOSED FOR DEBARMENT	AUG 2013
52.209-9	UPDATES OF PUBLICLY AVAILABLE INFORMATION REGARDING RESPONSIBILITY MATTERS	JUL 2013
52.212-4	CONTRACT TERMS AND CONDITIONS – COMMERCIAL ITEMS	JAN 2017
52.212-5	CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS-COMMERCIAL ITEMS	JAN 2013
52.219-8	UTILIZATION OF SMALL BUSINESS CONCERNS	JUL 2013
52.219-14	LIMITATIONS ON SUBCONTRACTING	NOV 2011
52.222-1	NOTIFICATION TO THE GOVERNMENT OF LABOR DISPUTES	FEB 1997
52.222-3	CONVICT LABOR	JUN 2003
52.222-17	NONDISPLACEMENT OF QUALIFIED WORKERS	JAN 2013
52.222-18	CERTIFICATE REGARDING KNOWLEDGE OF CHILD LABOR FOR	FEB 2001



LISTED END PRODUCTS		
52.222-21	PROHIBITION OF SEGREGATED FACILITIES	FEB 1999
52.222-3	CONVICT LABOR	JUN 2003
52.222-17	NONDISPLACEMENT OF QUALIFIED WORKERS	JAN 2013
52.222-19	CHILD LABOR – COOPERATION WITH AUTHORITIES AND REMEDIES	MAR 2012
52.222-21	PROHIBITION OF SEGREGATED FACILITIES	FEB 1999
52.222-26	EQUAL OPPORTUNITY	MAR 2007
52.222-35	EQUAL OPPORTUNITY FOR VETERANS	SEP 2010
52.222-36	EQUAL OPPORTUNITY FOR WORKERS WITH DISABILITIES	OCT 2010
52.222-36	AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES	OCT 2010
52.222-37	EMPLOYMENT REPORTS ON VETERANS	SEP 2010
52.222-40	NOTIFICATION OF EMPLOYEE RIGHTS UNDER THE NATIONAL LABOR RELATIONS ACT	DEC 2010
52.222-41	SERVICE CONTRACT ACT OF 1965	NOV 2007
52.222-50	COMBATING TRAFFICKING IN PERSONS	FEB 2009
52.222-51	EXEMPTION FROM APPLICATION OF THE SERVICES CONTRACT ACT TO CONTRACTS FOR MAINTENANCE, CALIBRATION, OR REPAIR OF CERTAIN EQUIPMENT – REQUIREMENTS	NOV 2007
52.222-53	EXEMPTION FROM APPLICATION OF THE SERVICE CONTRACT ACT TO CONTRACT FOR CERTAIN SERVICES – REQUIREMENTS	NOV 2007
52.222-54	EMPLOYMENT ELIGIBILITY VERIFICATION	AUG 2013
52.223-6	DRUG-FREE WORKPLACE	MAY 2001
52.223-15	ENERGY EFFICIENCY IN ENERGY-CONSUMING PRODUCTS	DEC 2007
52.223-18	ENCOURAGING CONTRACTOR POLICIES TO BAN TEXT MESSAGING WHILE DRIVING	AUG 2011
52.225-1	BUY AMERICAN – SUPPLIES	MAY 2014
52.225-5	TRADE AGREEMENTS	NOV 2013
52.225-13	RESTRICTIONS ON CERTAIN FOREIGN PURCHASES	JUN 2008
52.225-26	CONTRACTORS PERFORMING PRIVATE SECURITY FUNCTIONS OUTSIDE THE UNITED STATES	JUL 2013
52.227-11	PATENT RIGHTS – OWNERSHIP BY THE CONTRACTOR	DEC 2007
52.227-14	RIGHTS IN DATA – GENERAL	DEC 2007
52.227-17	RIGHTS IN DATA – SPECIAL WORKS	DEC 2007
52.239-1	PRIVACY OR SECURITY SAFEGUARDS	AUG 1996
52.242-13	BANKRUPTCY	JUL 1995
52.242-15	STOP-WORK ORDER	AUG 1989
52.242-15	STOP-WORK ORDER – ALTERNATE 1	APR 1984
ALT 1		
52.242-17	GOVERNMENT DELAY OF WORK	APR 1984
52.244-5	COMPETITION IN SUBCONTRACTING	DEC 1996
52.244-6	SUBCONTRACTS FOR COMMERCIAL ITEMS	DEC 2013
52.245-1	GOVERNMENT PROPERTY	APR 2012



52.245-9	USE AND CHARGES	APR 2012
52.246-2	INSPECTION OF SUPPLIES – FIXED PRICE	AUG 1996
52.246-3	INSPECTION OF SUPPLIES COST-REIMBURSEMENT	APR 1984
52.246-4	INSPECTION OF SERVICES – FIXED PRICE	AUG 1996
52.246-5	INSPECTION OF SERVICES – COST REIMBURSEMENT	APR 1984
52.246-15	CERTIFICATE OF CONFORMANCE	APR 1984
52.246-16	RESPONSIBILITY FOR SUPPLIES	APR 1984
52.247-64	PREFERENCE FOR PRIVATELY OWNED U.S. FLAG COMMERCIAL VESSELS	FEB 2006

DFARS FLOWDOWN PROVISIONS

FAR Number	Title	Latest Update
252.227-7013	ADD ALTERNATE 1 RIGHTS IN TECHNICAL DATA – NON-COMMERCIAL ITEMS	FEB 2014
252-227-7015	TECHNICAL DATA – COMMERCIAL ITEMS	DEC 2011
252.225-7039	CONTRACTORS PERFORMING PRIVATE SECURITY FUNCTIONS	JUN 2012
252.227-7037	VALIDATION OF RESTRICTIVE MARKINGS ON TECHNICAL DATA	JUN 2012
252.237-7010	PROHIBITION ON INTERROGATION OF DETAINEES BY CONTRACTOR PERSONNEL	JUN 2013
252.237-7019	TRAINING FOR CONTRACTOR PERSONNEL INTERACTING WITH DETAINEES	JUN 2013
252.247-7003	PASS-THROUGH OF MOTOR CARRIER FUEL SURCHARGE ADJUSTMENT OF THE COST BEARER	JUN 2013
252.247-7023	TRANSPORTATION OF SUPPLIES BY SEA	MAY 2002
252.247-7024	NOTIFICATION OF TRANSPORTATION OF SUPPLIES BY SEA	MAR 2000