

SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS
OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, & 30

2. CONTRACT NO. N00024-07-C-2236	3. AWARD/EFFECTIVE DATE See Block 31c	4. ORDER NUMBER	1. REQUISITION NUMBER N00024-05-NR-91304 *	PAGE 1 OF 117
7. FOR SOLICITATION INFORMATION CALL:	a. NAME Ms. Suzanne Blagg MS-MEGAN-FISH	b. TELEPHONE NUMBER (No collect calls) 202/781-4377	5. SOLICITATION NUMBER N00024-06-R-2200	6. SOLICITATION ISSUE DATE 21 DEC. 2005

9. ISSUED BY COMMANDER ATTN: SEA 02222 Naval Sea Systems Command 1333 Isaac Hull Ave. SE Stop 2020 Washington Navy Yard, DC 20376-2020	CODE N00024	10. THIS ACQUISITION IS <input type="checkbox"/> UNRESTRICTED OR <input checked="" type="checkbox"/> SET ASIDE: NAICS: 336611 SIZE STANDARD: 1000 <input checked="" type="checkbox"/> SMALL BUSINESS <input type="checkbox"/> EMERGING SMALL BUSINESS <input type="checkbox"/> HUBZONE SMALL BUSINESS <input type="checkbox"/> SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS <input type="checkbox"/> 8(A)
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11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED <input checked="" type="checkbox"/> SEE SCHEDULE	12. DISCOUNT TERMS	13a. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700) <input checked="" type="checkbox"/>	13b. RATING DO-A3
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15. DELIVER TO SEE SCHEDULE: SECTION F	CODE	16. ADMINISTERED BY Supervisor of Ship Building Gulf Coast PO Box 7003, Pascagoula, MS 39568-7003	CODE
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17a. CONTRACTOR/OFFEROR C & G BOAT WORKS, INC. 401 COCHRAN BRIDGE CAUSEWAY HWY 98 MOBILE, AL 36603 TELEPHONE NO. 251-694-1300	CODE 3CJS9	FACILITY CODE	18a. PAYMENT WILL BE MADE BY Defense Finance and Accounting Service Charleston Operating Location, Code FD PO Box 118055 Charleston, SC 29423-8055	CODE N68829
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<input type="checkbox"/> 17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER	18b. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a UNLESS BLOCK BELOW IS CHECKED <input type="checkbox"/> SEE ADDENDUM
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19. ITEM NO.	20. SCHEDULE OF SUPPLIES/SERVICES	21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT
	SEE SCHEDULE: SECTION B *Award purchase request number N00024-07-NR-53080 (Use Reverse and/or Attach Additional Sheets as Necessary)				

25. ACCOUNTING AND APPROPRIATION DATA see financial and accounting data sheet	26. TOTAL AWARD AMOUNT (For Govt. Use Only) \$18,260,565.00
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<input checked="" type="checkbox"/> 27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1, 52.212-4, FAR 52.212-3 AND 52.212-5 ARE ATTACHED. ADDENDA	<input checked="" type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED
<input type="checkbox"/> 27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4, FAR 52.212-5 IS ATTACHED. ADDENDA	<input type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED

<input type="checkbox"/> 28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN 2 COPIES TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED	<input type="checkbox"/> 29. AWARD OF CONTRACT: REF. _____ OFFER DATED _____ YOUR OFFER ON SOLICITATION (BLOCK 5), INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS ACCEPTED AS TO ITEMS:
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30a. SIGNATURE OF OFFEROR/CONTRACTOR <i>Mickey Cook</i>	31a. UNITED STATES OF AMERICA (SIGNATURE OF CONTRACTING OFFICER) <i>Stephen V. Piasecki</i>
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30b. NAME AND TITLE OF SIGNER (Type or print) Mickey Cook General Manager	30c. DATE SIGNED 2-23-07	31b. NAME OF CONTRACTING OFFICER (Type or print) STEPHEN V. PIASECKI	31c. DATE SIGNED JUN 20 2007
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SF 1449 CONTINUATION PAGE

The following changes are a result of contract award and incorporation of solicitation amendments into the contract award.

SF 1449 Cover Page

Block 2 is filled in with contract award number: N00024-07-C-2236

Block 3 is filled in to state "see block 31c"

Block 7a is changed to read "Suzanne Blagg"

Block 7b is changed to read 202-781-2579

Block 15 is filled in to state the Administrating Contracting Office

Block 18a is filled in to state the payment office

Block 25 is filled in to state "see attached financial accounting data sheet"

Block 26 is filled in to reflect basic contract award amount of [REDACTED] for CLIN 0001 and the exercise of option CLIN 0005

Section B:

Contract Line Item Number 0004 (Option) quantity is changed from 3 (with the right to exercise at a quantity of Plus 1 at the same unit price) to a quantity of 1 (with the right to exercise at a quantity of Plus 1 at the same unit price) as a result of Amendment 0012.

Prices for basic award and all options are filled in as a result of contract award.

Option for CLIN 0005 is exercised at the time of contract award.

Option is changed to state "exercised option" on CLIN 0005

Throughout this contract, wherever it is stated CLIN 0005 (Option) is to be read as CLIN 0005

PR Number N00024-07-NR-53080 is added for the following funding purposes:

Funding SLIN 0001AA is added for funding in the amount of [REDACTED]

Funding SLIN 0001AB is added for funding in the amount of [REDACTED]
Funding for CLIN 0005 is added for funding in the amount of [REDACTED]
Total contract funding at time of award is [REDACTED]

Section C:

Page C-7, paragraphs 2 a and b are amended to incorporate the changes as a result of Amendment 0006

Page C-9, paragraphs D 2 and 3 are amended to incorporate the changes as a result of Amendment 0009

Page C-11, Part H is filled in as result of contract award.

Section G:

Page G-1, Contract Administration Data, is filled in with contractor's data as a result of contract award

Section H

Page H-1, Table of contents, is amended to reflect the inclusion of H-10 and H-11 via Amendment 0004

Pages H-14 to H-17 are added to incorporate clause H-11 as a result of amendment 0004

Section I

Pages I20 and I-21 are amended for the addition of 3 clauses as a result of Amendment 0004

Section J:

Page J-1 is amended to remove attachments from the solicitation phase.

Attachments J-1 is amended to reflect the following:

Page 9 and 10, paragraph 3.1.2 as a result of Amendment 0006

Page 10, paragraph 3.1.4 as a result of Amendment 0004

Page 13, paragraph 3.1.12.1 as a result of Amendment 0005

Page 15, paragraph 3.2.6, as a result of Amendment 0012

Page 22, paragraph 3.7.2.2 and 3.7.2.4 as a result of Amendment 0007

Page 23, paragraph 3.7.4, as a result of amendment 0007

Page 29, paragraph 3.9.10, as a result of Amendment 0005

Page 34, paragraph 3.12, as a result of Amendment 0004

Page 35, paragraph 3.13.1, as a result of Amendment 0004

Page 38, paragraph 3.13.4.1, as a result of Amendment 0005

Page 39, paragraph 3.13.7 as a result of Amendment 0008

Page 39a is added as a result of Amendment 0008

Page 42, paragraph 3.13.10 as a result of Amendment 0004

Page 43, paragraph 3.13.14 and 3.14 as a result of Amendment 0006

Page 43a is added as a result of Amendment 0006

Attachment J-2 is amended to reflect the following:

Page 1, DI-0001, Change Status column as a result of Amendment 0006

Page 2, DI-0017, Change Status column as a result of Amendment 0006

Page 3, DI-0001, Block 5, as a result of Amendment 0006

Page 4, DI-0001, Block 8, as a result of Amendment 0006

Page 28, DI-0017, Block 5 and 7, as a result of Amendment 0006

Attachment J-3, Financial Accounting Data Sheet, is attached with certified funding for the following as stated in Section B:

CLIN 0001AA in the amount of [REDACTED]
CLIN 0001AB in the amount of [REDACTED]
CLIN 0005 in the amount of [REDACTED]
Total funding at contract award is [REDACTED]

Sections K, L, and M

Sections K, L, and M are hereby removed from the contract as a result of contract award

Additional:

Per Section C, page 11 - C & G Boat Works, Inc's proposal is incorporated as part of this Contract N00024-07-C-2236 and is included as such as Attachment J-6.

Except as modified or modified herein, all terms and conditions of from solicitation N00024-06-R-2200 remain unchanged and in full force and effect.

SECTION B-SUPPLIES OR SERVICES AND PRICES/COSTS

<u>ITEM</u>	<u>SUPPLIES/SERVICES</u>	<u>QTY</u>	<u>UNIT</u>	<u>UNIT PRICE</u>	<u>AMOUNT</u>
0001	Construction of Training Patrol Craft (YP)	2	Ea		
0001AA	FUNDING for CLIN 0001 at time of award				
0001AB	FUNDING for CLIN 0001 at time of award				
0002 (Option)	Construction of Training Patrol Craft (YP)	1	Ea		
0003 (Option)	Construction of Training Patrol Craft (YP)	1	Ea		
0004 (Option)	Construction of Training Patrol Craft (YP)	1	Ea		
	(See Note A)				
0005 (Exercised Option)	Shore Based Spares For Item 0001	1	Lot		
	FUNDING for CLIN 0005 at time of award				
0006	Data for Item 0001, and if option(s) is/are exercised, Items 0002 through 0004 (See Data Requirements List (DRL) attached hereto as Attachment J-2)	1	Lot		NSP

<u>ITEM</u>	<u>SUPPLIES/SERVICES</u>	<u>QTY</u>	<u>UNIT</u>	<u>UNIT PRICE</u>	<u>AMOUNT</u>
	(Not separately priced - price included in Item 0001, and if option(s) is/are exercised, Items 0002 through 0004).				
0007	Provisioned Items Order (PIO)			(See DESCRIPTION/SPEC/WORK STATEMENT)	

Note A: The government reserves the right to exercise Option CLIN 0004 for a quantity of **PLUS 1 YP Training Patrol Craft at the unit price indicated for CLIN 0004.**

THIS ENTIRE CONTRACT IS FIRM FIXED PRICE

END OF SECTION

SECTION C-DESCRIPTION/SPECIFICATION/WORK STATEMENT**PART 1 - CONTRACT LINE ITEM DESCRIPTION**

Item 0001, and if option(s) is/are exercised, Items **0002, 0003, and 0004**: The Contractor shall perform all technical, and other support and planning efforts and construction and delivery in accordance with the Training Patrol Craft (YP) (hereto "YP" or "craft") Performance Specification, Drawings, and the Contractor's proposal.

Items 0005, if option exercised: Shore Based Spares for Item 0001. The Contractor shall supply Shore Based Spares package, if exercised, in accordance with Attachment J-5. Descriptions of each item are located in the contract, contract drawings and/or specification.

Item 0006: Data for Item 0001, and if option(s) is/are exercised, Items 0002, 0003, and 0004, shall be prepared and provided to the Government in accordance with the Performance Specification and DRLs, attached hereto.

Item 007: The supplies and services to be furnished hereunder shall be ordered in contract modifications issued in accordance with the clause entitled "Provisioned Items Order".

In the event the Government orders Spare Parts under CLIN 007, the following will apply:

VENDOR RECOMMENDED SPARE PARTS

The Government will review the Vendor Recommended Spares (VRS) Listings and select those spare parts, if any, that it deems necessary. The Contractor shall procure all spare parts identified by the Government, in accordance with the general requirements in Section C of the contract entitled Provisioned Item Order (PIO) clause. The Contractor shall not procure any spares unless and until ordered by the Government to do so. The Government is under no obligation to order any items. The Contractor shall accomplish by best commercial practice, receipt, inspection, identification, packaging, marking, stowage, and loading of all spare parts, tools, test equipment and other material that may be ordered by the Government. A status report of spare parts ordered and received shall be included in the agenda for each Program Review or other meetings as requested and shall also be provided with the craft one week prior to craft delivery. This status report shall include the complete item's name (nomenclature), OEM's name, OEM's CAGE, OEM's part number, quantity required, quantity ordered, quantity on hand, quantity short, estimated due-in date, date provided to the craft, any applicable remarks, and quantity per end item (if available). The Contractor shall provide 100 percent of the required spare parts

per the delivery schedule established in each order. Stowage shall be provided for all onboard spare parts. The items shall be packed and segregated by system using best commercial practices. Items ordered via the PIO clause not normally stowed onboard shall be put in water resistant tri-wall boxes with a packing list identifying each item in the box. A copy of the packing list shall be placed inside and outside each box for shipment with the craft.

PROVISIONED ITEM ORDER

(a) General. The Contractor agrees that it will furnish the supplies or services ordered by the Government in accordance with the procedures specified herein. Orders will be placed by the Contracting Officer, Provisioning Activity or Administrative Contracting Officer as unilateral or bilateral modifications to this contract on SF 30, Amendment of Solicitation/Modification of Contract. Any amounts shown in Section B at time of award of the initial contract for each provisioned line item are estimated amounts only and are subject to upward or downward adjustment by the issuing activity. If no amounts are shown, funding will be obligated before or at time of order issuance. It is understood and agreed that the Government has no obligation under this contract to issue any orders hereunder.

(b) Priced Orders. For each proposed order, the Contractor agrees that it will submit such cost or pricing data as the Contracting Officer may require. Promptly thereafter, the Contractor and the Contracting Officer shall negotiate the price and delivery schedule for the proposed order. Upon execution and receipt of the priced order, the Contractor shall promptly commence the work specified in the order.

(c) Undefinitized Orders. Whenever the Contracting Officer determines that urgent demands or requirements prevent the issuance of a priced order, he/she may issue an unpriced order. Such order may be unilateral or bilateral and shall establish a limitation of Government liability, a maximum ceiling amount, and a schedule for definitization, as described in subparagraph (e)(2) below. Upon request the Contractor shall submit a maximum ceiling amount proposal before the undefinitized order is issued. The maximum ceiling amount is the maximum price at which the order may be definitized. The Contractor shall begin performing the undefinitized order upon receipt, except as provided in paragraph (d) below. The clause entitled "CONTRACT DEFINITIZATION" (DFARS 252.217-7027) shall be included in any undefinitized order.

(d) Rejection of Unilateral Orders. The Contractor may reject any unilateral order if the Contractor determines that it cannot feasibly perform the order, or if the Contractor does not concur with the

maximum ceiling amount. However, each unilateral order shall be deemed to have been accepted by the Contractor unless within fifteen days of issuance of the order, the Contractor notifies the Contracting Officer in writing of its rejection of the order.

(e) Definitization of Undefined Orders.

(1) The Contractor agrees that following the issuance of an undefinitized order, it will promptly begin negotiating with the Contracting Officer the price and terms of a definitive order that will include: (A) all clauses required by regulation on the date of the order; (B) all clauses required by law on the date of execution of the definitive order; and, (C) any other mutually agreeable clauses, terms and conditions. No later than sixty (60) days after the undefinitized order is issued, the Contractor agrees to submit a cost proposal with sufficient data to support the accuracy and derivation of its price; and, when required by FAR, cost or pricing data. If additional cost information is available prior to the conclusion of negotiations, the Contractor shall provide that information to the Contracting Officer. The price agreed upon shall be set forth in a bilateral modification to the order. In no event shall the price exceed the maximum ceiling amount specified in the undefinitized order.

(2) Each undefinitized order shall contain a schedule for definitization which shall include a target date for definitization and dates for submission of a qualifying proposal, beginning of negotiations and, if appropriate, submission of make-or-buy and subcontracting plans and cost or pricing data. Submission of a qualifying proposal in accordance with the definitization schedule is a material element of the order. The schedule shall provide for definitization of the order by the earlier of:

(i) A specified target date which is not more than 180 days after the issuance of the undefinitized order. However, that target date may be extended by the Contracting Officer for up to 180 days after the Contractor submits a qualifying proposal as defined in DFARS 217.7401; or

(ii) the date on which the amount of funds expended by the Contractor under the undefinitized order exceed fifty percent (50%) of the order's maximum ceiling amount, except as provided in subparagraph (f)(3) below.

(3) If agreement on a definitive order is not reached within the time provided pursuant to subparagraph (e)(2) above, the Contracting Officer may, with the approval of the Head of the Contracting Activity, determine a reasonable price in accordance with Subpart 15.4 and Part 31 of the FAR, and issue a unilateral order subject to Contractor appeal as provided in the "DISPUTES" clause (FAR 52.233-

1). In any event, the Contractor shall proceed with completion of the order, subject to the "LIMITATION OF GOVERNMENT LIABILITY" clause (FAR 52.216-24).

(f) Limitation of Government Liability.

(1) Each undefinitized order shall set forth the limitation of Government liability, which shall be the maximum amount that the Government will be obligated to pay the Contractor for performance of the order until the order is definitized. The Contractor is not authorized to make expenditures or incur obligations exceeding the limitation of Government liability set forth in the order. If such expenditures are made, or if such obligations are incurred, they will be at the Contractor's sole risk and expense. Further, the limitation of Government liability shall be the maximum Government liability if the order is terminated. The "LIMITATION OF GOVERNMENT LIABILITY" clause shall be included in any undefinitized order.

(2) Except for undefinitized orders for Foreign Military Sales; purchases of less than \$25,000; special access programs; and Congressionally-mandated long-lead procurements; and except as otherwise provided in subparagraph (f)(3) below, the limitation of Government liability shall not exceed fifty percent (50%) of the ceiling amount of an undefinitized order. In the case of orders within these excepted categories, however, the procedures set forth herein shall be followed to the maximum extent practical.

(3) If the Contractor submits a qualifying proposal (as defined in DFARS 217.7401) to definitize an order before the Government has obligated fifty percent (50%) of the ceiling amount, the Contracting Officer may increase the limitation of Government liability to up to seventy-five percent (75%) of the maximum ceiling amount or up to seventy-five percent (75%) of the price proposed by the Contractor, whichever is less.

(4) If at any time the Contractor believes that its expenditure under an undefinitized order will exceed the limitation of Government liability, the Contractor shall so notify the Contracting Officer, in writing, and propose an appropriate increase in the limitation of Government liability of such order. Within thirty (30) days of such notice, the Contracting Officer will either (i) notify the Contractor in writing of such appropriate increase, or (ii) instruct the Contractor how and to what extent the work shall be continued; provided, however, that in no event shall the Contractor be obligated to proceed with work on an undefinitized order beyond the point where its costs incurred plus a reasonable profit thereon exceed the limitation of Government liability, and provided also that in no event shall the Government be obligated to pay the Contractor any amount in excess of the limitation of Government liability specified in any such order prior to establishment of firm prices.

(g) Initial Spares. The limitations set forth in paragraph (c) and subparagraphs (e) (2), (f) (2) and (f) (3) do not apply to undefinitized orders for the purchase of initial spares.

(h) Terminal Date for Placement of Orders. The Contractor shall not be obligated to accept any orders placed hereunder beyond 180 days after delivery of the last end item.

(i) Segregation of Costs. The Contractor shall segregate the costs of performance of each undefinitized order from the cost of any other work performed by the Contractor.

PART 2 - DESCRIPTION/SPECIFICATION/WORK STATEMENT - ADDITIONAL REQUIREMENTS

A. CONTRACTOR RESPONSIBILITIES FOR DESIGN

The Contractor shall take into consideration existing U.S. Navy logistics support infrastructure in the selection of main propulsion systems and equipment for installation on the craft.

Inasmuch as the Contract Specifications (exclusive of the Performance Specification) and contract design were prepared and developed by the Contractor, the Contractor assumes the responsibility for the completeness, thoroughness and adequacy of the specifications for designing and building the Training Patrol Craft and for their meeting the requirements of the Performance Specification. In the event there are any errors or omissions in the contract specifications, or in the accompanying information that affect the detail design and construction of the craft, the Contractor shall correct such errors or omissions as a part of the contract work with no increase in contract price.

Furthermore, the Contractor shall be responsible for ensuring that the vessel as delivered after construction shall comply with all the applicable laws of the United States and the requirements and standards of the various Regulatory Bodies and other organizations identified in the Performance Specification. A Letter of Compliance in accordance with the DRL shall be issued by the Contractor certifying that the YP complies with:

1. American Bureau of Shipping Rules
2. US Coast Guard Regulations/Instructions

The Contractor shall also be responsible for ensuring that the craft meets the requirements to be classed by the American Bureau of Shipping (ABS) and obtain a Statement of Fact Certification for each

craft per the YP craft contract requirements. As the designated classification society, the Contractor shall ensure that ABS witnesses the YP craft construction, testing, where applicable, and conduct certifications ensuring the Contractor's compliance to the commercial standards of the Rules and the contractual and specification requirements. The Contractor shall provide copies of Regulatory Body technical documentation in accordance with the DRL.

Any inquiries or comments made or not made by the Government in its evaluation of the Contractor's specifications and contract design upon which this contract is awarded are made for informational purposes and shall not relieve the Contractor of the responsibilities described above.

B. TECHNICAL DOCUMENTATION

The Contractor shall prepare and provide Construction Drawings and Associated Lists in accordance with the DRL. These products shall provide the design information necessary to enable a manufacturer of similar products to produce and maintain quality control of item(s) so that the resulting performance characteristics simulate those of the original design. The drawings shall include equipment and construction drawings of the end-product and provide the necessary data to permit competitive acquisition of items identical to the original item(s).

Drawings shall document directly or reference the following: details of unique processes when essential to design and manufacture; performance ratings of equipment; dimensional data; tolerance input and output characteristics; diagrams; mechanical and electrical interfaces; details of material identification, including protective coatings; requirements for reliability, maintainability, and environmental conditioning.

All necessary mechanical dimensions, electrical parameters, physical parameters and environmental conditions to define fabrication and interface requirements shall be included on the applicable drawings.

Drawings shall identify scale and list principle dimensions. Drawings submitted as reproducibles shall be of such clarity as to produce a fourth generation copy with 100% legibility.

C. INTEGRATED LOGISTICS SUPPORT (ILS)

1. SCOPE The Contractor shall provide Integrated Logistics Support (ILS) to include Vendor Recommended Spares (VRS) Listings, Commercial Off-the-Shelf Technical Manuals, Crew Familiarization, and Craft Information Book (CIB) items in accordance with the Performance

Specification, the Data Requirements List (DRL) and as described below.

2. DETAILED REQUIREMENTS Detailed requirements shall be as follows:

a. Commercial Off-the-Shelf Technical Manuals (COTS). The Contractor shall provide COTS operation and maintenance technical manuals for all equipment and components in accordance with the DRL. Training simulator software operation manuals shall also be provided. These manuals shall be in sufficient depth for operation and maintenance of the equipment without the services of a manufacturer's representative. Supplemental data shall be added and properly identified to overcome any technical manual deficiencies. These technical manuals will be placed onboard the craft prior to delivery. The Contractor shall provide a listing of all technical manuals.

b. Craft Information Book (CIB). The Contractor shall provide a CIB to serve as the primary intrasystem and intersystem technical publication covering installation, operation, maintenance and repair of craft systems and equipment in accordance with the DRL. The CIB shall include installation, operation, maintenance, and repair of all craft systems and equipment, including, but not limited to, mechanical, piping, electrical, navigation, and electronics systems and equipment. The CIB shall also include sounding tables and electrical schematics. It shall provide a thorough understanding of all equipment on the craft, their intended functions, operations, and limitations, together with intrasystem and intersystem capabilities and limitations. A listing of all craft technical manuals shall be included in the CIB.

c. Crew Familiarization. The Contractor shall provide forty (40) hours of crew familiarization onboard each craft to orient and familiarize the personnel with the operation and maintenance requirements of the craft. The familiarization shall include a minimum of eight (8) hours underway. The familiarization will be held at the Contractor's facility within 15 days of delivery and as agreed to by the Government. This familiarization shall provide a general understanding of the operation of the craft and its general arrangement. Topics to be covered include electrical system, instruments, alarms, safety and warning systems, engine, generator, auxiliary systems, and training equipment and systems including training simulators. Familiarization shall include any maintenance activity required during routine operation. Less than 20% of the familiarization shall be classroom instruction; the remainder of the time shall be on the craft, in the space, with a fully-qualified technical representative. In addition, crew familiarization of twenty-four (24) hours shall be provided for the first craft of each option exercised. Crew familiarization for the option craft shall be conducted at the Naval Station Annapolis within 5 days of delivery of

the craft to the Naval Station. The contractor shall provide a Crew Familiarization Program Plan in accordance with DRL.

d. Vendor Recommended Spares (VRS) Listings. The Contractor shall provide a VRS Listing in accordance with the DRL to sustain operation and maintenance of each piece of equipment, component, or system onboard the craft for a period of 2000 operating hours. These listings shall contain the Original Equipment Manufacturer's (OEM's) recommended quantities for every type of spare part required for each repairable piece of equipment, including all consumable and expendable items. The list shall include the complete item's name (nomenclature), OEM's name, OEM's Commercial and Government Entity (CAGE) code, OEM's part number, model number, serial number, estimated unit price, recommended quantity to sustain operation for 2000 operating hours, identification of the end item, quantity per end item, unit of issue, shelf life, production lead-time, and unique tools or support and test equipment necessary to inspect, test, calibrate, service, repair, or overhaul the end item. Statistics and locations shall be provided in accordance with the DRL.

e. Shore Based Spares Options. If exercised, the Contractor shall provide the Shore Based Spares, Item 0005, as outlined in Attachment J-5. The Contractor shall be responsible for shipment to Naval Station Annapolis.

D. UNIQUE ITEM IDENTIFICATION

The Contractor shall also provide Unique Item Identification (UID) marking in accordance with the information provided below and in the Data Requirements List (DRL).

1. UID is a set of data marked on items that is globally unique, unambiguous, and robust enough to ensure data information quality throughout the life of the unit until disposal and to support multi-faceted applications and users. The unique item identifier and the component data elements of the unique item identifier shall not change over the life of the item. The UID component data elements, at a minimum, shall be contained in a Data Matrix ECC200 symbol, as required by MIL-STD 130 Rev M dated 2 Dec 2005.
2. The enterprise (i.e., a manufacturer or vendor) shall be responsible for implementation of the Unique Identification marking/Automatic Identification Technology (UID/AIT) program in accordance with the Department of Defense Guide to Uniquely Identifying Tangible Items dated 07 June 2005, and with the Defense Federal Acquisition Regulation Supplement (DFARS) clause 252.211-7003, Item Identification and Valuation. These documents can be found at <http://www.acq.osd.mil/dpap/uid>.

3. The physical marks that contain the UID-required elements shall remain legible until the item is destroyed. Where space is available, human readable information for UID data elements shall be marked on the item. MIL-STD 130 Rev M dated 2 Dec 2005 provides information on various marking methods, surface requirements, and verification criteria. The preferred placement of the mark on the part is in the installed position whenever possible. This will allow personnel to read the mark without necessitating its removal. For parts already marked with a label or data plate, the Contractor shall remove and add additional UID information if space is available on the current label or replace with a label or data plate containing UID information in addition to existing information. The verification grade for the UID mark on all parts - will be in accordance with MIL-STD 130 Rev M dated 2 Dec 2005 paragraphs 4.4 through 4.4.2.2. Certification of verification shall accompany part(s) upon shipment.
4. The Contractor shall construct the UID for the Training Patrol Craft by using the Contractor's Enterprise Identifier; the hull number of the craft as the Part Number; and the respective hull sequencing number (e.g. hull 1 of 5, 2 of 5, if applicable) within the class as the part number.
5. Notwithstanding DFARS 252.211.7003, the Contractor shall submit to the Government a proposed listing of UID candidates, marking medium and its location in accordance with the data item entitled "Recommended Unique Identification (UID) Candidate Listing, Marking Medium, and Location" for material meeting the criteria in paragraphs 6.1, 6.2, and 6.3 for review and approval.
6. The Contractor shall provide unique item identification or a DoD recognized unique identification equivalent for:
 - 6.1 All items for which the individual equipment unit acquisition cost is \$5,000 or more;
 - 6.2 All items for which the individual equipment unit acquisition cost is less than \$5,000, but have been determined necessary for serially managed, mission essential, or controlled inventory equipment, repairable items, or consumable items or material; and
 - 6.3 In addition to the requirements in paragraphs 6.1 and 6.2, the following items have also been determined to require UID marking:
 - (a) Training Patrol Craft (YP).
 - (b) Any Shore Based Spares purchased (option 0005) that are annotated in Attachment J-5 to be marked.

Data Submission - The Contractor shall submit information required by DFARS Clause 252.211-7003 paras (e), (f), (g), and (h) in accordance with the procedures at <http://www.acq.osd.mil/dpap/uid>.

E. CONTRACT PROBLEM IDENTIFICATION REPORTS (NAVSEA) (MAY 1993)

(a) Contract Problem Identification Reports (CPIRs) shall be used by the Contractor for the purpose of alerting the Government to actual or potential contract problems and of establishing an early dialogue between the Contractor and the Government with regard thereto.

(b) A "contract problem" is a fact or circumstance of which the Contractor is aware that does, will or reasonably is anticipated to (1) have a significant or substantial impact on the delivery schedule or completion of contract performance or the cost of performance of the contract (increase or decrease) or (2) requires modification to the contract or specification(s). The terms "significant" and "substantial" shall be interpreted in the same manner as they would be interpreted by a reasonably prudent business person under the relevant circumstances.

(c) The Contractor shall report each contract problem promptly and in no event later than five (5) calendar days, after the Contractor identifies such contract problem. Each CPIR shall be entitled "Contract Problem Identification Report", shall be dated, numbered sequentially and shall set forth the following based on the best and most complete information then known or available to the Contractor:

(1) The nature of the contract problem;

(2) The date on which the contract problem arose and the date on which the contract problem was identified as such;

(3) The anticipated direct and consequential effects of the contract problem upon the delivery schedule or completion of contract performance or the cost of performance of the contract;

(4) Identification of the supplies and/or services which are or may be affected; and

(5) The Contractor's recommended solution to the reported contract problem.

(d) Follow-up status reports of each contract problem, identified by the original CPIR number, shall be furnished monthly or more frequently as required by the Contracting

Officer. A final follow-up report shall be furnished immediately following resolution of each contract problem.

(e) CPIRs shall not be submitted when notice of the same contract problem is required to be furnished to the Government pursuant to any other requirement of this contract. The submission of a CPIR, however, does not relieve the Contractor of its obligations to provide notice required under any other requirement of this contract.

(f) The DRL provides the format to be used in submitting contract problem identification reports.

F. POST-AWARD CONFERENCE

The Government will conduct a post-award conference within forty (40) days after the effective date of this contract. The conference will be held at the Contractor's facility. Topics will include, but not be limited to, documentation review, discussion of the Contractor's understanding of the technical requirements, and schedule considerations. In conjunction with the Post-Award Conference, an Integrated Logistics Support meeting will be held to review and discuss the integrated logistics support requirements of this contract. This review will also include a review of the DRL.

G. ADDITIONAL REQUIREMENTS FOR MEETINGS/CONFERENCES

The Government may on an "as needed" basis, require the Contractor to attend and/or host conferences, design reviews, program reviews, logistics meetings or other meetings. The Contractor shall be required to prepare agendas and to record any decisions and/or agreements reached between Government/Contractor/Designated SUPSHIP or Government Representatives and submit these records in accordance with the DRLs entitled "Meeting Agendas" & "Meeting Minutes".

H. CONTRACTOR'S PROPOSAL

(a) Performance of this contract by the Contractor shall be conducted and performed in accordance with detailed obligations to which the Contractor committed itself in Proposal for YP Training Craft dated 27 eb 2007 in response to NAVSEA Solicitation No. N00024-06-R-2200.

(b) The technical volumes of the Contractor's proposal is incorporated by reference and all or part, as designated by the Government, is hereby made subject to the provisions of the "ORDER OF PRECEDENCE" clause of this contract.

I. ORDER OF PRECEDENCE

Any inconsistencies in this solicitation or contract shall be resolved by giving precedence in the following order:

1. The Schedule (contract), including the Government's TRAINING PATROL CRAFT (YP) PERFORMANCE SPECIFICATION and the DRLs;
2. Contract clauses;
3. Other documents, exhibits, and attachments;
4. Contractor's Contract Specifications (proposal);
5. Contractor's Contract Drawings (proposal);
6. Contractor's proposal (except the Contractor's proposal specifications and proposal drawings);

J. SCHEDULE

The Contractor shall provide Schedules for each YP in accordance with the DRL.

K. NO SUBSTITUTION OF OUTFITTING AND EQUIPMENT

All equipment, outfitting, and furnishings, etc., must be specified in the Contractor's proposal in accordance with the requirements of the RFP. Items of equipment, outfitting, and furnishing cannot be substituted for proposed items after award without Government approval (generally through a contract modification). In accordance with the Contract Schedule, your proposal, including your proposed contract specification and proposed contract drawings, will become part of any resulting contract.

L. LAUNCHING AND DOCKING

The Contractor shall be responsible for the satisfactory launching of the YP craft at the time and manner mutually agreed upon by the Contractor and the Government. Should there be any evidence that the YP craft has been strained or damaged during launching, the craft shall be drydocked immediately for inspection, report, and repair. The Contractor shall submit a CPIR to the Government.

The Contractor shall develop and provide in accordance with the DRL a Craft Docking Plan that accommodates the use of the Marine Travelift.

M. APPEARANCE OF CRAFT WHEN DELIVERED

The craft shall be delivered at DESTINATION with all items, such as but not limited to, equipment, accessories, appliances, plumbing fixtures, walls (interior and exterior), floors and decks, ceilings and overheads, windows, machinery spaces, etc., displaying an obvious appearance of being new and unused. The craft shall be free of dirt and debris associated with construction. The craft, when delivered shall, in addition to the above, also display the highest level of cleanliness such that all areas of the Training Patrol craft can be immediately put to use for its intended use.

N. PURCHASE ORDERS INDEX

The Contractor shall provide a Purchase Order Index identifying the part name/description, part number, quantity, purchase order number, vendor, date ordered, date required, date received, and unit cost in accordance with the DRL.

O. ENGINEERING CHANGE PROPOSAL (ECP) AND REQUESTS FOR DEVIATIONS AND WAIVERS

The format provided by the DRL shall be used whenever a situation arises wherein the Contractor or Government considers that the physical configuration, material quality, operational or functional performance of equipment or installed systems will not be in compliance with the Performance Specification or the Contractor's technical proposal, and a change to those documents is considered appropriate by both the Contractor and the Government.

ECPs shall be prepared whenever the detail level physical configuration, material quality, operational or functional performance of equipment or installed systems will not be in compliance with baseline design-related documentation and a change to a baseline document is considered an appropriate means of resolving a design-related issue.

In the event that a baseline design related requirement or a performance requirement cannot be met, and a change to the baseline design requirement or performance requirement is inappropriate, the Contractor shall submit a Request for Deviation or Waiver, as appropriate following the requirements in the DRL.

P. QUALITY ASSURANCE

The Contractor shall establish, document, and maintain a quality system that meets the requirements defined by the elements in ISO 9001:1994, Quality Systems Model for Quality Assurance in Design, Development, Production, Installation, and Servicing. The Contractor shall provide a Quality System Plan in accordance with the DRL.

Q. INCLINING/STABILITY/WEIGHT REPORTS

The Contractor shall perform an inclining experiment prior to builder's trials on each craft constructed under this contract. The inclining experiment shall be performed in accordance with ASTM F1321, "Standard guide for Conducting a Stability Test to Determine the Light Ship Displacement and Centers of Gravity of a Vessel". A Dead Weight Survey, subject to Regulatory Body approval may be substituted for the inclining experiment following the first craft. The Contractor shall prepare an Intact/Damage Stability Report in accordance with the DRL.

Weight reports shall be submitted in accordance with the DRL.

R. TRIALS

Prior to delivery, the contractor shall conduct trials for each craft. Trial agendas, reports, and notifications shall be provided in accordance with the DRL.

The Contractor is responsible for trials and shall provide all the necessary materials, fuel, power, equipment, instrumentation, and qualified personnel to safely operate the craft and to conduct each trial test, inspection and demonstration. Unless otherwise authorized, each trial test, inspection and demonstration shall be performed in the presence of the Government or the Government Representatives. Emergency Escape Breathing Devices (EEBDs) and other personnel-escape or protective devices shall be on board and properly stowed.

Trials shall be conducted in accordance with SNAME T&R 3-47, Guide for Sea Trials (1989). Trials shall be performed with the craft at the full load draft and trim condition. Underway airborne noise and vibration surveys shall be performed during trials for each craft. All noise and vibration surveys shall be performed with main propulsion engines at Maximum Continuous Rating and all accommodation Heating, Ventilation, and Air Conditioning systems and equipment in normal operation.

The Contractor shall perform the following trials:

1. Builder's Trials (BT)
2. Craft Acceptance Trials (CAT)

Builder's Trials (BT) - BT shall demonstrate the successful operation of all craft equipment and systems, that the craft is seaworthy, and that the craft is ready for CAT. BT shall be witnessed by the Government and the Government Representatives and the BT trial report shall be made available to INSURV at the time of CAT. Successful completion of BT is a prerequisite to CAT.

Craft Acceptance Trials (CAT) - Prior to delivery, the Contractor shall conduct CAT to insure that the craft is complete, meets all contract requirements, and is in all respects ready for service. The Contractor, prior to CAT, shall certify that the craft is ready for trials. CAT shall not be performed until the craft is ready in all respects, all tests and inspections have been satisfactorily completed, all discrepancies have been corrected, and all test data has been provided. CAT shall be witnessed by the Government and by the Government Representatives. If any part of the craft or its systems or equipment fails to meet CAT, it shall be corrected and retested as directed by the Government or by the Government Representatives. After completion of CAT and before delivery of the craft, Contractor-responsible work shall be completed or resolved to the satisfaction of the Government.

S. DEPARTMENT OF LABOR SAFETY AND HEALTH STANDARDS FOR SHIPBUILDING (AT) (NAVSEA) (SEP 1990)

Attention of the Contractor is directed to the Occupational Safety and Health Act of 1970 (29 USC 651-678), and to the Safety and Health Regulations for Ship Repairing (29 CFR 1915), promulgated under Public Law 85-742, amending Section 41 of the Longshoremen's and Harbor Workers' Compensation Act (33 USC 941), and adopted by the Department of Labor as occupational safety or health standards under Section 6(a) of the Occupational Safety and Health Act of 1970 (See 29 CFR 1910.13). These regulations apply to all ship repair and related work, as defined in the regulations performed under this contract on the navigable waters of the United States including any dry dock and marine railway. Nothing contained in this contract shall be construed as relieving the Contractor from any obligations which it may have for compliance with the aforesaid regulations.

T. DISCHARGE OF LIENS AND ENCUMBRANCES AND WARRANTY OF TITLE

(a) The Contractor shall immediately discharge or cause to be discharged any lien or right in rem of any kind, other than in favor of the Government, which at any time exists or arises with respect to the craft, the machinery, fittings, equipment, furnishings, or materials for the craft. If any such lien or right in rem is not immediately discharged, the Government may

discharge or cause to be discharged said lien or right in rem, at the expense of the Contractor.

(b) Upon acceptance of each craft by the Government, the Contractor warrants clear and unencumbered title to each craft. Furthermore, the Contractor indemnifies and holds harmless the Government against any and all (1) liens and claims of ownership against the craft, and (2) liens, claims, encumbrances, and claims or rights in rem, against the craft, including claims for personal injury and property damage, maritime liens, mechanics liens, and tax liens, which arose prior to acceptance of the craft by the Government, or which are based on events which occurred prior to acceptance of the craft by the Government. If any lien, claim, or encumbrance resulting from, or arising out of, any event which occurred prior to acceptance of each craft, is brought against the craft or against the Government, the Contractor will be responsible for resolution of such claim, lien, or encumbrance, and in no event will the craft or the Government be responsible for resolving the claim, lien, or encumbrance, or for compensating any person or entity for the claim, lien, or encumbrance. If such claim, lien, or encumbrance is brought against the craft or against the Government, the Contractor hereby agrees to take all necessary steps to resolve the claim, lien, or encumbrance without impact to the craft or the Government. The warranty and indemnification under this clause survive the close-out of the contract.

This clause shall not be construed to abrogate or diminish any of the Government's title-vesting rights under the "Contract Financing Payments" or the "Progress Payments" clause of the contract.

U. PRODUCTION PHOTOGRAPHS

The Contractor shall provide photographs of each craft under construction and at completion. These photographs of the craft shall be in accordance with the DRL.

V. HAZARDS OF ELECTROMAGNETIC RADIATION TO PERSONNEL (HERP) ANALYSIS

The Contractor shall provide an analysis of the craft design for Hazards for Electromagnetic Radiation to Personnel (HERP) in accordance with the DRL.

W. GOVERNMENT FACILITIES

The Contractor shall provide the Government separate office space and facilities at the Contractor's plant for one person. The space shall

be convenient to the craft, adequately sized, furnished, lighted, heated, and air-conditioned. The Contractor shall provide toilet and rest room facilities, telephone service with voice mail and computer modem connections, and a lighted, secure parking space convenient to the space.

SECTION D-PACKAGING AND MARKING

Item 0001, and if option(s) is/are exercised, Items 0002, 0003, and 0004 - The craft shall be prepared for delivery in accordance with the best commercial practice.

If Option(s) is/are exercised, one lot of Shore Based Spares (Item 0005) shall be delivered for Item 0001. Contractor is responsible for safe shipment to destination. Packaging and marking shall be in accordance with best commercial practice.

Item 0006 - Unclassified data shall be prepared for shipment in accordance with the best commercial practice.

Item 007 - If orders are issued, packaging and marking instructions will be discussed in individual orders.

SECTION E-INSPECTION AND ACCEPTANCE

Item 0001, and if option(s) is/are exercised, Items 0002, 0003, and 0004 - Inspection by the Contractor shall be performed at destination in accordance with the terms of the contract and in a manner sufficient to ensure that the items to be furnished under this contract conform with all contractual requirements and in accordance with the "Inspection and Acceptance" paragraph of contract clause FAR 52.212-4. Government inspection shall be performed at the craft acceptance trial, at the Contractor's facility, and at destination, as specified in the contract, by a representative of the Government in accordance with FAR 52.212-4.

Acceptance shall be made at destination by a representative of the Government via DD Form 250, Material Inspection and Receiving Report.

Item 0006 - Inspection and acceptance shall be as specified in the DRLs.

Item 0007 - If Items are ordered, inspection and acceptance requirements shall be specified in each individual order.

SECTION F-DELIVERIES OR PERFORMANCE

All supplies to be furnished for CLIN 0001 and CLINs 0002, 0003, 0004, and 0005 (options, if exercised) shall be delivered at the following locations, F.O.B. Destination. CLIN 0006 - As specified in the Specification and the DRLs.

REQUIRED DELIVERY DATE	CLIN	QTY	SHIP TO MARK FOR	ADDRESS CODE
18 MAC	0001	1	Small Craft Repair Department 66 Halligan Road Naval Station Annapolis Annapolis, MD 21402	62226
24 MAC	0001	1	Small Craft Repair Department 66 Halligan Road US Naval Station Annapolis Annapolis, MD 21402	62226
28 MAC or within 10 MAOE, <i>whichever is longer. **</i>	0002 (Option)	1	Small Craft Repair Department 66 Halligan Road US Naval Station Annapolis Annapolis, MD 21402	62226
Within 4 months of craft delivery of CLIN 0002 or within 10 MAOE, <i>whichever is longer. *, **</i>	0003 (Option)	1	Small Craft Repair Department 66 Halligan Road US Naval Station Annapolis Annapolis, MD 21402	62226
Within 4 months of last delivery of CLIN 0003 or within 10 MAOE, <i>whichever is longer. *, **</i>	0004 (Option)	3	Small Craft Repair Department 66 Halligan Road US Naval Station Annapolis Annapolis, MD 21402	62226

REQUIRED DELIVERY DATE	CLIN	QTY	SHIP TO MARK FOR	ADDRESS CODE
Within 60 days of last delivery of CLIN 0001 or within 4 MAOE, <i>whichever is longer.</i>	0005 (Option)	1 Lot	Small Craft Repair Department 66 Halligan Road US Naval Station Annapolis Annapolis, MD 21402	62226
IAW DRL	0006	Qty Req'd	IAW DRL	IAW DRL
TBD	0007	TBD	TBD	TBD

MAC = Months After Contract Award

MAOE = Months After Option Exercise

IAW = In Accordance With

* = After the first craft of the option CLIN is delivered, subsequent deliveries for that CLIN shall be spaced at 4 month intervals.

** = Early delivery is acceptable upon notice to the PCO 90 days prior to delivery and receipt of PCO approval thereafter.

DELIVERIES

In the event that required data is not delivered as required by the contract, the Contracting Officer shall have the option to refuse acceptance of any craft until such time as the failure to deliver is corrected.

"Data" as used above, is defined as any report or task required by:

- A Contract Line Item
- A Data Requirement List (DRL)
- The specifications hereto

TECHNICAL DATA--WITHHOLDING OF PAYMENT (MAR 2000)

(a) If technical data specified to be delivered under this contract, is not delivered within the time specified by this contract or is deficient upon delivery (including having restrictive markings not identified in the list described in the clause at 252.227-7013(e)(2) or 252.227-7018(e)(2) of this contract), the Contracting Officer may until such data is accepted by the Government, withhold payment to the Contractor of ten percent (10%) of the total contract price or amount

unless a lesser withholding is specified in the contract. Payments shall not be withheld nor any other action taken pursuant to this paragraph when the Contractor's failure to make timely delivery or to deliver such data without deficiencies arises out of causes beyond the control and without the fault or negligence of the Contractor.

(b) The withholding of any amount or subsequent payment to the Contractor shall not be construed as a waiver of any rights accruing to the Government under this contract.

SECTION G-CONTRACT ADMINISTRATION DATA

Enter below the address (street and number, city, county, state and zip code) of the Contractor's facility which will administer the contract if such address is different from the address shown on the Standard Form (SF) 1449.

G&G Boat Works Inc
401 Cochren Bridge Causeway
Hwy 98
Mobile, AL 36633

Invoices: Invoices shall be submitted to the cognizant contract administration office shown in Block 16 of the Standard Form 1449.

Authorized Negotiators

The Offeror or Quoter represents that the following persons are authorized to negotiate on its behalf with the Government in connection with this request for proposals or quotations: (list names, titles, telephone numbers, fax numbers and e-mail addresses of the authorized negotiators).

Name Mickey Cook

Title General Manager

Telephone 251-694-1300

Fax 251-694-1306

E-Mail mcook@cgboatworks.com

SECTION H - SPECIAL CONTRACT REQUIREMENTS

<u>NUMBER</u>	<u>TITLE</u>	<u>PAGE</u>
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H-2	NAVSEA 5252.246-9128 DELIVERY OF COMPLETED VESSEL (FT) (JAN 1983)	H-2
H-3	NAVSEA 5252.233-9103 DOCUMENTATION OF REQUESTS FOR EQUITABLE ADJUSTMENT (AT) - ALTERNATE I (MAY 1998)	H-2
H-4	NAVSEA 5252.233-9107 EQUITABLE ADJUSTMENTS: WAIVER AND RELEASE OF CLAIMS (AT) (JAN 1983)	H-5
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H-1 NAVSEA 5252.202-9101 ADDITIONAL DEFINITIONS (FT) - ALTERNATE II (MAY 1993)

As used throughout this contract, the following terms shall have the meanings set forth below:

(a) DEPARTMENT - means the Department of the Navy.

(b) COMMANDER, NAVAL SEA SYSTEMS COMMAND - means the Commander of the Naval Sea Systems Command of the Department of the Navy or his duly appointed successor or duly authorized representative.

(c) SUPERVISOR - means the cognizant Supervisor of Shipbuilding, Conversion and Repair, Department of the Navy.

(d) PROJECT MANAGER (SHAPM) (PMS) - means the (List appropriate PM) Program Manager, or his duly appointed successor or duly authorized representative, of the Naval Sea Systems Command of the Department of the Navy.

(e) ADJUSTMENT IN CONTRACT PRICE - means adjustment in target cost, target profit, target price and ceiling price or fixed price, as appropriate under the circumstances and except as otherwise provided in the contract.

(f) DESIGN AGENT - means C&G Boat Works Inc in its capacity as Design Agent, not in its capacity as shipbuilding contractor.

(g) REFERENCES TO ARMED SERVICES PROCUREMENT REGULATION OR DEFENSE ACQUISITION REGULATION - All references in this document to either the Armed Services Procurement Regulation (ASPR) or the Defense Acquisition Regulation (DAR) shall be deemed to be references to the appropriate sections of the Federal Acquisition Regulation (FAR) and the Defense FAR Supplement (DFARS).

(h) REFERENCES TO THE FEDERAL ACQUISITION REGULATION (FAR) - All references to the FAR in this contract shall be deemed also to include the Defense FAR Supplement (DFARS), unless clearly indicated otherwise.

**H-2 NAVSEA 5252.246-9128 DELIVERY OF COMPLETED VESSEL (FT)
(JAN 1983) (DEVIATION)**

The term "vessel" as used in this clause refers to each of the vessels to be constructed and delivered under this contract.

(a) The vessel shall not be presented for craft acceptance trials (as used in this clause acceptance trials means acceptance trials or combined acceptance trials) until the contractor has:

(i) Corrected all Contractor responsible deficiencies discovered before craft acceptance trials, unless otherwise agreed to in writing by the Contracting Officer; and

(ii) No late deliverables, as required by the DRL, Exhibit "A" to this contract.

(b) The Contractor shall be responsible for scheduling an interval of a minimum of fourteen (14) days between the satisfactory completion of craft acceptance trials and shipment of the vessel. During this period the Contractor shall satisfactorily correct all Contractor responsible deficiencies, whether discovered before, during, or after completion of craft acceptance trials, which are

determined by the Contracting Officer to be necessary to avoid an adverse effect on the operational capability of the vessel.

**H-3 NAVSEA 5252.233-9103 DOCUMENTATION OF REQUESTS FOR
EQUITABLE ADJUSTMENT (AT) - ALTERNATE I (APR 1999)**

(a) For the purposes of this requirement, the term "change" includes not only a change that is made pursuant to a written order designated as a "change order" but also (i) an engineering change proposed by the Government or the Contractor pursuant to the "Other Change Proposals" or other requirements of this contract and (ii) any act or omission to act on the part of the Government in respect of which a request is made for equitable adjustment under the "CHANGES" clause or any other article or requirement of this contract.

(b) Whenever the Contractor requests or proposes an equitable adjustment of \$100,000 or more per vessel in respect of a change made pursuant to a written order designated as a "change order" or in respect of a proposed engineering change and whenever the Contractor requests an equitable adjustment in any amount in respect of any other act or omission to act on the part of the Government, the proposal supporting such request shall include the following information for each individual item or element of the request:

(1) A description (i) of the work required by the contract before the change, which has been deleted by the change, and (ii) of the work deleted by the change which already has been completed. The description is to include a list of identifiable components, equipment, and other identifiable property involved. Also, the status of manufacture, procurement, or installation of such property is to be indicated. Separate description is to be furnished for design and production work. Items of identifiable raw material, purchased parts, components and other identifiable hardware, which are made excess by the change and which are not to be retained by the Contractor, are to be listed for later disposition;

(2) Description of work necessary to undo work already completed which has been deleted by the change;

(3) Description of work which is substituted or added by the change. A list of identifiable components and equipment (not bulk materials or items) involved, should be included. Separate descriptions are to be furnished for design work and production work;

(4) Description of interference and inefficiencies in performing the change;

(5) Description of disruption attributable solely to the change; which description shall include the following information:

(i) Description of each identifiable element of disruption and how work has been, or may be, disrupted;

(ii) The calendar period of time during which disruption occurred, or may occur;

(iii) Area(s) of the Contractor's operations where disruption occurred, or may occur;

(iv) Trade(s) or functions disrupted, with a breakdown of manhours and material for each trade or function;

(v) Scheduling of trades before, during, and after period of disruption insofar as such scheduling may relate to or be affected by the estimated disruption;

(vi) Description of any measures taken to lessen the disruptive effect of the change;

(6) Delay in delivery attributable solely to the change;

(7) Other work or increased costs attributable to the change;

(8) Supplementing the foregoing, a narrative statement of the nature of the alleged Government act or omission, when the alleged Government act or omission occurred, and the "casual" relationship between the alleged Government act or omission and the claimed consequences thereof, cross-referenced to the detailed information provided as required above.

(c) Each proposal submitted in accordance with this requirement shall include a copy of the Contractor's ship's labor budget at the cost level in effect as of the date the event began, the cost incurred at the cost level as of the same date, and the proposed effect of the change at the cost class level.

(d) It is recognized that individual claims for equitable adjustment may not include all of the factors listed in subparagraphs (b)(1) through (b)(8) above, or that the Contractor may not reasonably be able to furnish complete information on all of the factors listed in subparagraph (b)(1) through (b)(8) above. Accordingly, the Contractor is only required to set forth in its request for equitable adjustment information with respect to those factors which are relevant to the individual request for equitable adjustment, or in the level of detail which is reasonably available to the Contractor.

(e) In addition to any information required under paragraph (b) above, each proposal submitted in support of a claim for equitable adjustment,

under any requirement of this contract, in an amount which requires certified cost or pricing data, shall contain such cost or pricing data as the Contracting Officer shall require with respect to each individual claim item, and shall be in sufficient detail to permit the Contracting Officer to cross-reference the claimed increased costs, or delay in delivery, or both, as appropriate, with the information submitted pursuant to subparagraphs (b)(1) through (b)(8) hereof.

H-4 NAVSEA 5252.233-9107 EQUITABLE ADJUSTMENTS: WAIVER AND RELEASE OF CLAIMS (AT) (JAN 1983)

(a) Whenever the Contractor, after receipt of a change made pursuant to the clause of this contract entitled "CHANGES" or after affirmation of a constructive change under the "NOTIFICATION OF CHANGES" (FAR 52.243-7) requirement, submits any claim for equitable adjustment under the foregoing, such claim shall include all types of adjustments in the total amounts to which the foregoing entitle the Contractor, including but not limited to adjustments arising out of delays or disruptions or both caused by such change.

(b) Further, the Contractor agrees (except as the parties may otherwise agree) that, if required by the Contracting Officer, it will execute a release, in form and substance satisfactory to the Contracting Officer, as part of the supplemental agreement setting forth the aforesaid equitable adjustment, and that such release shall discharge the Government, its officers, agents and employees, from any further claims including but not limited to further claims arising out of delays or disruptions or both, caused by the aforesaid change.

H-5 NAVSEA 5252.225-9100 FOREIGN SHIPYARD CONSTRUCTION PROHIBITION (AT) (SEP 1990)

Neither the vessel nor the hull, midbody, or other major fixed structural component of the vessel shall be constructed in a foreign shipyard.

H-6 NAVSEA 5252.243-9105 NOTIFICATION OF CHANGES (FT) - ALTERNATE I (JAN 1983)

(a) Definitions. As used in this requirement, the term "Contracting Officer" does not include any representative of the Contracting Officer whether or not such representative is acting within the scope of his authority nor does it include any other individuals or activities that in any way communicate with the Contractor. As used in this requirement, the term "conduct" includes both actions and failures to act, and includes the furnishing of, or the failure to furnish, any item under any provision of this contract.

(b) Notice. The primary purpose of this requirement is to obtain prompt reporting of any conduct, which the Contractor considers would constitute or would require a change to this contract. The parties acknowledge that proper administration of this contract requires that potential changes be identified and resolved as they arise. Therefore, except for changes identified as such in writing and signed by the Contracting Officer, the Contractor shall notify the Contracting Officer of any conduct which the Contractor considers would constitute or would require a change to this contract. Such notice shall be provided promptly, and in any event within thirty (30) calendar days from the date the Contractor identifies any such conduct. The Notice shall be written and shall state, on the basis of the most accurate information available to the Contractor:

- (i) The date, nature, and circumstances of the conduct regarded as a change;
- (ii) The name, function, and activity of the individuals directly involved in or knowledgeable about such conduct;
- (iii) The identification of any documents and the substance of any oral communication involved in such conduct;
- (iv) The particular elements of contract performance for which the Contractor might seek an equitable adjustment under this requirement, including:
 - (1) What ship(s) have been or might be affected by the potential change;
 - (2) To the extent practicable, labor or materials or both which have been or might be added, deleted, or wasted by the potential change;
 - (3) To the extent practicable, the Contractor's preliminary order of magnitude estimate of cost and schedule effect of the potential change; and
 - (4) What and in what manner are the particular technical requirements or contract requirements regarded as changed.

(c) Continued Performance. Except as provided in paragraph (f) below, following submission of notice, the Contractor shall take no action to implement a potential change until advised by the Contracting Officer in writing as provided in (d) below, unless the potential change was previously directed by the Contracting Officer, in which case the Contractor shall conform therewith. Nothing in this paragraph (c)

shall excuse the Contractor from proceeding with contract work other than implementation of the potential change or from proceeding in accordance with directions issued by the Contracting Officer.

(d) Government Response. The Contracting Officer shall promptly, and in any event within twenty-one (21) calendar days after receipt of Notice, respond thereto in writing. In such response, the Contracting Officer shall either:

(i) Confirm that the conduct of which the Contractor gave notice would constitute a change, and when necessary, direct the mode of further performance, or;

(ii) Countermand any conduct regarded by the Contractor as a change, or;

(iii) Deny that the conduct of which the Contractor gave notice would constitute a change and, when necessary, direct the mode of further performance, or;

(iv) In the event the Contractor's notice information is inadequate to make a decision under (i), (ii) or (iii) above, advise the Contractor what additional information is required. Failure of the Government to respond within the time required above shall be deemed a countermand under (d)(ii).

(e) Equitable Adjustments. Equitable adjustments for changes confirmed or countermanded by the Contracting Officer shall be made in accordance with the clause of this contract entitled "CHANGES", or any other requirement of this contract, which provides for an equitable adjustment.

(f) Special Procedures. Paragraph (c) provides that the Contractor is to take no action to implement a potential change pending the Contracting Officer's response to the Contractor's notice of the potential change, except where specifically directed by the Contracting Officer. In special situations, however, where

(1) The circumstances do not allow sufficient time to notify the Contracting Officer of the facts prior to the need to proceed with the work, and;

(2) The work must proceed to avoid hazards to personnel or property or to avoid additional cost to the Government, the Contractor may proceed with work in accordance with the potential change. In such special situations, the Contractor shall advise the Contracting Officer in writing within ten (10) days of the conduct giving rise to the potential change that the

Contractor has proceeded and shall describe the nature of the special situation which required proceeding prior to notification. Within thirty (30) calendar days of the conduct giving rise to the potential change, the Contractor shall provide notice as required in (b) above. The Contracting Officer shall respond as set forth in (d) above. If the Contracting Officer determines that the conduct constitutes a change and countermands it, the Contractor shall be entitled to an equitable adjustment for performance in accordance with that change prior to the countermand including performance resulting from the countermand.

(g) When the Contractor identifies any conduct, which may result in delay to delivery of the ship(s), the Contractor shall promptly so inform the Contracting Officer thereof prior to providing the notice required by paragraph (b) above.

(h) Despite good faith best efforts, occasions may arise in which the Contractor does not provide notice within the time periods specified in paragraphs (b) and (f) above. Accordingly, prior to the end of the first and third quarters of each calendar year through the period of performance of this contract, beginning with the _____ quarter of _____, the Contractor shall deliver to the Government an executed bilateral contract modification, in the format set forth in Exhibit "A" to this requirement, covering the six month period of time ending with the second and fourth quarters, respectively, of the preceding year, with such specific exceptions, if any, as are identified by the Contractor. If the Contractor cites specific exceptions to the release, the Contractor shall concurrently provide the Contracting Officer with notice, containing the information set forth in paragraph (b) of this requirement, for each item excepted from the release. However, the release required by this requirement shall not make unallowable any costs, which are otherwise allowable under any other requirement of this contract.

Within sixty (60) days of receipt of the release, the Contracting Officer shall sign and return a copy of the release to the Contractor. If the Contracting Officer fails to execute and return the release within the required time, then the release shall be deemed to be void and of no effect for the period involved.

(i) If the release in accordance with paragraph (h) above is not provided to the Government by the Contractor in the time required, the Contracting Officer may execute the release as set forth in Exhibit "A" and send it to the Contractor. If the Contractor fails to execute the release and return it to the Government (with any specific exceptions) within sixty (60) days of receipt thereof, the required release shall then be deemed effective as if signed by the Contractor.

Exhibit A to the Requirement entitled "NOTIFICATION OF CHANGES"

This modification reflects the agreement of the parties to the mutual full and final releases for the consequences of that conduct (as conduct is defined in the requirement entitled "NOTIFICATION OF CHANGES"), described below, except the conduct identified in Attachment A hereto is excluded and not covered by the terms of this release.

1. Except for the conduct listed in Attachment A by either party, neither the Contractor nor the Government shall be entitled to any equitable adjustment or to money damages and/or other relief for any conduct, as specified below.
2. In consideration of the foregoing the parties hereby agree to the following release:

- a. The Government, for itself, its assigns, vendors, suppliers, and contractors, hereby remises, releases, and forever discharges the Contractor, its officers, agents and employees from any and all entitlement of the Government to equitable adjustment of the contract price and delivery schedule due to conduct under this contract, which occurred on or before _____.

- b. The Contractor, for itself, its successors, assigns, vendors, suppliers, and subcontractors, hereby remises, releases and forever discharges the Government, its officers, agents and employees from (i) any and all entitlement of the Contractor to equitable adjustment of the contract cost and fee and/or delivery schedule of this contract or of any other Government contract (with this or any other Contractor) or any contract between the Contractor and any third party by reason of any conduct which increases the Contractor's cost or time of performance of work under this contract and meets the following conditions (1) known to the Contractor, (2) occurred on or before _____ and (3) the Contractor failed to give notice prior to date of this release, and (ii) any and all liabilities to the Contractor for money damages and/or other relief for the impact of any such conduct, upon this contract or any other Government contract (with this or any other Contractor) or any contract between the Contractor and any third party.

H-7 REQUIRED INSURANCE

(a) Until the craft has been accepted by the Government, the craft and all materials, equipment and appliances, therefore, including materials, equipment to be furnished by the Government to the Contractor for installation in the craft, shall, at the expense of the Contractor, be kept fully and duly insured by the Contractor in the name of the United States of America and the Contractor under the form

of Builder's Risk Insurance (Navy Form Syndicate) Policy, including the rider attached to the "Free of Capture and Seizure" clause thereof where applicable. Where such insurance is not applicable the Contractor shall procure and thereafter maintain in the name of the United States of America and the Contractor until the craft has been accepted by the Government, fire and extended coverage insurance during construction and inland or ocean marine all risk cargo insurance during delivery with respect to the craft and all materials, equipment and appliances therefore, including materials and equipment to be furnished by the Government to the Contractor for installation in the craft. Where none of the foregoing is applicable during water trials the Contractor shall procure and thereafter maintain such other insurance for the craft as will cover the usual marine perils during such trials. The amount of the insurance shall not be less than aggregate of the amount paid to the Contractor under this contract by the Government plus the value of any materials, equipment and appliance furnished by the Government as determined from time to time by the Contracting Officer. Loss under the aforementioned insurance shall be payable to the Secretary of the Navy, or order, for use of the United States of America to the extent of payment made to the Contractor under this contract plus the amount of loss of or damage to the material, equipment, and appliance furnished by the Government and for use of the Contractor to the extent of any remaining balance.

(b) All policies shall be delivered to the Administrative Contracting Officer for approval and custody. The terms of the policies, the insurance companies, and the underwriters shall at all times be satisfactory to the Contracting Officer. Policies not in conformance herewith shall be surrendered and canceled upon the direction of the Contracting Officer and new policies procured in conformance herewith.

(c) In the event that the Contractor shall procure or maintain other insurance upon any materials or other property upon which a lien exists in favor of the Government or to which the Government has title pursuant to the terms of this contract, the policy or policies shall contain a loss payable clause making losses payable to the Secretary of the Navy or as referred by the Contracting Officer. Any payments thereunder shall inure to the benefit of the Government and to the Contractor as to any remaining balance. The requirements of this paragraph (c) shall not be deemed to require that the Contractor procure or maintain any such other insurance.

(d) The foregoing insurance requirements shall not be construed as limiting in any way the full responsibility of the Contractor for the supplies under the contract.

H-8 RETENTIONS

The Government will withhold a reserve in the amount of one and one-half percent (1.5%) of the total contract price. If at any time it shall appear to the Government that the amount of this reserve may be insufficient to meet the cost to the Government of finishing any unfinished work under this contract for which the Contractor is responsible, or of correcting defects for which the Contractor is responsible which are discovered after acceptance or during the Guaranty period of any vessel, the Government may deduct or withhold such additional amounts as it may determine necessary to render the reserves adequate. The use of retentions by the Government to meet the cost to the Government of finishing any unfinished work under this contract for which the Contractor is responsible, or of correcting defects for which the Contractor is responsible which are discovered after acceptance or during the Guaranty period of any vessel shall not be limited to the amount of retentions accumulated for any single line item. Thus, use of retentions accumulated from one line item may be used to defray costs to the Government on another line item. The retentions will be accumulated by deducting 1.5% from the payment of the invoice submitted following acceptance for each line item. Retentions, if not used by the Government to finish any unfinished work for which the Contractor is responsible or repair defects for which the Contractor is responsible, will be paid to the Contractor upon the expiration of the Guaranty period for CLIN 0001, and the completion of efforts associated with CLINs 0002 through 0005. The Contracting Officer may consider releasing these retentions earlier on a case-by-case basis.

H-9 AGREEMENT CONCERNING LIQUIDATION OF PROGRESS PAYMENTS

Notwithstanding the requirements of FAR clause 52.232-16, PROGRESS PAYMENTS (APR 2003), in Section I of this contract, upon acceptance of each individual boat, the signing of Block 21b of the DD form 250, "Material Inspection and Receiving Report," and upon the receipt of a valid invoice, any amount of unliquidated progress payments shall be paid, including profit, except for the 1.5% retentions mandated by Special Contract Requirement H-8, RETENTIONS, which is part of this contract. Upon expiration of the guaranty period for each boat identified in paragraph (a) of Clause E-1, Guaranty Period, the Contractor may request the retentions to be released for boats where the guaranty period has expired and where no unresolved guaranty issues exist.

H - 10 ECONOMIC PRICE ADJUSTMENT ALLOWANCES (STEEL AND STEEL-BASED PRODUCTS ONLY)

Applicable to OPTION CLINs (0003 through 0005 ONLY)

A. General

It is anticipated that the Contractor's actual costs for steel, and certain components with a predominate steel content, may vary during contract performance and that the parties desire to provide for adjustments to reflect such variations. However, regardless of the actual variations in the cost experienced during the period of performance, adjustments because of such variations shall be computed and affected in accordance with the specified procedures herein.

B. Adjustment

1. This requirement specifically excludes CLIN 0001 and Option CLIN 0002.
2. Nothing in this clause shall impede the Government's unilateral right to exercise any option(s) as provided for in this contract without prior consent of the Contractor.
3. Contract adjustments may be made with respect to the following raw materials and parts:

Unprocessed steel, pipe, main propulsion and SSDG engines, reduction gears and shafting.

Contract adjustments shall be made on a semi-annual basis at the request of the Contractor to the Administrative Contracting Officer (ACO). If the Contractor elects to make an adjustment request, that request must include all YP Training Patrol Craft (and if exercised, Option CLIN 0005) currently on contract. Failure to include any YP Training Patrol Craft, (or spares of CLIN 0005) on contract during a semi-annual adjustment period will disallow its inclusion in a later semi-annual adjustment period. Thus if an option is exercised in April an adjustment for that YP Training Patrol Craft must be requested in the next semi-annual adjustment period, or otherwise be forfeited for the life of the contract. Adjustment shall be on the basis of price of all steel material and steel products listed above, exclusive of burden, G&A, profit and transportation costs and shall be calculated on the basis of the formula provided at the end of this provision under the heading, **FORMULA**. The amount of adjustment resulting from the FORMULA represents the MAXIMUM adjustment payable. The Contractor will only receive an adjustment up to the maximum adjustment that results from the FORMULA that corresponds to the adjustment period. If the actual price paid by the Contractor for said material is more than that which results from the FORMULA, the Contractor will only receive the amount that results from the FORMULA. After any adjustment is made for a given YP Training Patrol Craft, no further adjustment for that YP Training Patrol Craft will be made, except for that provided in paragraph 4. below. The single index used in this formula is published in the *Bureau of Labor and Statistics (BLS), Producer Price Index (PPI) for Selected Commodity*

Grouping, Table 3, Commodity Code 10-1, Iron and Steel. This index is found at www.bls.gov/news.release/ppi.toc.htm.

4. If the index used to calculate adjustment in paragraph B(3) above for the value "Ia" in the Formula is later revised by the BLS, any resulting increase or decrease in adjustment that may result from this revision will be accounted for in the next adjustment, if any. If there are no further adjustments, the adjustment described in this paragraph will occur as soon as funding by the Government is available, as determined by the Contracting Officer.
5. Except for the situation described in paragraph B(4) above, once an adjustment has been established for a specific YP Training Patrol Craft, it shall remain fixed for the life of the contract and shall not be modified, except in the event of significant changes in the scope of the contract.
6. Any pricing actions pursuant to the Changes clause or other provisions of this contract will be priced as though there were no provisions for adjustment.
7. The time period during which this requirement is operative is from contract award to the date the last option is exercised, or the date the contractor is notified in writing that no further options will be exercised. In the event the final option is exercised before the semi-annual date for adjustment, an adjustment will be allowed for the period between the last adjustment and the date the final option is exercised unless this period is less than two months. This stipulation will be in force similarly if the contractor is notified in writing that no future options will be exercised.
8. The amount of the adjustment shall be set forth separately in a Supplemental Agreement to this contract, which also shall set forth the computation upon which each adjustment is based. If the Government elects, no adjustment shall be made in the contract price(s) in Section B of the contract on account of upward or downward adjustments made in accordance with paragraph B(3) and B(4) of this requirement, and hence said adjustments could be paid separately and are outside the pricing structure of this contract. The contractor shall be responsible for submitting an adjustment proposal that provides the calculations involving the indices provided for in this Requirement, along with necessary supporting data. Said calculations and supporting data shall be subject to verification, including audit, by the Government.
9. In the event that any amount shown in any Supplemental Agreement is a negative figure, such amount shall be deducted from any invoice(s) presented for payment under any requirement of this contract until such amount has been offset or recouped in full.

10. After execution of the Supplemental Agreement, and upon submission of proper invoices, the contractor shall be paid or there shall be deducted for each YP Training Patrol Craft the amount set forth in such Supplemental Agreement.

C. Disputes

1. Any dispute arising under this requirement shall be determined in accordance with and subject to the provisions of the clause of this contract entitled "DISPUTES" (FAR 52.233-1).

FORMULA

Definitions:

Adjustment Period =

Either a semi-annual basis, prior to Option exercise, or after Option exercise.

A = \$ adjustment for the chosen adjustment period.

Ia = PPI for the chosen adjustment period defined above.

Ib = PPI for base period, i.e., the PPI at the date of contract award or the PPI for the 6th month of the prior adjustment period.

Cb = Cost for steel material and products in Contractor's Final Proposal, or the cost calculated IAW this provision for the prior adjustment period.

Example of Application of Formula:

Ia = 156 (assume Dec 2004)
Ib = 145 (assume Jun 2004)
Cb = \$400

$$A = \frac{(Ia - Ib)}{Ib} \times Cb$$

$$A = \frac{(156-145)}{145} \times \$400 \rightarrow A = \frac{11}{145} \times \$400 \rightarrow$$

$$A = 0.0758 \times \$400 \rightarrow \underline{\underline{A = \$30.32}}$$

Thus the Government will give UP TO \$30.32 in adjustment for the period June 2004 through December 2004. The base cost for the next

period, value "Cb," will be \$430.32; "156" would be the value of "Ib" for the next adjustment period.

H-11 MARKING OF TECHNICAL DATA FOR COMMERCIAL ITEMS

(a) *Marking requirements.* The contractor, and its subcontractors or suppliers, may only assert restrictions on the Government's rights to use, modify, reproduce, release, perform, display, or disclose technical data to be delivered under this contract by marking the deliverable data subject to restriction. Except as provided in paragraph (3) of this clause, only the following legends are authorized for commercial items under this contract: a commercial item data rights legend at paragraph (2) of this clause; a specifically negotiated license rights legend at paragraph (3) of this clause; and/or a notice of copyright as prescribed under 17. U.S.C. 401 or 402

- (1) General marking instructions. The contractor, its subcontractors or suppliers, shall conspicuously and legibly mark the appropriate legend on all technical data for commercial items when the data qualifies for such markings. The authorized legends shall be placed on the transmittal document or storage container, and for printed material, each page of the printed material containing technical data for which restrictions are asserted. When only portions of a page or printed material are subject to the asserted restriction, such portions shall be identified by circling, underscoring, with a note, or other appropriate identifier. Technical data transmitted directly from one computer or computer terminal to another shall contain a notice of asserted restrictions. Reproductions of technical data or any portions thereof subject to asserted restriction shall also reproduce the asserted restrictions.

- (2) Commercial Item Data Rights Markings.

- (i) Data in which the Government's right stem from the delivery of data under a contract for a commercial item shall be marked with the following legend:

COMMERCIAL ITEM DATA RIGHTS

The Government's rights to use, modify, reproduce, release, perform, display, or disclose these data are restricted by contract No ____ (insert contract number) for a Commercial Item. Any reproduction of technical

data or portions thereof marked with
this legend must also reproduce the
markings and comply with DFARS
252.227-7015

(End of legend)

(3) Commercial Item License Rights Markings

- (i) Data in which the Government's rights stem from a license negotiated regarding a commercial item shall be marked with the following legend

COMMERCIAL ITEM LICENSE RIGHTS

The Government's rights to use, modify, reproduce, release, perform, display, or disclose these data are restricted by Contract No ____ (Insert contract number) Commercial Item License ____ (Insert license identifier). Any reproduction of technical data or portions thereof marked with this legend must also reproduce the markings and comply with the aforesaid License.

(End of legend)

- (ii) For purposes of this clause, commercial item licenses do not include government purpose rights acquired under a prior contract (see paragraph (4) of this clause).

- (4) Pre-existing data markings. If the terms of a prior contract or license permitted the Contractor to restrict the Government's rights to use, modify, reproduce, release, perform, display, or disclose technical data deliverable under this contract, and those restrictions are still applicable, the Contractor may mark such data with the appropriate restrictive legend for which the data qualified under the prior contract or license. The marking procedures in the prior contract or license shall be followed.

(b) *Contractor procedures and records.* Throughout performance of this contract, the Contractor and its subcontractors or suppliers

that will deliver technical data with other than unlimited rights, shall,

- (1) Have, maintain, and follow written procedures sufficient to assure that restrictive markings are use only when authorized by the terms of this clause; and
- (2) Maintain records sufficient to justify the validity of any restrictive markings no technical data delivered under this contract

(c) *Removal of unjustified and nonconforming marks.*

- (1) Unjustified technical data markings. The rights and obligations of the parties regarding the validation of restrictive markings on technical data furnished or to be furnished under this contract are contained in the Validation of Restrictive Markings on Technical Data clause of this contract. Notwithstanding any provision of this contract concerning inspection and acceptance, the Government may ignore, at the contractor's expense, correct or strike a marking if, in accordance with the procedures in the Validation of Restrictive markings on Technical Data clause of this contract, a restrictive making is determined to be unjustified.
- (2) Nonconforming technical data markings. A nonconforming marking is a marking placed on technical data delivered or otherwise furnished to the Government under this contract that is not in the format authorized by this contract. Correction of nonconforming makings is not subject to the Validation of Restrictive Markings on Technical Data clause of this contract. If the Contracting Officer notifies the Contractor of a nonconforming making and the Contractor fails to remove or correct such marking within sixty (60) days, the Government may ignore or, at the Contractor's expense, remove or correct any nonconforming marking

END OF SECTION

SECTION I - CONTRACT CLAUSES**FAR 52.212-4 Contract Terms and Conditions -- Commercial Items (Sep 2005)**

(a) *Inspection/Acceptance.* The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The Government reserves the right to inspect or test any supplies or services that have been tendered for acceptance. The Government may require repair or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in contract price. The Government must exercise its post-acceptance rights --

- (1) Within a reasonable time after the defect was discovered or should have been discovered; and
- (2) Before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

(b) *Assignment.* The Contractor or its assignee may assign its rights to receive payment due as a result of performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency in accordance with the Assignment of Claims Act (31 U.S.C.3727). However, when a third party makes payment (e.g., use of the Governmentwide commercial purchase card), the Contractor may not assign its rights to receive payment under this contract.

(c) *Changes.* Changes in the terms and conditions of this contract may be made only by written agreement of the parties.

(d) *Disputes.* This contract is subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613). Failure of the parties to this contract to reach agreement on any request for equitable adjustment, claim, appeal or action arising under or relating to this contract shall be a dispute to be resolved in accordance with the clause at FAR 52.233-1, Disputes, which is incorporated herein by reference. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any dispute arising under the contract.

(e) *Definitions.* The clause at FAR 52.202-1, Definitions, is incorporated herein by reference.

(f) *Excusable delays.* The Contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify

the Contracting Officer in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

(g) *Invoice.*

(1) The Contractor shall submit an original invoice and three copies (or electronic invoice, if authorized) to the address designated in the contract to receive invoices. An invoice must include --

- (i) Name and address of the Contractor;
- (ii) Invoice date and number;
- (iii) Contract number, contract line item number and, if applicable, the order number;
- (iv) Description, quantity, unit of measure, unit price and extended price of the items delivered;
- (v) Shipping number and date of shipment, including the bill of lading number and weight of shipment if shipped on Government bill of lading;
- (vi) Terms of any discount for prompt payment offered;
- (vii) Name and address of official to whom payment is to be sent;
- (viii) Name, title, and phone number of person to notify in event of defective invoice; and
- (ix) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.
- (x) Electronic funds transfer (EFT) banking information.
 - (A) The Contractor shall include EFT banking information on the invoice only if required elsewhere in this contract.
 - (B) If EFT banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the Contractor shall have submitted correct EFT banking information in accordance with the applicable solicitation provision, contract clause (e.g., 52.232-33, Payment by Electronic Funds Transfer-Central Contractor Registration, or 52.232-34, Payment by Electronic Funds Transfer-Other Than Central Contractor Registration), or applicable agency procedures.
 - (C) EFT banking information is not required if the Government waived the requirement to pay by EFT.

(2) Invoices will be handled in accordance with the Prompt Payment Act (31 U.S.C. 3903) and Office of Management and Budget (OMB) prompt payment regulations at 5 CFR part 1315.

(h) *Patent indemnity.* The Contractor shall indemnify the Government and its officers, employees and agents 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 the performance of this contract, provided the Contractor is reasonably notified of such claims and proceedings.

(i) *Payment.*

(1) Items accepted. Payment shall be made for items accepted by the Government that have been delivered to the delivery destinations set forth in this contract.

(2) Prompt Payment. The Government will make payment in accordance with the Prompt Payment Act (31 U.S.C. 3903) and prompt payment regulations at 5 CFR Part 1315.

(1) Electronic Funds Transfer (EFT). If the Government makes payment by EFT, see 52.212-5(b) for the appropriate EFT clause.

Discount. In connection with any discount offered for early payment, time shall be computed from the date of the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date which appears on the payment check or the specified payment date if an electronic funds transfer payment is made.

(5) Overpayments. If the Contractor becomes aware of a duplicate contract financing or invoice payment or that the Government has otherwise overpaid on a contract financing or invoice payment, the Contractor shall immediately notify the Contracting Officer and request instructions for disposition of the overpayment.

(j) *Risk of loss.* Unless the contract specifically provides otherwise, risk of loss or damage to the supplies provided under this contract shall remain with the Contractor until, and shall pass to the Government upon:

(1) Delivery of the supplies to a carrier, if transportation is f.o.b. origin; or

(2) Delivery of the supplies to the Government at the destination specified in the contract, if transportation is f.o.b. destination.

(k) *Taxes.* The contract price includes all applicable Federal, State, and local taxes and duties.

(l) *Termination for the Government's convenience.* The Government reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the Contractor

shall be paid a percentage of the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges the Contractor can demonstrate to the satisfaction of the Government using its standard record keeping system, have resulted from the termination. The Contractor shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. This paragraph does not give the Government any right to audit the Contractor's records. The Contractor shall not be paid for any work performed or costs incurred which reasonably could have been avoided.

(m) *Termination for cause.* The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Government, upon request, with adequate assurances of future performance. In the event of termination for cause, the Government shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

(n) *Title.* Unless specified elsewhere in this contract, title to items furnished under this contract shall pass to the Government upon acceptance, regardless of when or where the Government takes physical possession. Also see page C-17, "DISCHARGE OF LIENS AND ENCUMBRANCES AND WARRANTY OF TITLE" and page I-21, "51.232-16 PROGRES PAYMENTS (APR 2003)

(o) *Warranty.* The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract. Also see page I-6 "Guaranty"

(p) *Limitation of liability.* Except as otherwise provided by an express warranty, the Contractor will not be liable to the Government for consequential damages resulting from any defect or deficiencies in accepted items.

(q) *Other compliances.* The Contractor shall comply with all applicable Federal, State and local laws, executive orders, rules and regulations applicable to its performance under this contract.

(r) *Compliance with laws unique to Government contracts.* The Contractor agrees to comply with 31 U.S.C. 1352 relating to limitations on the use of appropriated funds to influence certain Federal contracts; 18 U.S.C. 431 relating to officials not to benefit; 40 U.S.C. 3701, et seq., Contract Work Hours and Safety

Standards Act; 41 U.S.C. 51-58, Anti-Kickback Act of 1986; 41 U.S.C. 265 and 10 U.S.C. 2409 relating to whistleblower protections; 49 U.S.C. 40118, Fly American; and 41 U.S.C. 423 relating to procurement integrity.

(s) *Order of precedence.* See page C-12, "ORDER OF PRECEDENCE."

(t) *Central Contractor Registration (CCR).*

(1) Unless exempted by an addendum to this contract, the Contractor is responsible during performance and through final payment of any contract for the accuracy and completeness of the data within the CCR database, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in the CCR database after the initial registration, the Contractor is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in the CCR database to ensure it is current, accurate and complete. Updating information in the CCR does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

(2)

(i) If a Contractor has legally changed its business name, "doing business as" name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in Subpart 42.12, the Contractor shall provide the responsible Contracting Officer a minimum of one business day's written notification of its intention to:

(A) Change the name in the CCR database;

(B) Comply with the requirements of Subpart 42.12 of the FAR;

(C) Agree in writing to the timeline and procedures specified by the responsible Contracting Officer.

The Contractor must provide with the notification sufficient documentation to support the legally changed name.

(ii) If the Contractor fails to comply with the requirements of paragraph (t)(2)(i) of this clause, or fails to perform the agreement at paragraph (t)(2)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the CCR information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the "Suspension of

Payment" paragraph of the electronic funds transfer (EFT) clause of this contract.

The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the CCR record to reflect an assignee for the purpose of assignment of claims (see FAR Subpart 32.8, Assignment of Claims). Assignees shall be separately registered in the CCR database. Information provided to the Contractor's CCR record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the "Suspension of payment" paragraph of the EFT clause of this contract.

Offerors and Contractors may obtain information on registration and annual confirmation requirements via the Internet at <http://www.ccr.gov> or by calling 1-888-227-2423, or 269-961-5757.

(End of Clause)

ADDENDUM TO FAR 52.212-4

The following additions and/or changes are made to the following paragraphs of FAR 52.212-4:

- (o) Warranty. In addition, the following guaranty applies:

GUARANTY

- (a) Notwithstanding the provisions of the "Inspection and Acceptance" paragraph of contract clause 52.212-4, supplies accepted by the Government are guaranteed by the Contractor to be free from any defects in material or workmanship and are also guaranteed to be in conformity with contract requirements. The word "accepted" as used herein means the execution of the Acceptance Block and signing of a DD Form 250 by an authorized Government representative at destination, and if options are exercised, destinations listed in Section F, which action will begin the guaranty period. Such guarantees by the Contractor shall be in force for a twelve (12) month Guaranty period.
- (b) The Government will notify the Contractor of any defects or requirement nonconformities that are discovered within the Guaranty period. If the Government so requires within a reasonable time after such notice, the Contractor shall expeditiously proceed to correct or replace the defective or nonconforming item or part thereof. When the correction or replacement requires transportation of the item or part, the Contractor shall bear all normal commercial costs for shipping to and from the point of correction or replacement. The Government will bear any extraordinary costs of shipping above the normal commercial cost. After acceptance of the replaced or corrected supplies, the Guaranty period for the replaced or

corrected supplies shall remain in effect for twelve (12) months unless a longer period of guaranty is specified. If the Government does not require the Contractor to correct or replace defective or nonconforming supplies, the Contractor shall repay such portion of the contract price of the item as is equitable, given the circumstances, after being notified within a reasonable time of the defect or nonconformance.

- (c) Whenever practicable, the Government will, in addition to giving the Contractor notice of any defect or nonconformance, afford the Contractor an opportunity to examine the defective supplies before they are replaced or corrected.
- (d) The rights and remedies of the Government provided in this clause are in addition to and do not limit any rights otherwise afforded to the Government under this contract.

52.212-5 -- Contract Terms and Conditions Required to Implement Statutes or Executive Orders -- Commercial Items (Sep 2005)

(a) The Contractor shall comply with the following Federal Acquisition Regulation (FAR) clauses, which are incorporated in this contract by reference, to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

- (1) 52.233-3, Protest After Award (AUG 1996) (31 U.S.C. 3553).
- (2) 52.233-4, Applicable Law for Breach of Contract Claim (OCT 2004) (Pub. L. 108-77, 108-78).

(b) The Contractor shall comply with the FAR clauses in this paragraph (b) that the contracting officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

[Contracting Officer shall check as appropriate.]

- X (1) 52.203-6, Restrictions on Subcontractor Sales to the Government (Jul 1995), with Alternate I (Oct 1995) (41 U.S.C. 253g and 10 U.S.C. 2402).
- (2) 52.219-3, Notice of Total HUBZone Set-Aside (Jan 1999) (15 U.S.C. 657a).
- (3) 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (Jul 2005) (if the offeror elects to waive the preference, it shall so indicate in its offer) (15 U.S.C. 657a).
- (4) (i) 52.219-5, Very Small Business Set-Aside (June 2003) (Pub. L. 103-403, section 304, Small Business Reauthorization and Amendments Act of 1994).
- (ii) Alternate I (Mar 1999) of 52.219-5.
- (iii) Alternate II (June 2003) of 52.219-5.

- X (5) (i) 52.219-6, Notice of Total Small Business Aside (June 2003) (15 U.S.C. 644).
____ (ii) Alternate I (Oct 1995) of 52.219-6.
____ (iii) Alternate II (Mar 2004) of 52.219-6.
____ (6) (i) 52.219-7, Notice of Partial Small Business Set-Aside (June 2003) (15 U.S.C. 644).
____ (ii) Alternate I (Oct 1995) of 52.219-7.
____ (iii) Alternate II (Mar 2004) of 52.219-7.
X (7) 52.219-8, Utilization of Small Business Concerns (May 2004) (15 U.S.C. 637(d)(2) and (3)).
____ (8) (i) 52.219-9, Small Business Subcontracting Plan (Jul 2005) (15 U.S.C. 637 (d)(4)).
____ (ii) Alternate I (Oct 2001) of 52.219-9.
____ (iii) Alternate II (Oct 2001) of 52.219-9.
X (9) 52.219-14, Limitations on Subcontracting (Dec 1996) (15 U.S.C. 637(a)(14)).
____ (10) (i) 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns (Sep 2005) (10 U.S.C. 2323) (if the offeror elects to waive the adjustment, it shall so indicate in its offer).
____ (ii) Alternate I (June 2003) of 52.219-23.
____ (11) 52.219-25, Small Disadvantaged Business Participation Program-Disadvantaged Status and Reporting (Oct 1999) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).
____ (12) 52.219-26, Small Disadvantaged Business Participation Program-Incentive Subcontracting (Oct 2000) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).
____ (13) 52.219-27, Notice of Total Service-Disabled Veteran-Owned Small Business Set-Aside (May 2004).
____ (14) 52.222-3, Convict Labor (June 2003) (E.O. 11755).
____ (15) 52.222-19, Child Labor-Cooperation with Authorities and Remedies (June 2004) (E.O. 13126).
X (16) 52.222-21, Prohibition of Segregated Facilities (Feb 1999).
X (17) 52.222-26, Equal Opportunity (Apr 2002) (E.O. 11246).
X (18) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Dec 2001) (38 U.S.C. 4212).
X (19) 52.222-36, Affirmative Action for Workers with Disabilities (Jun 1998) (29 U.S.C. 793).
X (20) 52.222-37, Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Dec 2001) (38 U.S.C. 4212).

- ___ (21) 52.222-39, Notification of Employee Rights Concerning Payment of Union Dues or Fees (Dec 2004) (E.O. 13201).
- ___ (22) (i) 52.223-9, Estimate of Percentage of Recovered Material Content for EPA-Designated Products (Aug 2000) (42 U.S.C. 6962(c)(3)(A)(ii)).
- ___ (ii) Alternate I (Aug 2000) of 52.223-9 (42 U.S.C. 6962(i)(2)(C)).
- ___ (23) 52.225-1, Buy American Act--Supplies (June 2003) (41 U.S.C. 10a-10d).
- ___ (24) (i) 52.225-3, Buy American Act -Free Trade Agreements - Israeli Trade Act (Jan 2005) (41 U.S.C. 10a-10d, 19 U.S.C. 3301 note, 19 U.S.C. 2112 note, Pub. L. 108-77, 108-78, 108-286).
- ___ (ii) Alternate I (Jan 2004) of 52.225-3.
- ___ (iii) Alternate II (Jan 2004) of 52.225-3.
- ___ (25) 52.225-5, Trade Agreements (Jan 2005) (19 U.S.C. 2501, *et seq.*, 19 U.S.C. 3301 note).
- X (26) 52.225-13, Restrictions on Certain Foreign Purchases (Mar 2005) (E.o.s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).
- ___ (27) 52.225-15, Sanctioned European Union Country End Products (Feb 2000) (E.O. 12849).
- ___ (28) 52.225-16, Sanctioned European Union Country Services (Feb 2000) (E.O. 12849).
- X (29) 52.232-29, Terms for Financing of Purchases of Commercial Items (Feb 2002) (41 U.S.C. 255(f), 10 U.S.C. 2307(f)).
- ___ (30) 52.232.30, Installment Payments for Commercial Items (Oct 1995) (41 U.S.C. 255(f), 10 U.S.C. 2307(f)).
- X (31) 52.232-33, Payment by Electronic Funds Transfer--Central Contractor Registration (Oct. 2003) (31 U.S.C. 3332).
- ___ (32) 52.232-34, Payment by Electronic Funds Transfer--Other Than Central Contractor Registration (May 1999) (31 U.S.C. 3332).
- ___ (33) 52.232-36, Payment by Third Party (May 1999) (31 U.S.C. 3332).
- ___ (34) 52.239-1, Privacy or Security Safeguards (Aug 1996) (5 U.S.C. 552a).
- X (35) (i) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Apr 2003) (46 U.S.C. 1241 and 10 U.S.C. 2631).
- ___ (ii) Alternate I (Apr 2003) of 52.247-64.

(c) The Contractor shall comply with the FAR clauses in this paragraph (c), applicable to commercial services, that the

Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or executive orders applicable to acquisitions of commercial items:

[Contracting Officer check as appropriate.]

- ___ (1) 52.222-41, Service Contract Act of 1965, as Amended (Jul 2005) (41 U.S.C. 351, et seq.).
- ___ (2) 52.222-42, Statement of Equivalent Rates for Federal Hires (May 1989) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).
- ___ (3) 52.222-43, Fair Labor Standards Act and Service Contract Act -- Price Adjustment (Multiple Year and Option Contracts) (May 1989) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).
- ___ (4) 52.222-44, Fair Labor Standards Act and Service Contract Act -- Price Adjustment (Feb 2002) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).
- ___ (5) 52.222-47, SCA Minimum Wages and Fringe Benefits Applicable to Successor Contract Pursuant to Predecessor Contractor Collective Bargaining Agreements (CBA) (May 1989) (41 U.S.C. 351, et seq.).

(d) *Comptroller General Examination of Record.* The Contractor shall comply with the provisions of this paragraph (d) if this contract was awarded using other than sealed bid, is in excess of the simplified acquisition threshold, and does not contain the clause at 52.215-2, Audit and Records -- Negotiation.

- (1) The Comptroller General of the United States, or an authorized representative of the Comptroller General, shall have access to and right to examine any of the Contractor's directly pertinent records involving transactions related to this contract.
- (2) The Contractor shall make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR Subpart 4.7, Contractor Records Retention, of the other clauses of this contract. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement. Records relating to appeals under the disputes clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.
- (3) As used in this clause, records include books, documents, accounting procedures and practices, and other data, regardless of type and regardless of form. This does not require the Contractor to create or maintain any record that

the Contractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(e)

(1) Notwithstanding the requirements of the clauses in paragraphs (a), (b), (c) and (d) of this clause, the Contractor is not required to flow down any FAR clause, other than those in paragraphs (i) through (vii) of this paragraph in a subcontract for commercial items. Unless otherwise indicated below, the extent of the flow down shall be as required by the clause--

(i) 52.219-8, Utilization of Small Business Concerns (May 2004) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$500,000 (\$1,000,000 for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(ii) 52.222-26, Equal Opportunity (Apr 2002) (E.O. 11246).

(iii) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Dec 2001) (38 U.S.C. 4212).

(iv) 52.222-36, Affirmative Action for Workers with Disabilities (June 1998) (29 U.S.C. 793).

(v) 52.222-39, Notification of Employee rights Concerning Payment of Union Dues or Fees (Dec 2004) (E.O. 13201).

(vi) 52.222-41, Service Contract Act of 1965, as Amended (Jul 2005), flow down required for all subcontracts subject to the Service Contract Act of 1965 (41 U.S.C. 351, et seq.)

(vii) 52.247-64, Preference for Privately-Owned U.S. Flag Commercial Vessels (Apr 2003) (46 U.S.C. Appx 1241 and 10 U.S.C. 2631). Flow down required in accordance with paragraph (d) of FAR clause 52.247-64,

(2) While not required, the contractor may include in its subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

(End of Clause)

FAR 52.212-5 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS--COMMERCIAL ITEMS (Jun 2005) (DEVIATION)

(a) Comptroller General Examination of Record. The Contractor shall comply with the provisions of this paragraph (a) if this contract was awarded using other than sealed bid, is in excess of the simplified acquisition threshold, and does not contain the clause at 52.215-2, Audit and Records -- Negotiation.

(1) The Comptroller General of the United States, or an authorized representative of the Comptroller General, shall have access to and right to examine any of the Contractor's directly pertinent records involving transactions related to this contract.

(2) The Contractor shall make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR Subpart 4.7, Contractor Records Retention, of the other clauses of this contract. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement. Records relating to appeals under the disputes clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.

(3) As used in this clause, records include books, documents, accounting procedures and practices, and other data, regardless of type and regardless of form. This does not require the Contractor to create or maintain any record that the Contractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(b)

(1) Notwithstanding the requirements of any other clause in this contract, the Contractor is not required to flow down any FAR clause, other than those in paragraphs (i) through (vii) of this paragraph in a subcontract for commercial items. Unless otherwise indicated below, the extent of the flow down shall be as required by the clause.

(i) 52.219-8, Utilization of Small Business Concerns (May 2004) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$500,000 (\$1,000,000 for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(ii) 52.222-26, Equal Opportunity (Apr 2002) (E.O. 11246).

(iii) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Dec 2001) (38 U.S.C. 4212).

(iv) 52.222-36, Affirmative Action for Workers with Disabilities (June 1998) (29 U.S.C. 793).

(v) 52.222-39, Notification of Employee rights Concerning Payment of Union Dues or Fees (Dec 2004) (E.O. 13201).

(vi) 52.222-41, Service Contract Act of 1965, as Amended (Jul 2005), flow down required for all

subcontracts subject to the Service Contract Act of 1965 (41 U.S.C. 351, et seq.)

(vii) 52.247-64, Preference for Privately-Owned U.S. Flag Commercial Vessels (Apr 2003) (46 U.S.C. Appx 1241 and 10 U.S.C. 2631). Flow down required in accordance with paragraph (d) of FAR clause 52.247-64,

(2) While not required, the contractor may include in its subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

(End of Clause)

52.217-7 Option for Increased Quantity -- Separately Priced Line Item (Mar 1989) (NAVSEA VARIATION I) (SEP 1990)

The Government may require the delivery of the numbered line item(s)/subline item(s), identified in the Schedule as an option item(s), in the quantity and at the price(s) stated in the Schedule. If more than one option exists, each option is independent of any other option, and the Government has the right to unilaterally exercise any such option, in whole or in part up to the total quantity specified in option item, whether or not it has exercised other options. Option(s) shall be exercised, if at all, by written or telegraphic notice(s) signed by the Contracting Officer and sent within the time(s) specified below:

<u>ITEMS(S)</u>	<u>LATEST OPTION EXERCISE DATE</u>
Item 0002	6 MAC (Months After Contract award)
Item 0003	12 MAC (Months After Contract award)
Item 0004	24 MAC (Months After Contract award)
Item 0005	12 MAC (Months After Contract award)

(End of Clause)

52.232-29 Terms for Financing of Purchases of Commercial Items (Feb 2002)

(a) *Contractor entitlement to financing payments.* The Contractor may request, and the Government shall pay, a contract financing payment as specified elsewhere in this contract when: the payment requested is properly due in accordance with this contract; the supplies deliverable or services due under the contract will be delivered or

performed in accordance with the contract; and there has been no impairment or diminution of the Government's security under this contract.

(b) *Special terms regarding termination for cause.* If this contract is terminated for cause, the Contractor shall, on demand, repay to the Government the amount of unliquidated contract financing payments. The Government shall be liable for no payment except as provided by the Termination for Cause paragraph of the clause at 52.212-4, Contract Terms and Conditions -- Commercial Items.

(c) *Security for Government financing.* In the event the Contractor fails to provide adequate security, as required in this contract, no financing payment shall be made under this contract. Upon receipt of adequate security, financing payments shall be made, including all previous payments to which the Contractor is entitled, in accordance with the terms of the provisions for contract financing. If at any time the Contracting Officer determines that the security provided by the Contractor is insufficient, the Contractor shall promptly provide such additional security as the Contracting Officer determines necessary. In the event the Contractor fails to provide such additional security, the Contracting Officer may collect or liquidate such security that has been provided and suspend further payments to the Contractor; and the Contractor shall repay to the Government the amount of unliquidated financing payments as the Contracting Officer at his sole discretion deems repayable.

(d) *Reservation of rights.*

(1) No payment or other action by the Government under this clause shall --

(i) Excuse the Contractor from performance of obligations under this contract; or

(ii) Constitute a waiver of any of the rights or remedies of the parties under the contract.

(2) The Government's rights and remedies under this clause --

(i) Shall not be exclusive, but rather shall be in addition to any other rights and remedies provided by law or this contract; and

(ii) Shall not be affected by delayed, partial, or omitted exercise of any right, remedy, power, or privilege, nor shall such exercise or any single exercise preclude or impair any further exercise under this clause or the exercise of any other right, power, or privilege of the Government.

(e) *Content of Contractor's request for financing payment.* The Contractor's request for financing payment shall contain the following:

(1) The name and address of the Contractor;

(2) The date of the request for financing payment;

- (3) The contract number and/or other identifier of the contract or order under which the request is made; and
- (4) An appropriately itemized and totaled statement of the financing payments requested and such other information as is necessary for computation of the payment, prepared in accordance with the direction of the Contracting Officer.

(f) *Limitation on frequency of financing payments.* Contractor financing payments shall be provided no more frequently than monthly.

(g) *Dates for payment.* A payment under this clause is a contract financing payment and not subject to the interest penalty provisions of the Prompt Payment Act. The designated payment office will pay approved payment requests within 30 days of submittal of a proper request for payment.

(h) *Conflict between terms of offeror and clause.* In the event of any conflict between the terms proposed by the offeror in response to an invitation to propose financing terms (52.232-31) and the terms in this clause, the terms of this clause shall govern.

(End of Clause)

52.204-7 Central Contractor Registration (Oct 2003)

(a) Definitions. As used in this clause—

"*Central Contractor Registration (CCR) database*" means the primary Government repository for Contractor information required for the conduct of business with the Government.

"*Data Universal Numbering System (DUNS) number*" means the 9-digit number assigned by Dun and Bradstreet, Inc. (D&B) to identify unique business entities.

"*Data Universal Numbering System+4 (DUNS+4) number*" means the DUNS number means the number assigned by D&B plus a 4-character suffix that may be assigned by a business concern. (D&B has no affiliation with this 4-character suffix.) This 4-character suffix may be assigned at the discretion of the business concern to establish additional CCR records for identifying alternative Electronic Funds Transfer (EFT) accounts (see the FAR at Subpart 32.11) for the same parent concern.

"*Registered in the CCR database*" means that—

- (1) The Contractor has entered all mandatory information, including the DUNS number or the DUNS+4 number, into the CCR database; and
- (2) The Government has validated all mandatory data fields and has marked the record "Active".

(b)

- (1) By submission of an offer, the offeror acknowledges the requirement that a prospective awardee shall be registered in the CCR database prior to award, during performance, and through final payment of any contract, basic agreement, basic

ordering agreement, or blanket purchasing agreement resulting from this solicitation.

(2) The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "DUNS" or "DUNS+4" followed by the DUNS or DUNS+4 number that identifies the offeror's name and address exactly as stated in the offer. The DUNS number will be used by the Contracting Officer to verify that the offeror is registered in the CCR database.

(b) If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one.

An offeror may obtain a DUNS number-

(i) If located within the United States, by calling Dun and Bradstreet at 1-866-705-5711 or via the Internet at <http://www.dnb.com>; or

(ii) If located outside the United States, by contacting the local Dun and Bradstreet office.

(2) The offeror should be prepared to provide the following information:

(i) Company legal business name.

(ii) Tradestyle, doing business, or other name by which your entity is commonly recognized.

(iii) Company physical street address, city, state and Zip Code.

(iv) Company mailing address, city, state and Zip Code (if separate from physical).

(v) Company telephone number.

(vi) Date the company was started.

(vii) Number of employees at your location.

(viii) Chief executive officer/key manager.

(ix) Line of business (industry).

(x) Company Headquarters name and address (reporting relationship within your entity).

(c) If the Offeror does not become registered in the CCR database in the time prescribed by the Contracting Officer, the Contracting Officer will proceed to award to the next otherwise successful registered Offeror.

(d) Processing time, which normally takes 48 hours, should be taken into consideration when registering. Offerors who are not registered should consider applying for registration immediately upon receipt of this solicitation.

(e) The Contractor is responsible for the accuracy and completeness of the data within the CCR database, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in the CCR database after the initial registration, the Contractor is required to review and update on an annual basis

from the date of initial registration or subsequent updates its information in the CCR database to ensure it is current, accurate and complete. Updating information in the CCR does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

(1)

(i) If a Contractor has legally changed its business name, "doing business as" name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in Subpart 42.12, the Contractor shall provide the responsible Contracting Officer a minimum of one business day's written notification of its intention to:

(A) Change the name in the CCR database;

(B) Comply with the requirements of Subpart 42.12 of the FAR;

(C) Agree in writing to the timeline and procedures specified by the responsible Contracting Officer.

The Contractor must provide with the notification sufficient documentation to support the legally changed name.

(ii) If the Contractor fails to comply with the requirements of paragraph (g)(1)(i) of this clause, or fails to perform the agreement at paragraph (g)(1)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the CCR information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the electronic funds transfer (EFT) clause of this contract.

(2) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the CCR record to reflect an assignee for the purpose of assignment of claims (see FAR Subpart 32.8, Assignment of Claims). Assignees shall be separately registered in the CCR database. Information provided to the Contractor's CCR record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the "Suspension of payment" paragraph of the EFT clause of this contract.

(f) Offerors and Contractors may obtain information on registration and annual confirmation requirements via the Internet at <http://www.ccr.gov> or by calling 1-888-227-2423, or 269-961-5757.

Alternate I (Oct 2003). As prescribed in 4.1104, substitute the following paragraph (b) for paragraph (b) of the basic clause:

(b)

(1) The Contractor shall be registered in the CCR database by -----[Contracting Officer shall insert a date no later than December 31, 2003]. The Contractor shall maintain registration during performance and through final payment of this contract.

(2) The Contractor shall enter, in the block with its name and address on the cover page of the SF 30, Amendment of Solicitation/Modification of Contract, the annotation "DUNS" or "DUNS+4" followed by the DUNS or DUNS+4 number that identifies the Contractor's name and address exactly as stated in this contract. The DUNS number will be used by the Contracting Officer to verify that the Contractor is registered in the CCR database.

(End of clause)

252.212-7001 Contract Terms and Conditions Required to Implement Statutes or Executive Orders Applicable to Defense Acquisitions of Commercial Items.

As prescribed in 212.301(f)(iii), use the following clause:

CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS APPLICABLE TO DEFENSE ACQUISITIONS OF COMMERCIAL ITEMS (SEP 2005)

(a) The Contractor agrees to comply with the following Federal Acquisition Regulation (FAR) clause which, if checked, is included in this contract by reference to implement a provision of law applicable to acquisitions of commercial items or components.

 X 52.203-3 Gratuities (APR 1984) (10 U.S.C. 2207)

(b) The Contractor agrees to comply with any clause that is checked on the following list of Defense FAR Supplement clauses which, if checked, is included in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items or components.

 X 252.205-7000 Provision of Information to Cooperative Agreement Holders (DEC 1991) (10 U.S.C. 2416).

 252.219-7003 Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (DoD Contracts) (APR 1996) (15 U.S.C. 637).

 252.219-7004 Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (Test Program) (JUN 1997) (15 U.S.C. 637 note).

 X 252.225-7001 Buy American Act and Balance of Payments Program (JUN 2005) (41 U.S.C. 10a-10d, E.O.

10582).

- ☒ 252.225-7012 Preference for Certain Domestic Commodities
(JUN 2004) (10 U.S.C. 2533a).
- ☒ 252.225-7014 Preference for Domestic Specialty Metals
(JUN 2005) (10 U.S.C. 2533a).
- ☒ 252.225-7015 Restriction on Acquisition of Hand or
Measuring Tools (JUN 2005) (10 U.S.C.
2533a).
- ☒ 252.225-7016 Restriction on Acquisition of Ball and
Roller Bearings (JUN 2005) (____ Alternate I)
(APR 2003) (10 U.S.C. 2534 and Section 8099
of Pub. L. 104-61 and similar sections in
subsequent DoD appropriations acts).
- ____ 252.225-7021 Trade Agreements (JUN 2005) (19 U.S.C. 2501-
2518 and 19 U.S.C. 3301 note).
- ____ 252.225-7027 Restriction on Contingent Fees for Foreign
Military Sales (APR 2003) (22 U.S.C. 2779).
- ____ 252.225-7028 Exclusionary Policies and Practices of
Foreign Governments (APR 2003) (22 U.S.C.
2755).
- ____ 252.225-7036 Buy American Act--Free Trade Agreements--
Balance of Payments Program (JUN 2005) (____
Alternate I) (JAN 2005) (41 U.S.C. 10a-10d
and 19 U.S.C. 3301 note). Restriction on
Acquisition of Air Circuit Breakers (JUN
2005) (10 U.S.C. 2534(a)(3)).
- ☒ 252.225-7038 Restriction on Acquisition of Air Circuit
Breakers (JUN 2005) (10 U.S.C. 2534(a)(3)).
- ____ 252.226-7001 Utilization of Indian Organizations, Indian-
Owned Economic Enterprises, and Native
Hawaiian Small Business Concerns (SEP 2004)
(Section 8021 of Pub. L. 107-248 and similar
sections in subsequent DoD appropriations
acts).
- ☒ 252.227-7015 Technical Data--Commercial Items (NOV 1995)
(10 U.S.C. 2320).
- ☒ 252.227-7037 Validation of Restrictive Markings on
Technical Data (SEP 1999) (10 U.S.C. 2321).
- ☒ 252.232-7003 Electronic Submission of Payment Requests
(JAN 2004) (10 U.S.C. 2227).
- ____ 252.237-7019 Training for Contractor Personnel
Interacting with Detainees (SEP 2005)
(Section 1092 of Pub. L. 108-375).
- ☒ 252.243-7002 Requests for Equitable Adjustment (MAR 1998)
(10 U.S.C. 2410).
- ☒ 252.247-7023 Transportation of Supplies by Sea (MAY 2002)
(____ Alternate I) (MAR 2000) (____ Alternate
II) (MAR 2000) (____ Alternate III) (MAY
2002) (10 U.S.C. 2631).

X 252.247-7024 Notification of Transportation of Supplies
by Sea (MAR 2000) (10 U.S.C. 2631).

(c) In addition to the clauses listed in paragraph (e) of the Contract Terms and Conditions Required to Implement Statutes or Executive Orders--Commercial Items clause of this contract (FAR 52.212-5), the Contractor shall include the terms of the following clauses, if applicable, in subcontracts for commercial items or commercial components, awarded at any tier under this contract:

- 252.225-7014 Preference for Domestic Specialty Metals, Alternate I (APR 2003) (10 U.S.C. 2533a).
- 252.237-7019 Training for Contractor Personnel Interacting with Detainees (SEP 2005) (Section 1092 of Pub. L. 108-375).
- 252.247-7023 Transportation of Supplies by Sea (MAY 2002) (10 U.S.C. 2631).
- 252.247-7024 Notification of Transportation of Supplies by Sea (MAR 2000) (10 U.S.C. 2631).

(End of clause)

ADDENDUM - ADDITIONAL CONTRACT CLAUSES

CLAUSES AND PROVISIONS INCORPORATED BY REFERENCE

FAR SOURCE

TITLE AND DATE

- 52.219-6 NOTICE OF TOTAL SMALL BUSINESS SET-ASIDE (JUNE 2003)
- 52.219-14 LIMITATIONS ON SUBCONTRACTING (DEC 1996)
- 52.232-16 PROGRESS PAYMENTS (APR 2003)
- 52.233-1 DISPUTES (JUL 2002)ALTERNATE I (DEC 1991)
- 52.247-34 F.O.B. DESTINATION (NOV 1991)

DFARS SOURCE

TITLE AND DATE

- 252.225-7019 RESTICTION ON ACQUISITION OF FOREIGN ANCHOR AND MORRING CHAIN (JUN 2005)
- 252.225-7025 RESTRICTION ON ACQUISITION OF FORGINGS (JUN 2005)
- 252.227-7013 Technical Data - Non-Commercial Items (Nov 1995)
- 252.227-7014 Rights in noncommercial Computer Software and Noncommercial Computer Software Documentation (Nov1995)

252.227-7016	Rights in Bid or Proposal Information (June 1995)
252.232-7004	DOD PROGRESS PAYMENT RATES (OCT 2001)
252.246-7000	MATERIAL INSPECTION AND RECEIVING REPORT (MAR 2003)

CLAUSES AND PROVISIONS INCORPORATED IN FULL TEXT

FAR 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

FAR clauses & provisions: <http://farsite.hill.af.mil/VFFARA.HTM>

DFAR clauses & provisions: <http://farsite.hill.af.mil/VFDFARA.HTM>

NAPS clauses & provisions: <http://farsite.hill.af.mil/VFNAPSa.htm>

FAR 52.252-6 AUTHORIZED DEVIATIONS IN CLAUSES (APR 1984)

a) The use in this solicitation or contract of any Federal Acquisition Regulation (48 CFR Chapter 1) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the date of the clause.

(b) The use in this solicitation or contract of any Defense FAR Supplement. (48 CFR Chapter 2) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the name of the regulation.

SECTION J-LIST OF CONTRACT ATTACHMENTS

