

Additional Terms And Conditions  
Basic Ordering Agreement for Repair and/or Modification E-2/C-2; EA-6B and EA-18G  
Aircraft  
(Prime Contract No. N00383-12-G-034G)

All of the additional terms and conditions set forth below are incorporated in and made part of the Request for Proposal. Any conflict between any of the conditions contained in this form and those appearing on Northrop Grumman Request for Proposal Terms and Conditions shall be resolved in favor of the conditions in this form.

I. Changes to Terms and Conditions

A. Delete the clause entitled, "Warranty" and replace with the following:

**WARRANTY FOR OVERHAUL AND REPAIR**

1. Notwithstanding inspection and acceptance by Northrop Grumman of articles or services furnished under this Order or any provision of this Order concerning the conclusiveness thereof, the Seller warrants that at the time of delivery:
  - a. Any part furnished or work done under this Order will be free from defects in material and workmanship and will conform with the specifications and all other requirements of this Order, and
  - b. The preservation packaging, packing, and marking and the preservation for, and method of, shipment of any repaired or overhauled article will conform with the requirements of this Order.
2. Within nine months after the delivery of any article repaired or overhauled under this Order, written notice may be given by Northrop Grumman to the Seller of any breach of the warranties in paragraph (1) of this clause as to such article. Within a reasonable time after such notice, the Buyer shall advise the Seller either (I) that the Seller shall correct or reperform any defective or nonconforming services and replace any defective or nonconforming parts, or (II) that Northrop Grumman does not require correction or reperformance or services or replacement of parts. If the Seller is required to correct or reperform services or replace parts, it shall be at no cost to Northrop Grumman. If the Seller fails or refuses to correct or reperform services or to replace parts, the Buyer may, by Order or otherwise, correct or replace with similar services and parts and charge to the Supplier the cost occasioned to Northrop Grumman thereby or obtain an equitable adjustment in the price of the Order. If Northrop Grumman does not require correction or reperformance or services or replacement of parts, the Buyer shall make an equitable adjustment in the price of the Order. Failure to agree upon any determination to be made under this clause shall be a dispute concerning a question of fact within the meaning of the disputes clause of this Order.
3. When return, correction, or replacement is required, transportation charges and responsibility for such articles or part thereof while in transit shall be borne by the Seller. However, the Seller's liability for such transportation charges shall not exceed any amount equal to the cost of the transportation by usual

commercial method of shipment between the place of delivery specified in this Order and the Seller's plant, and return.

4. In lieu of the warranty marking labels contained in MIL-STD-129, the following warranty label shall be used:  
Warranted at time of delivery, notification of breach of warranty required within nine months of last actual delivery under this Order. Actual deliveries may differ from scheduled delivery schedules. Last scheduled delivery date:  
OR  
Warranted at time of delivery, notification of breach of warranty required within nine months of the last delivery under this Order. Last delivery date:
  5. Any articles or parts thereof corrected or furnished in replacement pursuant to this clause shall also be subject to all provisions of this clause to the same extent as items initially delivered. The warranty with respect to such articles or parts thereof shall be at the time of delivery, and any notice of breach of warranty shall be given in accordance with paragraph (2) above.
  6. All implied warranties of merchantability and fitness for a particular purpose are hereby excluded from any obligation contained in this Order.
  7. The rights and remedies of Northrop Grumman and the government provided in this clause are in addition to and do not limit any rights afforded to Northrop Grumman and the government by any other clause of this Order.
- B. The following changes are made to the clause entitled, "FAR and DFARS Provisions/Clauses":
1. Add the following FAR clause:  
52.223-18 ENCOURAGING CONTRACTOR POLICIES TO BAN TEXT MESSAGING WHILE DRIVING
  2. Add the following DoD FAR Supplement clauses:  
252.204-7000 DISCLOSURE OF INFORMATION  
252.204-7005 ORAL ATTESTATION OF SECURITY RESPONSIBILITIES  
252.211-7003 ITEM IDENTIFICATION AND VALUATION (items requiring Unique Item Identification shall be identified on the resultant Order)  
252.222-7006 RESTRICTIONS ON THE USE OF MANDATORY ARBITRATION AGREEMENTS
  3. Delete the following DOD FAR Supplement Clauses:  
252.225-7014 PREFERENCE FOR DOMESTIC SPECIALTY METAL AND ALTERNATE I  
252.225-7014 PREFERENCE FOR DOMESTIC SPECIALTY METALS (DEVIATION NO. 2008-O0002) AND ALTERNATE I (DEVIATION NO. 008-O0002)

## II. ADDITIONAL CONDITIONS

### 1. COMPLIANCE WITH RESTRICTION ON ACQUISITION OF CERTAIN ARTICLES CONTAINING SPECIALTY METALS CLAUSE

Seller shall comply with DFARS 252.225-7009, RESTRICTION ON ACQUISITION OF CERTAIN ARTICLES CONTAINING SPECIALTY METALS, which applies to this Order, and shall include DFARS 252.225-7009 in all lower tier subcontracts and purchase orders. Seller and its lower-tier suppliers must deliver hardware that is compliant with the Order.

### 2. GOVERNMENT INDUSTRY DATA EXCHANGE PROGRAM (GIDEP) (NAVSUP 5252.227-9400)

*(Not Applicable to Foreign Military Sales (FMS) orders.)*

(a) If the negotiated amount of this Order exceeds \$500,000.00, the Seller shall provide and maintain procedures to enable its full participation in the appropriate interchange of the Government-Industry Data Exchange Program (GIDEP) in accordance with the issue of MIL-STD-1556 in effect on the date of the Order. Compliance with this clause shall not relieve the Seller from complying with any other provision of the Order.

(b) The Supplier agrees to insert paragraph (a) above in any subcontract thereunder exceeding \$500,000.00. When so inserted, the word "Seller" shall be changed to "Subcontractor".

### 3. CONTRACTOR ACCESS TO FEDERALLY CONTROLLED FACILITIES AND/OR UNCLASSIFIED SENSITIVE INFORMATION OR UNCLASSIFIED IT SYSTEMS (NAVSUP 5252.204-9400)

Homeland Security Presidential Directive (HSPD)-12, requires government agencies to develop and implement Federal security standards for Federal employees and contractors. The Deputy Secretary of Defense Directive-Type Memorandum (DTM) 08-006 – “DoD Implementation of Homeland Security Presidential Directive – 12 (HSPD-12)” dated November 26, 2008 (or its subsequent DoD instruction) directs implementation of HSPD-12. This clause is in accordance with HSPD-12 and its implementing directives. This clause applies to Seller employees requiring physical access to any area of a federally controlled base, facility or activity and/or requiring access to a DoD computer/network, to perform certain unclassified both non-sensitive and sensitive duties. It is the responsibility of the command/facility where the work is performed to ensure compliance. The requirement to control access to sensitive information applies to all US government IT systems and/or areas where unclassified but sensitive information may be discussed, displayed or maintained. DON policy prescribes that all unclassified data that has not been approved for public release and is stored on mobile computing devices must be treated as sensitive data and encrypted using commercially available encryption technology. Whenever granted access to sensitive information, Seller employees shall follow applicable DoD/DoN instructions, regulations, policies and procedures when reviewing, processing, producing, protecting, destroying and/or storing that information. Operational Security (OPSEC) procedures and practices must be implemented by

both the Seller and its employees to protect the product, information, services, operations and missions related to this Order. The Seller shall designate an employee to serve as the Seller's Security Representative. Within three work days after award, the Seller shall provide to the Navy Command's Security Manager and the Contracting Officer through Northrop Grumman, in writing, the name, title, address and phone number for the Seller's Security Representative. The Seller's Security Representative shall be the primary point of contact on any security matter. The Seller's Security Representative shall not be replaced or removed without prior notice to Northrop Grumman.

#### NON-SENSITIVE POSITIONS

Seller employee whose work is unclassified and non-sensitive (e.g., performing certain duties such as lawn maintenance, vendor services, etc ...) and who require physical access to publicly accessible areas to perform those duties shall meet the following minimum requirements:

1. Must be either a US citizen or a US permanent resident with a minimum of 3 years legal residency in the US (as required by The Deputy Secretary of Defense DTM 08-006 or its subsequent DoD instruction) and
2. Must have a favorably completed National Agency Check with Written Inquiries (NACI) including a Federal Bureau of Investigation (FBI) fingerprint check prior to installation access. To be considered for a favorable trustworthiness determination, the Seller's Security Representative must submit for all employees each of the following:
  1. SF-85 Questionnaire for Non-Sensitive Positions
  2. Two FD-258 Applicant Fingerprint Cards
  3. Original Signed Release Statements

The Seller shall ensure each individual employee has a current favorably completed NACI. The Seller's Security Representative shall be responsible for initiating reinvestigations as required. Failure to provide the required documentation at least 30 days prior to the individual's start date shall result in delaying the individual's start date.

#### SENSITIVE POSITIONS

Seller employee whose duties require accessing a DoD unclassified computer/network, working with sensitive unclassified information (either at a Government or contractor facility), or physical access to a DoD facility must be a US citizen and possess a favorable trustworthiness determination prior to installation access. To obtain a favorable trustworthiness determination, each Seller employee must have a favorably completed National Agency Check with Local Credit Checks (NACLC) which consists of a NACI including a FBI fingerprint check plus credit and law enforcement checks. Each Seller employee applying for a trustworthiness determination is required to complete:

1. SF-85P Questionnaire for Public Trust Positions
2. Two FD-258 Applicant Fingerprint Cards
3. Original Signed Release Statements

Failure to provide the required documentation at least 30 days prior to the individual's start date shall result in delaying the individual's start date. To maintain continuing authorization for an employee to access a DoD unclassified

computer/network, and/or have access to sensitive unclassified information, the Seller shall ensure that the individual employee has a current requisite background investigation. The Seller's Security Representative shall be responsible for initiating reinvestigations as required and ensuring that background investigations remain current (not older than 10 years) throughout the performance period of this Order.

#### IT SYSTEMS ACCESS

When access to IT systems is required for performance of the Seller employee's duties, such employees shall in-process with the Navy Command's Security Manager and Information Assurance Manager upon arrival to the Navy command and shall out-process prior to their departure at the completion of the individual's performance under the Order. Completion and approval of a System Authorization Access Request Navy (SAAR-N) form is required for all individuals accessing Navy Information Technology resources. The SAAR-N shall be forwarded to the Navy Command's Security Manager at least 30 days prior to the individual's start date. Failure to provide the required documentation at least 30 days prior to the individual's start date shall result in delaying the individual's start date. When required to maintain access to required IT systems or networks, the Seller shall ensure that all employees requiring access complete annual Information Assurance (IA) training, and maintain a current requisite background investigation. The Seller's Security Representative shall contact the Command Security Manager for guidance when reinvestigations are required.

#### SECURITY APPROVAL PROCESS

The Seller's Security Representative shall ensure that each individual employee pending assignment shall accurately complete the required forms for submission to the Navy Command's Security Manager. The Seller's Security Representative shall screen the investigative questionnaires for completeness and accuracy and for potential suitability/security issues prior to submitting the request to the Navy Command's Security Manager. Forms and fingerprint cards may be obtained from the Navy Command's Security Manager. These required items, shall be forwarded to the Navy Command's Security Manager for processing at least 30 days prior to the individual employee's anticipated date for reporting for duty. The Navy Command's Security Manager will review the submitted documentation for completeness prior to submitting it to the Office of Personnel Management (OPM). Suitability/security issues identified by the Navy Command's Security Manager may render the contract employee ineligible for the assignment. A favorable review of the questionnaire and advance fingerprint results are required as an interim measure prior to the contract employee start date. An unfavorable determination made by the Navy Command's Security Manager is final and such a determination does not relieve the Seller from meeting any contractual obligation under the Order. If Seller employees already possess a current favorably adjudicated investigation, the Navy Command's Security Manager will use the Visit Authorization Request (VAR) via the Joint Personnel Adjudication System (JPAS). The Seller shall include the IT Position Category per SECNAV M-5510.30 for each employee designated on a VAR. The VAR requires annual renewal for the duration of the employee's performance under the Order. The

Navy Command's Security Manager will forward the required forms to OPM for processing. Once the investigation is complete, the results will be forwarded by OPM to the DON Central Adjudication Facility (CAF) for a position of trust determination. When a favorable determination is not made, Seller employees shall not be permitted to work on this Order effort and if already working on the Order shall be removed immediately.

THE POTENTIAL CONSEQUENCES OF ANY REQUIREMENTS UNDER THIS CLAUSE INCLUDING DENIAL OF ACCESS FOR A PROPOSED SELLER EMPLOYEE WHO FAILS TO OBTAIN A FAVORABLE TRUSTWORTHINESS DETERMINATION IN NO WAY RELIEVES THE SELLER FROM THE REQUIREMENT TO EXECUTE PERFORMANCE UNDER THE ORDER WITHIN THE TIMEFRAMES SPECIFIED IN THE ORDER.

Sellers shall plan ahead in processing their employees and subcontractor employees for working in non-sensitive positions, with sensitive information, and/or on Government IT systems. The Seller shall insert this clause in all subcontracts when the subcontractor is permitted to have physical access to a federally controlled facility and/or access to a federally-controlled information system/network and/or access to government information.

4. RESTRICTIONS ON THE USE OF MANDATORY ARBITRATION AGREEMENTS (DFARS 252.222-7006)

*(Applicable to all subcontracts, task orders and Purchase Orders at every tier in excess of \$1 million that utilize FY10 funds except for commercial items and commercially available off-the-shelf items.)*

Seller agrees not to –

- a. Enter into any agreement with any of its employees or independent contractors that requires, as a condition of employment, that the employee or independent contractor agree to resolve through arbitration any claim under title VII of the Civil Rights Act of 1964 or any tort related to or arising out of sexual assault or harassment, including assault and battery, intentional infliction of emotional distress, false imprisonment, or negligent hiring, supervision, or retention; or
- b. Take any action to enforce any provision of an existing agreement with an employee or independent contractor that mandates that the employee or independent contractor resolve through arbitration any claim under title VII of the Civil Rights Act of 1964 or any tort related to or arising out of sexual assault or harassment, including assault and battery, intentional infliction of emotional distress, false imprisonment, or negligent hiring, supervision, or retention.

Seller agrees to flow down this provision in all subcontracts, task orders and Purchase Orders at every tier that will be funded with in excess of \$1 million of Fiscal Year 2010 funds, except for those for commercial items, including commercially available off-the-shelf items.

Failure to comply with this provision will be considered a material breach and, at the sole discretion of Buyer, may result in termination for default or cause.