

**EMCORE CHICAGO INERTIAL CORPORATION
GENERAL TERMS AND CONDITIONS OF PURCHASE**

The terms and conditions set forth below, together with the written information contained in the purchase order, all attachments and exhibits hereto and all specifications, drawings, notes, instructions, quality assurance clauses, and other written materials and information referred to therein, shall apply to the purchase of the goods and/or services described in the purchase order and are incorporated herein and made a part of the purchase order (collectively referred to herein as the “**Purchase Order**”). The Purchase Order constitutes the entire agreement between EMCORE Chicago Inertial Corporation, on behalf of itself and its subsidiaries and affiliates (“**EMCORE**”) and Seller with respect to the purchase of the goods and/or services described herein and supersedes all prior oral and written communications related thereto. This Purchase Order may be amended or supplemented only by a writing that refers explicitly to the Purchase Order and that is signed by authorized representatives of both parties.

1. ORDERS: No order shall be binding on EMCORE unless it is written on EMCORE’s Purchase Order form and signed by EMCORE’s purchasing representative; and accepted in writing by Seller. If for any reason Seller should fail to accept in writing, any conduct by Seller which recognizes the existence of a contract pertaining to the subject matter hereof, including but not limited to performance or partial performance under the Purchase Order, shall constitute acceptance by Seller of these terms and conditions. Any terms proposed in Seller’s acceptance of EMCORE’s Purchase Order which add to, vary from, or conflict with the terms herein are hereby objected to unless specifically agreed to by EMCORE in writing. Seller acknowledges that EMCORE’s purchasing representative is the authorized representative for EMCORE under the Purchase Order.

2. PRICE & TERMS OF PAYMENT:

- a. Prices. The price of the goods and services shall be stated in the Purchase Order, and, unless otherwise stated, shall be inclusive of all charges for packaging and packing of the goods, as well as any federal, state or local taxes, or other taxes. In the event that the Purchase Order does not state price, unless such pricing terms are agreed to by EMCORE in writing, the Purchase Order shall be null and void.
- b. Adjustment. No increase in the price shall be made for any reason without the prior written consent of EMCORE. If Seller decreases the prices for any goods to be furnished hereunder or services to be performed, the price of all unshipped items or unperformed services shall be adjusted to the lower price.
- c. Guarantee. Seller warrants that the prices charged do not exceed the prices charged by Seller to other customers for the same or like goods or services in equal or lesser quantities.
- d. Invoices. Invoices are paid, unless otherwise stated on the Purchase Order, net thirty (30) days from the date of EMCORE’s acceptance of goods or performance of services and not on the basis of the Seller invoice date. All invoices shall reference EMCORE’s Purchase Order number, part number, exact quantity, description of goods shipped and delivery terms.
- e. Set-off. EMCORE shall be entitled to set off against the price any sums owed to EMCORE by Seller.
- f. Payment. Payment shall be in USD unless otherwise stated in the Purchase Order.

3. SHIPMENT, DELIVERY & TITLE:

- a. Shipment. All goods to be delivered under the Purchase Order shall consist of new materials and shall be marked and packaged using best commercial practices to reach their destination in an undamaged condition, all in accordance with EMCORE's instructions set forth in the Purchase Order.
- b. Quality Assurance. To the extent specified on the Purchase Order, Seller shall comply with EMCORE's General Supplier Quality Clauses and any Additional Terms and Conditions for Quality Assurance, each as published and made available to Seller at www.emcore.com/our-company/quality-management, which may be amended from time to time.
- c. Delivery Schedules. Seller shall adhere to all delivery schedules. Time is of the essence in performance of the Purchase Order. No acts of EMCORE, including without limitation modifications of this Purchase Order or acceptance of late deliveries, shall constitute a waiver of this provision. Seller shall notify EMCORE in writing immediately of any actual or potential delay to the performance of the Purchase Order. Such notice shall include the reasons for the delay and a revised schedule. If Seller fails to deliver goods in accordance with the delivery schedule in the Purchase Order, EMCORE may direct Seller to make premium shipments of the goods to EMCORE and Seller shall pay for all increased costs for such premium shipments. EMCORE also reserves the right to refuse or return at Seller's risk and expense shipment made in excess of the Purchase Order or in advance of required delivery, or to defer payment on advanced delivery until scheduled delivery dates.
- d. Delivery. Unless otherwise stated in the Purchase Order, all goods delivered to EMCORE shall be FOB (or as may be applicable FCA, or EXW), EMCORE's plant at the address set forth in the Purchase Order without freight markup or additional charge to EMCORE for handling, crating or storage.
- e. Title. Title in the goods shall pass to EMCORE upon delivery to EMCORE, unless payment for the goods is made prior to delivery, and in such case it shall pass to EMCORE once payment has been made and the goods have been appropriated to the Purchase Order.
- f. Risk of Loss. Risk of loss and damage to the goods shall pass to EMCORE upon delivery to EMCORE in accordance with the Purchase Order.

4. CHANGES:

- a. Change Orders. EMCORE may, at any time, by a written order and without notice, suspend its purchase of goods or services or make changes in: (i) applicable drawings, designs, specifications, statements of work; (ii) method of shipment or packing; (iii) place of delivery or location of services to be performed; (iv) the quantity and/or scope of services ordered, or (v) delivery schedules. If any such change causes an increase or decrease in the cost of or time required for performance of this Purchase Order, an equitable adjustment shall be negotiated promptly and the Purchase Order shall be modified in writing accordingly. Any claim by Seller for adjustment under this Section 4 must be made in writing within twenty (20) days from the date of receipt by Seller of notification of the suspension or change by EMCORE and shall include specification of the amount claimed and supporting cost figures. Nothing in this Section 4, including any disagreement concerning the equitable adjustment to be made, shall excuse Seller from proceeding with performance of this Purchase Order as changed.
- b. Authority. Information, advice, approvals or instructions given by EMCORE's technical or sales personnel or other representatives shall be deemed expressions of personal opinion only and shall not affect EMCORE and Seller's rights and obligations hereunder unless set forth in a writing signed by EMCORE's purchasing representative which states that it constitutes an amendment or change to the Purchase Order. Only EMCORE's purchasing representative has authority to approve a change. Any change made by Seller without such written approval shall be deemed voluntary by Seller and not compensable in the cost of or time required for performance.
- c. No Adjustment. Notwithstanding the above or any other provision of this Purchase Order, Seller hereby agrees that any changes that are made to meet the specified performance

requirements of this Purchase Order shall not entitle Seller to any adjustment in either price or delivery.

5. INSPECTION & REJECTION:

- a. Inspection. Seller shall provide and maintain an inspection, process and record keeping control system acceptable to EMCORE covering the goods and services under the Purchase Order.
- b. Rejection. EMCORE shall have the right for a reasonable time after delivery or performance to inspect such goods and to reject any or all of said goods, which are in EMCORE's judgment defective. The criteria for goods accepted shall be compliance with the Purchase Order and the applicable EMCORE specifications. Payment for the goods delivered under the Purchase Order shall not constitute acceptance thereof.
- c. Remedy. Goods rejected and goods supplied in excess of quantities called for herein may be returned to the Seller at its expense and, in addition to EMCORE's other rights including but not limited to those rights set-forth in Section 9 (Seller's Warranties), EMCORE may charge the Seller all expenses of unpacking, examining, repacking and reshipping such goods. In the event EMCORE receives goods whose defects or nonconformity is not apparent on examination, resulting in deterioration of its finished good, EMCORE reserves the right to require their replacement as well as payment of damages.

6. EMCORE MATERIALS:

- a. General. The Seller agrees that any information, tools, jigs, dies, etc., drawings, patterns and specifications supplied or paid for by EMCORE ("**EMCORE Materials**") (i) shall be and shall remain the sole property of EMCORE, (ii) shall be plainly marked and/or otherwise clearly identified by Seller as "Property of EMCORE", (iii) shall be stored on Seller's premises, shall be stored and used in compliance with any instructions of EMCORE and so as to prevent disclosure inconsistent herewith, (iv) shall not be used except pursuant to any Purchase Order or other writing signed by EMCORE, (v) shall be subject to EMCORE's inspection at any time during business hours, (vi) shall be available for immediate possession on demand, and, in any event, (vii) shall be returned to EMCORE in good condition (except for reasonable wear and tear and except to the extent that such EMCORE Materials have been incorporated in the goods delivered under the Purchase Order or have been consumed in normal performance of work under the Purchase Order) at the earlier of (a) simultaneously with termination under this Purchase Order; or (b) the time that EMCORE may specify under any agreement covering the same.
- b. Insurance. Such EMCORE Materials shall be insured by Seller in amounts equal to its full insurable replacement value at Seller's cost with loss payable to EMCORE and Seller and shall be subject to EMCORE's immediate possession and total control.
- c. No Encumbrances. Seller agrees that it shall not at any time permit any EMCORE Materials to be subject to any Encumbrances (other than EMCORE's ownership interest). As used in this Purchase Order, "**Encumbrances**" means any security interests, judgments, liens, pledges, adverse claims, charges, escrows, options, warrants, rights of first refusal, rights of first offer, mortgages, indentures, or other agreements, arrangements, encumbrances or defects of any kind or character. All goods to be furnished hereunder shall be free and clear of any and all Encumbrances whatsoever. If requested by EMCORE, Seller will execute any appropriate agreement (i) waiving all liens against EMCORE's Materials or goods and/or (ii) protecting the security interest of EMCORE or EMCORE's customers in the goods.
- d. Control. Excepting only reasonable wear and use, such EMCORE Materials in the possession of Seller shall be kept at Seller's risk, and Seller shall be responsible for all maintenance thereof. Seller shall maintain property control records of EMCORE Materials consistent with good business practices and as may be proscribed by EMCORE. Seller shall promptly issue such reports as EMCORE may require concerning EMCORE Materials. Seller shall promptly notify EMCORE in writing of any damage to EMCORE Materials.

7. PROPRIETARY INFORMATION:

a. **General.** Any drawings, data, design, inventions and other technical information supplied by EMCORE (“**EMCORE Proprietary Information**”) shall remain EMCORE’s property and shall be held in confidence by Seller. Unless otherwise provided herein or authorized by EMCORE in writing, Seller shall use such information and items only in the performance of the Purchase Order. Such information shall not be reproduced, used or disclosed to others by Seller without EMCORE’s prior written consent, and shall be returned by Seller to EMCORE upon completion of Seller’s obligations under this Purchase Order or upon demand. Any information which Seller may disclose to EMCORE with respect to the design, manufacture, sale or use of the goods covered by this Purchase Order shall be deemed to have been disclosed as part of the consideration for this Purchase Order, and Seller shall not assert any claim against EMCORE by reason of EMCORE’s use thereof. Seller’s use of any information supplied by EMCORE pursuant to this Purchase Order shall be at Seller’s own risk. For the avoidance of doubt, notwithstanding the use of any such information, Seller shall be responsible for infringement of any patent, trademark, copyright or data rights by goods supplied to EMCORE hereunder and shall indemnify EMCORE therefor as set forth in this Section 7 hereof. If a separate non-disclosure agreement exists between the parties, any information exchanged shall be governed by the terms of such agreement; if no agreement exists, information disclosed by Seller to EMCORE shall not be deemed confidential and Seller shall have no rights against EMCORE with respect thereto.

b. **Security.** Seller shall notify EMCORE of any known or suspected security breach of its system or facilities containing EMCORE Proprietary Information or any other release or unauthorized access to Proprietary Information relating to the Purchase Order promptly, but no later than one (1) business day, after discovery. Seller shall, at its sole cost and expense, cooperate with EMCORE with any investigation, whether instituted by EMCORE or any other entity with jurisdiction to conduct such investigation, of any such breach, release or unauthorized access.

8. INTELLECTUAL PROPERTY:

a. **Origin.** Unless specifically indicated in a Purchase Order, Seller agrees that it shall design, develop and fabricate all goods, and provide all services specified by a Purchase Order using its own expertise, skills, intellectual property, and physical and labor resources, or those of its identified subcontractors. Seller shall be permitted to rely on the use of EMCORE Materials or EMCORE Proprietary Information in fulfilling the terms of a Purchase Order only if the availability of such EMCORE Materials or EMCORE Proprietary Information is specifically acknowledged for such use by the terms of the Purchase Order.

b. **Rights.** All goods produced or services provided by Seller using EMCORE Materials or pursuant to EMCORE Proprietary Information, and all inventions, improvements, developments and discoveries conceived, discovered or first reduced to tangible work by Seller and relating to the goods produced or services provided by Seller using EMCORE Materials or pursuant to EMCORE Proprietary Information shall be the sole property of EMCORE. Seller does hereby assign to EMCORE all inventions, improvements, developments and discoveries, and all intellectual property rights therein.

9. SELLER'S WARRANTIES:

- a. Warranty. In addition to any warranty implied by fact or law, Seller expressly warrants all goods to (i) be new, and be free from defects in workmanship and materials, (ii) conform strictly to the requirements of the Purchase Order, and any applicable specifications, standards, drawings and approved samples (iii) to the extent known by Seller, be fit and sufficient for the purpose intended; and (iv) to the extent not manufactured pursuant to detailed designs furnished by EMCORE, not infringe upon the intellectual property rights of any third party and be free from defects in design. Seller warrants that services shall conform with the requirements of the Purchase Order and to high professional standards reasonably expected of similar service providers. All warranties shall survive inspection, test, acceptance of and payment by EMCORE.
- b. Benefit. Such warranties, together with all other service warranties of Seller, shall inure to the benefit of EMCORE and its customers, direct and indirect, including the ultimate end user.
- c. Indemnity. Seller shall be liable and agrees to indemnify EMCORE, for all liability, loss, cost and expenses, including reasonable attorney's fees, that EMCORE may incur resulting from breach of any of these warranties.
- d. Remedy. In the event of breach of warranty, EMCORE may, at its option, either (i) return the goods for prompt repair, replacement or reimbursement of the purchase price of the defective or nonconforming goods and in the case of services, either the prompt correction of the defective services at no cost or reimbursement of the amounts paid for such services; or (ii) perform any rework necessary to enable the goods or services to comply in all respects with the requirements of the Purchase Order and receive an equitable price reduction for same. In the event that Seller fails to correct defects or replace nonconforming goods or services promptly, EMCORE, after reasonable notice to Seller, may on its own or via a third party make such corrections or replace such goods and services and charge Seller for all costs incurred by EMCORE in doing so.

10. INDEMNITY: The Seller shall, at its expense, indemnify, defend, and hold harmless, EMCORE, its directors, officers, employees, agents, successors, assigns, customers and users of its goods, against all suits at law or in equity, and from all losses, damages, costs, claims and other liabilities, including lost profits, attorney's fees and court costs, arising out of, relating to or resulting from the sale or use of the goods hereunder (a) for actual or alleged infringement of any patent, trademark or copyright, (b) from unfair competition or misappropriation of trade secrets, (c) from injury to persons, death, or damage to property of whatsoever nature or kind due to Seller's performance under the Purchase Order, the selection of materials or due to defects or alleged defects in material or workmanship and/or (d) resulting in any way from a breach by Seller of these terms. This indemnity shall be in addition to the warranty obligations of Seller.

11. TERMINATION:

- a. For Convenience. EMCORE may, by written notice, terminate this Purchase Order in whole or part at any time for convenience and without cause and such termination shall not constitute default. In the event of such termination, Seller shall immediately stop work and limit costs on the terminated work. Seller shall be reimbursed for actual, reasonable, substantiated and allocable costs for work performed to the date of termination. Any termination claim must be submitted to EMCORE within thirty (30) days after the effective date of termination. In no event shall the termination claim be in excess of the Purchase Order value. EMCORE shall have all rights and obligations available to it in law or equity, including its rights to title and possession of the goods and materials paid for. In the event of partial termination, Seller is not excused from performance of the non-terminated balance of work.
- b. For Default. EMCORE may, by written notice, terminate this Purchase Order in whole or part at any time (i) for breach of any one or more of its terms; (ii) for failure to deliver goods or services within the time specified in the Purchase Order or any written extension; (iii) for failure to make progress so as to endanger performance of the Purchase Order; (iv) for failure to provide adequate assurance of future performance; (v) in the event of any proceedings by or against Seller

in bankruptcy or insolvency or appointment of a receiver or trustee or any assignment for the benefit of creditors (a “**Default**”). EMCORE may require Seller to provide financial statements to it at any time for the purpose of determining Seller’s financial stability, and failure to do so, shall also constitute a Default. In the event of a Default, EMCORE may exercise any or all rights and remedies available to it in law or equity, including but not limited to Seller’s liability for EMCORE’s excess re-procurement costs for goods or services. EMCORE may also require Seller to transfer any EMCORE Materials to it. In the event of partial termination, Seller is not excused from performance of the non-terminated balance of work.

12. FORCE MAJEURE: Either party to this Purchase Order shall be free from liability for failing to perform hereunder if such failure is caused due to acts of God, industry-wide labor strikes, fires or other causes, in each case, entirely beyond the reasonable control of the affected party and without the fault or negligence of such party (a “**Force Majeure**”). In the event that Seller is unable to perform for a Force Majeure event, EMCORE shall have the right to either (i) extend the delivery dates until Seller is able to perform and require Seller to deliver goods on an expedited basis, with Seller paying any additional cost to recover the lost time; or (ii) terminate the undelivered part of the Purchase Order at no cost to EMCORE.

13. COMPLIANCE WITH LAW:

a. General. Seller warrants that all goods supplied hereunder will have been produced in compliance with, and Seller agrees to be bound by all applicable federal, state and local laws, orders, rules and regulations. Seller agrees upon request to furnish EMCORE with a certificate or certificates in such terms as EMCORE may require certifying that the Seller is in compliance with all such terms and conditions as well as any applicable law or regulation.

b. Equal Opportunity. Seller represents and warrants that it does not discriminate in employment opportunities or practices on the basis of race, color, religion, sex, national origin, age, mental or physical disability, veteran status or any other characteristic protected by law.

c. Government Contracts.

i. For orders placed in support of a U.S. Government Contract, the FAR and DFARS clauses referenced in Exhibit A hereto are incorporated herein by reference, with the same force and effect as if they were given in full text, and are applicable, including any notes following the clause citation, to this Purchase Order. The date and substance of the clauses in the prime contract shall apply. The DFARS clauses in Exhibit A are applicable if the prime contract is with Department of Defense and shall supplement the FAR clauses in Exhibit A. The Contract Disputes Act of 1978, 41 U.S.C. Section 7101 et seq (the “**Contracts Disputes Act**”) shall have no application to this Purchase Order. Seller agrees that upon the request of EMCORE it will negotiate in good faith with EMCORE relative to amendments to this Purchase Order to incorporate additional provisions herein or to change provisions hereof, as EMCORE may reasonably deem necessary in order to comply with the provisions of the applicable prime contract or with the provisions of amendments to such prime contract. If any such amendment to this Purchase Order causes an increase or decrease in the cost of, or the time required for, performance of any part of the Purchase Order, an equitable adjustment may be made pursuant to the terms of this Purchase Order. The terms “Government,” “Contracting Officer,” “Administrative Contracting Officer,” and “ACO” in any applicable FAR or DFARS clause shall mean EMCORE unless otherwise noted or when a right, act, authorization or obligation can be granted or performed only by the Government or duly authorized representative of the Government, or when title to property is to be transferred directly to the Government. The Seller shall ensure that all applicable flow-down clauses are included in each lower tier subcontract with Seller’s suppliers. If any of the FAR or DFARS clauses do not apply to the Purchase Order, such clauses are considered to be self-deleting.

ii. If, by a final decision, the Contracting Officer of EMCORE’s prime contract interprets any provision or requirement of EMCORE’s prime contract, and the same or substantially similar provision or requirement is contained in this Purchase Order, such interpretation shall be binding

between EMCORE and Seller. EMCORE shall afford Seller reasonable opportunity to appeal such decision in EMCORE's name. EMCORE shall at all times be the sponsor of the appeal and may revoke its sponsorship at any time. Seller agrees to provide to EMCORE any and all information requested by EMCORE for the purpose of verifying, supporting, or providing any and all certifications required by the Contract Disputes Act. Any such appeal shall be at the sole expense of Seller. As used in this provision, the term "appeal" shall include any and all proceedings under this provision before any board of contract appeals or federal court. If Seller asserts against EMCORE a claim for either damages or an equitable adjustment in a situation where the facts constituting such claim would also support a claim by EMCORE against EMCORE's U.S. Government customer, prior to initiating any action or suit on such claim against EMCORE in any court, if EMCORE so authorizes, Seller shall pursue, to exhaustion of its administrative and judicial remedies, such claim in EMCORE's name and at Seller's cost against EMCORE's U.S. Government customer. Any reference to the "Disputes" clause in any applicable FAR or DFARS clause incorporated into this Purchase Order shall mean this article.

d. Export Control.

i. The following restrictions shall apply to all designs, drawings, and other technical documents and information (hereinafter referred to as "**Technical Data**") and assistance (hereinafter referred to as "**Technical Assistance**") furnished or disclosed to Seller by EMCORE and to any goods manufactured by Seller, its subsidiaries, affiliates, contractors and subcontractors, by use of such Technical Data and/or Technical Assistance. In connection with the disclosure, delivery, or export of Technical Data or Technical Assistance by EMCORE to Seller, Seller shall comply, and shall cause its subsidiaries, affiliates, contractors and subcontractors, at all tiers, to comply with any export restrictions imposed by any governmental agency of the United States of America, including, without limitation, the provisions of the Export Administration Act of 1979 (50 USC 2401-2420) and the Export Administration Regulations (15 CFR 768-799) promulgated thereunder; the Arms Export Control Act of 1976 (22 USC 2751-2779) and the International Traffic in Arms Regulation (22 CFR 120-128 and 130) promulgated thereunder; and the International Emergency Economic Powers Act, as amended (50 USC 1701-1706), and regulations and Executive Orders promulgated thereunder. The parties acknowledge that these statutes and regulations impose restrictions on import, export, and transfer to non-US persons or companies of certain categories of Technical Data, Technical Assistance and goods, and that authorization from the U.S. Department of State, U.S. Department of Commerce and/or U.S. Department of Treasury may be required before such Technical Data, Technical Assistance and goods can be disclosed, transferred or exported to non-U.S. persons or companies, and that such export authorizations may impose further restrictions on the use of such Technical Data, Technical Assistance and goods.

ii. In addition, the Seller shall obtain EMCORE's permission, in writing, before any Technical Data, Technical Assistance, EMCORE Proprietary Information or goods are provided to any non-US person or company, including, without limitation, any non-US subsidiary or affiliate of Seller. Seller shall provide EMCORE with a detailed list of all potential non-US contractors and subcontractors, identify the ultimate parent company of each such non-US contractor or subcontractor, and provide full legal names and addresses, e-mail addresses, telephone numbers, and contacts for each such entity to EMCORE prior to providing any Technical Data, Technical Assistance, EMCORE Proprietary Information or goods to any such entity in connection with this Purchase Order. Seller shall return all Technical Data and EMCORE Proprietary Information to EMCORE after completion or termination of this Purchase Order unless otherwise directed by EMCORE.

iii. Seller warrants that it has disclosed to EMCORE and shall provide on request from EMCORE appropriate certification to EMCORE regarding any classification of the good(s) procured under this Purchase Order on either the United States Munitions List ("**USML**") or the Commerce Control List. Furthermore, Seller shall provide the USML Category or Export Control Classification Number to EMCORE, as applicable.

- e. Permits. Seller shall, at Seller's sole cost and expense, obtain and maintain in effect all permits, licenses and other consents necessary to the conduct of Seller's activities hereunder.
- f. Foreign Corrupt Practices Act. Seller shall comply with the U.S. Foreign Corrupt Practices Act ("FCPA") and other anti-corruption laws applicable to Seller and Seller's conduct. Seller shall indemnify, defend and hold harmless EMCORE and its directors, officers, agents and employees from and against any and all losses, damages, costs, claims and other liabilities, including lost profits, attorney's fees and court costs, arising out of, relating to or resulting from Seller's failure or alleged failure to comply with the provisions of any applicable laws, statutes, rules, regulations or orders, including, without limitation, the export/import laws of the United States, the FCPA and other anti-corruption laws.
- g. Conflict Minerals. Seller acknowledges that, under Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act and regulations thereunder (the "CM Rules"), EMCORE has disclosure obligations regarding the source of certain "Conflict Minerals" (as defined in the CM Rules), including tin, tantalum, tungsten and gold, in its goods. If requested by EMCORE, Seller shall promptly at Seller's expense: (a) conduct such reasonable country of origin inquiry and perform such due diligence as is necessary under the CM Rules to determine the source of such Conflict Minerals, (b) provide and certify such information regarding its sourcing of Conflict Minerals, including the scope and results of such inquiry and due diligence, in such form and with such detail as EMCORE shall request from time to time, and (d) implement and enforce policies and procedures for its suppliers that will enable Seller to comply with these obligations. EMCORE shall have the right to reject any goods that Seller shall not certify to EMCORE's satisfaction as "DRC conflict free," as defined in the CM Rules.
- h. Representations re: Forced Labor. Seller represents and warrants that it does not utilize forced, prison, or indentured labor, or subject workers to any form of compulsion or coercion. Seller further represents and warrants that all labor used in the creation of goods and/or services that are the subject of this Purchase Order comply with laws regarding slavery and human trafficking in the countries in which Seller is doing business. Seller agrees to include this clause in its subcontracts related to this Purchase Order.

14. BUSINESS CONDUCT AND ETHICS: By accepting this Purchase Order, Seller represents that it has not participated in any conduct in connection with the Purchase Order that violates EMCORE's Code of Business Conduct and Ethics, as published and made publicly available at www.emcore.com/corporate-governance and Seller will adhere to EMCORE's Code of Business Conduct and Ethics or if available, Seller's version which is consistent with the EMCORE Code of Business Conduct and Ethics. If Seller has cause to believe that EMCORE or any employee or agent of EMCORE has behaved improperly or unethically in connection with this Purchase Order, Seller shall report such behavior to EMCORE in accordance with the EMCORE Code of Business Conduct and Ethics.

15. ORDER OF PRECEDENCE: Any inconsistencies shall be resolved in accordance with the following descending order of precedence: (i) face of the Purchase Order; (ii) any special or supplemental terms and conditions (including any supplementary quality assurance provisions and/or FAR/DFARS clauses) agreed to by the parties in writing by their authorized representatives and incorporated by reference in the Purchase Order; (iii) Statement of Work; (iv) these General Terms and Conditions of Purchase; (v) Specifications; and (vi) Drawings.

16. MISCELLANEOUS:

- a. Release of Information. Seller shall not, without first obtaining the written consent of EMCORE, in any manner advertise, publish or disclose the fact that Seller has contracted with EMCORE to furnish the goods or render the services herein ordered, nor any of the details connected with this Purchase Order to any third party except as herein specified and except as may be required to perform this Purchase Order.

- b. Waiver. EMCORE's failure to insist on performance of any of the terms or conditions herein or to exercise any right or privilege or EMCORE's waiver of any breach hereunder, shall not thereafter waive any other terms, conditions, rights or privileges.
- c. Severability. If any provision of the Purchase Order is held illegal or unenforceable by any court or other authority of competent jurisdiction, such provision shall be deemed severable from the remaining provisions of the Purchase Order and shall not affect or impair the validity or enforceability of the remaining provisions of the Purchase Order.
- d. Assignment. No part of the Purchase Order may be assigned without EMCORE's prior written consent.
- e. No Subcontracting. Seller shall not subcontract or permit anyone other than Seller's employees to manufacture the goods or perform any of the services required under the Purchase Order without the written consent of EMCORE.
- f. Organizational Changes. Seller shall promptly notify EMCORE in writing of any organizational changes made by Seller, including name or ownership changes, mergers or acquisitions.
- g. Place of Manufacture. Seller shall not change the location of manufacture of the goods to be provided under the Purchase Order without the written consent of EMCORE.
- h. Independent Contractor Status. Seller is, and shall remain, an independent contractor during the performance of the Purchase Order.
- i. Notices. All notices to EMCORE must be sent to the authorized representative.
- j. Electronic Transmissions. The parties agree that if the Purchase Order is transmitted electronically and the signature is authenticated, neither party shall contest its validity on the basis of an electronic signature.
- k. Governing Law. The Purchase Order shall, in all respects, be interpreted, construed and governed by and in accordance with the laws of the State of New York, U.S.A, without regard to its conflicts of law principles.

EXHIBIT A

TERMS APPLICABLE TO U.S. GOVERNMENT SUBCONTRACTS

A. GOVERNMENT SUBCONTRACT

- (a) This Contract is entered into by the parties in support of a U.S. Government contract.
- (b) As used in the FAR and DFARS clauses referenced below and otherwise in this Contract:
1. “Commercial Item” means a commercial item as defined in FAR 2.101.
 2. “Commercially available off-the-shelf (COTS) item” means a COTS item as defined in FAR 2.101.
 3. “Contract” means this order, including the applicable Ts&Cs.
 4. “Contracting Officer” shall mean the U.S. Government Contracting Officer for the Prime Contract under which this Contract is entered.
 5. “Contractor” and “Offeror” means the Seller, which is the party identified on the face of the Contract with whom EMCORE is contracting, acting as the immediate subcontractor to EMCORE.
 6. “Prime Contract” means the contract between EMCORE and the U.S. Government or between EMCORE and its higher-tier contractor who has a contract in support of a U.S. Government contract.
 7. “Subcontract” means any contract placed by Seller or lower-tier subcontractors under this Contract.
 8. “Ts&Cs” means the EMCORE Purchase Order Terms and Conditions applicable to this Contract.
 9. “Work” means all required labor, articles, materials, supplies, goods, and services constituting the subject matter of this Contract.

B. NOTES

The following notes apply to the clauses incorporated by reference below only when specified in the parenthetical phrase following the clause title and date.

1. Substitute “EMCORE” for “Government” or “United States” throughout this clause.
2. Substitute “EMCORE’s authorized representative” for “Contracting Officer”, “Administrative Contracting Officer”, and “ACO” throughout this clause.
3. Insert “and EMCORE” after “Government” throughout this clause.
4. Insert “or EMCORE” after “Government” throughout this clause.
5. Communication/notification required under this clause from/to Seller to/from the Contracting Officer shall be through EMCORE.
6. Insert “and EMCORE” after “Contracting Officer”, throughout the clause.
7. Insert “or EMCORE’s authorized representative” after “Contracting Officer”, throughout the clause.

8. If Seller is an international contractor, this clause applies to this Contract only if Work under the Contract will be performed in the United States or Contractor is recruiting employees in the United States to Work on the Contract.

C. PROVISIONS OF THE FEDERAL ACQUISITION REGULATION (FAR) APPLICABLE TO ORDERS FOR COMMERCIAL ITEMS UNDER A U.S. GOVERNMENT PRIME CONTRACT (ALL AGENCIES)

To the extent indicated in the Ts&Cs, the following FAR clauses apply to this Contract:

FAR 52.203-12 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (JUN 2020) (Applies if this Contract exceeds the threshold specified in FAR 3.808 on the date of award of this Contract).

FAR 52.203-13 CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT (JUN 2020) (Applies if this Contract exceeds threshold specified in FAR 3.1004(b)(1) on the date of this Contract and has a period of performance of more than 120 days. Disclosures made under this clause shall be made directly to the Government entities identified in the clause.)

FAR 52.203-19 PROHIBITION ON REQUIRING CERTAIN INTERNAL CONFIDENTIALITY AGREEMENTS OR STATEMENTS (JAN 2017)

FAR 52.204-2 SECURITY REQUIREMENTS (AUG 1996) (Applies if the Work requires access to classified information.)

FAR 52.204-9 PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL (JAN 2011) (Applies where Seller will have physical access to a federally-controlled facility or access to a Federal information system.)

FAR 52.204-10 REPORTING EXECUTIVE COMPENSATION AND FIRST-TIER SUBCONTRACT AWARDS (JUN 2020) (Subparagraph (d)(2) does not apply. If Seller meets the thresholds specified in paragraphs (d)(3) and (g)(2) of the clause, Seller shall report required executive compensation by posting the information to the Government's System for Award Management (SAM) database. All information posted will be available to the general public.)

FAR 52.204-21 BASIC SAFEGUARDING OF COVERED CONTRACTOR INFORMATION SYSTEMS (JUN 2016) (Applies unless Seller is furnishing commercially available off-the-shelf items.)

FAR 52.204-23 PROHIBITION ON CONTRACTING FOR HARDWARE, SOFTWARE, AND SERVICES DEVELOPED OR PROVIDED BY KASPERSKY LAB AND OTHER COVERED ENTITIES (JUL 2018)

FAR 52.204-25 PROHIBITION ON CONTRACTING FOR CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT (AUG 2020) (Copies of notices provided by Seller to the Contracting Officer shall also be provided to EMCORE.)

FAR 52.209-6 PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (JUN 2020) (Applies if this Contract exceeds the threshold specified in FAR 9.405-2(b) on the date of award of this Contract except does not apply if this Contract is for commercial off the shelf items. Copies of notices provided by Seller to the Contracting Officer shall be provided to EMCORE.)

FAR 52.215-20 REQUIREMENTS FOR CERTIFIED COST OR PRICING DATA OR INFORMATION OTHER THAN COST OR PRICING DATA (OCT 2010) (Note 2 applies in paragraph (a)(1).)

FAR 52.215-21 REQUIREMENTS FOR CERTIFIED COST OR PRICING DATA OR INFORMATION OTHER THAN COST OR PRICING DATA - MODIFICATIONS (JUN 2020) (Note 2 applies in paragraphs (a)(1) and (b).)

FAR 52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS (OCT 2018) (Note 8 applies.)

FAR 52.222-21 PROHIBITION OF SEGREGATED FACILITIES (APR 2015) (Note 8 applies.)

FAR 52.222-26 EQUAL OPPORTUNITY (SEP 2016) (Note 8 applies.)

FAR 52.222-35 EQUAL OPPORTUNITY FOR VETERANS (JUN 2020) (Applies if this Contract is valued at or above the threshold specified in FAR 22.1303(a) on the date of this Contract. Note 8 applies.)

FAR 52.222-36 AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES (JUN 2020) (Applies if this contract exceeds the threshold specified in FAR 22.1408(a) on the date of award of this Contract. Note 8 applies.)

FAR 52.222-37 EMPLOYMENT REPORTS ON VETERANS (JUN 2020) (Applies if this Contract is valued at or above the threshold specified in FAR 22.1303(a) on the date of this Contract. Note 8 applies.)

FAR 52.222-40 NOTIFICATION OF EMPLOYEE RIGHTS UNDER THE NATIONAL LABOR RELATIONS ACT (DEC 2010) (Applies if this Contract exceeds \$10,000. Note 8 applies.)

FAR 52.222-41 SERVICE CONTRACT ACT OF 1965 (AUG 2018) (Applies if this Contract is for services subject to the Service Contract Act. The clause does not apply if this Contract has been administratively exempted by the Secretary of Labor or exempted by 41 U.S.C. 356, as interpreted in Subpart C of 29 CFR Part 4. Note 8 applies.)

FAR 52.222-50 COMBATING TRAFFICKING IN PERSONS (OCT 2020) (Note 2 applies. In paragraph (e) Note 3 applies.)

FAR 52.222-54 EMPLOYMENT ELIGIBILITY VERIFICATION (OCT 2015) (Applies if this Contract exceeds \$3,500 except for commercial services that are part of the purchase of a COTS item (or an item that would be a COTS item, but for minor modifications), performed by the COTS provider, and are normally provided for that COTS item. Note 8 applies.)

FAR 52.222-55 MINIMUM WAGES UNDER EXECUTIVE ORDER 13658 (NOV 2020) (Applies if this Contract is subject to the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute, and is to be performed in whole or in part in the United States. "Contracting Officer" means "EMCORE.")

FAR 52.222-62 PAID SICK LEAVE UNDER EXECUTIVE ORDER 13706 (JAN 2017) (Applies if this Contract is subject to the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute, and are to be performed in whole or in part in the United States.)

FAR 52.223-3 HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA (JAN 1997) (Applies if this Contract involves hazardous material. Notes 2 and 3 apply, except for paragraph (f) where Note 4 applies.)

FAR 52.223-7 NOTICE OF RADIOACTIVE MATERIALS (JAN 1997) (Applies to Work containing covered radioactive material. In the blank insert "30". Notes 1 and 2 apply.)

FAR 52.223-11 OZONE-DEPLETING SUBSTANCES (JUN 2016) (Applies if the Work was manufactured with or contains ozone-depleting substances.)

FAR 52.223-99 ENSURING ADEQUATE COVID-19 SAFETY PROTOCOLS FOR FEDERAL CONTRACTORS (OCT 2021) (DEVIATION) (Available as of the date of this Contract at <https://www.whitehouse.gov/wp-content/uploads/2021/09/FAR-Council-Guidance-on-Agency-Issuance-of-Deviations-to-Implement-EO-14042.pdf>) (Applies if this Contract exceeds the simplified acquisition threshold in effect at the time of award of this Contract and Seller is required to provide services performed in whole or in part within the United States or its outlying areas.)

FAR 52.224-3 PRIVACY TRAINING (JAN 2017) (Applies if Seller will (1) have access to a system of records; (2) create, collect, use, process, store, maintain, disseminate, disclose, dispose, or otherwise handle personally identifiable information; or (3) design, develop, maintain, or operate a system of records. In paragraph (d), Note 6 applies.)

FAR 52.225-1 BUY AMERICAN ACT -- SUPPLIES (MAY 2014) (Applies if the Work contains other than domestic components. Note 2 applies to the first time "Contracting Officer" is mentioned in paragraph (c).)

FAR 52.225-5 TRADE AGREEMENTS (OCT 2019) (Applies if the Work contains other than U.S. made or designated country end products as specified in the clause.)

FAR 52.225-13 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (JUN 2008)

FAR 52.227-19 COMMERCIAL COMPUTER SOFTWARE-RESTRICTED RIGHTS (DEC 2007)

FAR 52.232-40 PROVIDING ACCELERATED PAYMENTS TO SMALL BUSINESS SUBCONTRACTORS (DEC 2013) (Applies if Seller is a small business concern. Note 1 applies. This clause does not apply if EMCORE does not receive accelerated payments under the Prime Contract. Not all agencies provide accelerated payments.)

FAR 52.244-6 SUBCONTRACTS FOR COMMERCIAL ITEMS (NOV 2020)

FAR 52.245-1 GOVERNMENT PROPERTY (JAN 2017) (ALT I) (APR 2012) ("Contracting Officer" means "EMCORE" except in the definition of Property Administrator and in paragraphs (h)(1)(iii) where it is unchanged, and in paragraphs (c) and (h)(4) where it includes EMCORE. "Government" is unchanged in the phrases "Government property" and "Government furnished property" and where elsewhere used except in paragraph (d)(1) where it means "EMCORE" and except in paragraphs (d)(2) and (g) where the term includes EMCORE. The following is added as paragraph (n) " Seller shall provide to EMCORE immediate notice if the Government or other customers (i) revokes its assumption of loss under any direct contracts with Seller, or (ii) makes a determination that Seller 's property management practices are inadequate, and/or present an undue risk, or that Seller has failed to take corrective action when required.")

FAR 52.246-26 REPORTING NONCONFORMING ITEMS (NOV 2021)

FAR 52.247-64 PREFERENCE FOR PRIVATELY OWNED U.S. FLAG COMMERCIAL VESSELS (FEB 2006)

D. PROVISIONS OF THE DEPARTMENT OF DEFENSE FEDERAL ACQUISITION REGULATION SUPPLEMENT (DFARS) APPLICABLE TO ORDERS FOR COMMERCIAL ITEMS UNDER A U.S. DEPARTMENT OF DEFENSE PRIME CONTRACT

To the extent indicated in the Ts&Cs, the following DFARS clauses apply to this Contract:

DFARS 252.203-7002 REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS (SEP 2013)

DFARS 252.203-7003 AGENCY OFFICE OF THE INSPECTOR GENERAL (AUG 2019) (Applies when FAR 52.203-13 applies to this Contract.)

DFARS 252.204-7009 LIMITATIONS ON THE USE AND DISCLOSURE OF THIRD PARTY CONTRACTOR REPORTED CYBER INCIDENT INFORMATION (OCT 2016) (Applies if this Contract involves services that include support for the Government's activities related to safeguarding covered defense information and cyber incident reporting.)

DFARS 252.204-7012 SAFEGUARDING COVERED DEFENSE INFORMATION AND CYBER INCIDENT REPORTING (DEC 2019) (Applies if this Contract is for operationally critical support or for which performance will involve covered defense information. Seller shall furnish EMCORE copies of notices provided to the

Contracting Officer at the time such notices are sent. Seller shall also furnish EMCORE copies of any reports Seller receives from its lower tier subcontractors.)

DFARS 252.204-7015 NOTICE OF AUTHORIZED DISCLOSURE OF INFORMATION FOR LITIGATION SUPPORT (MAY 2016)

DFARS 252.204-7018 PROHIBITION ON THE ACQUISITION OF COVERED DEFENSE TELECOMMUNICATIONS EQUIPMENT OR SERVICES (DEC 2019) (Copies of reports provided by Seller under this clause will be provided to EMCORE.)

DFARS 252.204-7020 NIST SP 800-171 DOD ASSESSMENT REQUIREMENTS (NOV 2020) (Applies except if this Contract is for commercial off the shelf items.)

DFARS 252.211-7003 ITEM UNIQUE IDENTIFICATION AND VALUATION (MAR 2016) (Applies if this Contract requires the Work to contain unique item identification.” Items subject to unique item identification are identified elsewhere in this Contract. All reports required to be submitted under this clause shall be submitted to EMCORE. “Government” means “EMCORE” except in the definition of “issuing agency” in paragraph (a).

DFARS 252.215-7010 REQUIREMENTS FOR CERTIFIED COST OR PRICING DATA AND OTHER DATA THAN CERTIFIED COST OR PRICING DATA (JUL 2019) This clause applies in lieu of FAR 52.215-20. Contracting Officer means “EMCORE” Paragraph (b)(ii)(E) is deleted.

DFARS 252.223-7001 HAZARD WARNING LABELS (DEC 1991) (Applies if this Contract requires the delivery of hazardous materials.)

DFARS 252.223-7008 PROHIBITION OF HEXAVALENT CHROMIUM (JUN 2013) (Note 2 applies.)

DFARS 252.223-7999 ENSURING ADEQUATE COVID-19 SAFETY PROTOCOLS FOR FEDERAL CONTRACTORS (DEVIATION 2021-O0009) (OCT 2021) (Available as of the date of this Contract at <https://www.acq.osd.mil/dpap/policy/policyvault/USA001998-21-DPC.pdf>) (Applies if this Contract exceeds the simplified acquisition threshold in effect at the time of award of this Contract and Seller is required to provide services performed in whole or in part within the United States or its outlying areas.)

DFARS 252.225-7001 BUY AMERICAN AND BALANCE OF PAYMENTS PROGRAM (DEC 2017) (Applies if the Work contains other than domestic components. Applies in lieu of FAR 52.225-1.)

DFARS 252.225-7007 PROHIBITION ON ACQUISITION OF CERTAIN ITEMS FROM COMMUNIST CHINESE MILITARY COMPANIES (DEC 2018) Applies if this contract is for an item on the United States Munitions List or the 600 series of the Commerce Control List.)

DFARS 252.225-7009 RESTRICTION ON ACQUISITION OF CERTAIN ARTICLES CONTAINING SPECIALTY METALS (DEC 2019) (Applies if the Work to be furnished contains specialty metals. Paragraph (d) is deleted.)

DFARS 252.225-7012 PREFERENCE FOR CERTAIN DOMESTIC COMMODITIES (DEC 2017)

DFARS 252.225-7021 TRADE AGREEMENTS (SEP 2019) (Applies if the Work contains other than U.S.-made, qualifying country, or designated country end products. Applies in lieu of FAR 52.225-5.)

DFARS 252.225-7048 EXPORT-CONTROLLED ITEMS (JUN 2013)

DFARS 252.225-7052 RESTRICTION ON THE ACQUISITION OF CERTAIN MAGNETS, TANTALIM, AND TUNGSTEN (OCT 2020) (Applies except where an exception in paragraph (c) applies.)

DFARS 252.226-7001 UTILIZATION OF INDIAN ORGANIZATIONS, INDIAN-OWNED ECONOMIC ENTERPRISES AND NATIVE HAWAIIAN SMALL BUSINESS CONCERNS (APR 2019) (Applies if this Contract exceeds \$500,000. Note 2 applies to paragraph (c) the first time “Contracting Officer” appears. In subparagraph (f)(1) “Contractor” shall mean “EMCORE.” EMCORE shall have no liability to Seller for any incentive payment under this clause unless and until the Government provides said incentive payment to EMCORE.)

DFARS 252.227-7013 RIGHTS IN TECHNICAL DATA --NONCOMMERCIAL ITEMS (FEB 2014) (Applies in lieu of FAR 52.227- 14. Applies to the extent specified in DFARS 252.227-7015.)

DFARS 252.227-7014 RIGHTS IN NONCOMMERCIAL COMPUTER SOFTWARE AND NONCOMMERCIAL COMPUTER SOFTWARE DOCUMENTATION (FEB 2014) (Applies in lieu of FAR 52.227-14.)

DFARS 252.227-7015 TECHNICAL DATA -- COMMERCIAL ITEMS (FEB 2014)

DFARS 252.227-7019 VALIDATION OF ASSERTED RESTRICTIONS - COMPUTER SOFTWARE (SEP 2016)

DFARS 252.227-7037 VALIDATION OF RESTRICTIVE MARKINGS ON TECHNICAL DATA (SEP 2016)

DFARS 252.232-7017 ACCELERATING PAYMENTS TO SMALL BUSINESS SUBCONTRACTORS - PROHIBITION ON FEES AND CONSIDERATION (APR 2020) (Note 1 applies.)

DFARS 252.239-7018 SUPPLY CHAIN RISK (FEB 2019)

DFARS 252.244-7000 SUBCONTRACTS FOR COMMERCIAL ITEMS (OCT 2020).

DFARS 252.246-7003 NOTIFICATION OF POTENTIAL SAFETY ISSUES (JUN 2013) (Applies if this Contract is for (i) parts identified as critical safety items; (ii) systems and subsystems, assemblies, and subassemblies integral to a system; or (iii) repair, maintenance, logistics support, or overhaul services for systems and subsystems, assemblies, subassemblies, and parts integral to a system. Contractor shall provide notifications to EMCORE and the contracting officer identified to Seller.)

DFARS 252.246-7007 CONTRACTOR COUNTERFEIT ELECTRONIC PART DETECTION AND AVOIDANCE SYSTEM (AUG 2016) (Paragraphs (a) through (e) apply. To the extent this clause conflicts with other provisions of this contract, this clause shall prevail. In paragraph (c)(2) Note 3 applies. In paragraph (c)(6) Note 6 applies.)

DFARS 252.246-7008 SOURCES OF ELECTRONIC PARTS (MAY 2018) (Applies if this contract is for electronic parts or assemblies containing electronic parts, unless Seller is the original manufacturer. Note 1 applies except in paragraph (d). Note 2 applies.

DFARS 252.247-7023 TRANSPORTATION OF SUPPLIES BY SEA - BASIC (FEB 2019) (Applies in lieu of FAR 52.247-64 in all Contracts for ocean transportation of supplies. In the first sentence of paragraph (g), insert a period after “Contractor” and delete the balance of the sentence. Paragraph (f) and (g) shall not apply if this Contract is at or below the simplified acquisition threshold. Notes 1 and 2 apply to paragraph (g).)

DFARS 252.249-7002 NOTIFICATION OF ANTICIPATED CONTRACT TERMINATION OR REDUCTION (JUN 2020) (Applies if this Contract is equal or exceeds the threshold specified in DFARS 249.7003(c)(2)(i)” and “249.7003(c)(2)(ii)). Note 2 applies. Delete paragraph (d)(1) and the first five words of paragraph (d)(2).)

E. PROVISIONS OF THE FEDERAL ACQUISITION REGULATION (FAR) APPLICABLE TO ORDERS FOR NON-COMMERCIAL ITEMS UNDER A U.S. GOVERNMENT PRIME CONTRACT (ALL AGENCIES)

To the extent indicated in the Ts&Cs, the following FAR clauses apply to this Contract:

FAR 52.203-6 RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (JUN 2020) (Applies if this Contract exceeds the threshold specified in FAR 3.808 on the date of award of this Contract).

FAR 52.203-12 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (JUN 2020) (Applies if this Contract exceeds the threshold specified in FAR 3.808 on the date of award of this Contract).

FAR 52.203-13 CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT (JUN 2020) (Applies if this Contract exceeds the threshold specified in FAR 3.1004(b)(1) on the date of this Contract and has a period of performance of more than 120 days. Disclosures made under this clause shall be made directly to the Government entities identified in the clause.)

FAR 52.203-14 DISPLAY OF HOTLINE POSTER(S) (JUN 2020) (Applies if this Contract exceeds threshold specified in FAR 3.1004(b)(1) on the date of award of this Contract. Contact EMCORE's authorized representative for the location where posters may be contained if not indicated elsewhere in the Contract. Note 8 applies.)

FAR 52.203-17 CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS (JUN 2020) Applies if this Contract exceeds the simplified acquisition threshold in effect on the date of award of this Contract.)

FAR 52.203-19 PROHIBITION ON REQUIRING CERTAIN INTERNAL CONFIDENTIALITY AGREEMENTS OR STATEMENTS (JAN 2017)

FAR 52.204-2 SECURITY REQUIREMENTS (AUG 1996) (Applies if the Work requires access to classified information.)

FAR 52.204-9 PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL (JAN 2011) (Applies where Seller will have physical access to a federally-controlled facility or access to a Federal information system.)

FAR 52.204-10 REPORTING EXECUTIVE COMPENSATION AND FIRST-TIER SUBCONTRACT AWARDS (JUN 2020) (Subparagraph (d)(2) does not apply. If Seller meets the thresholds specified in paragraphs (d)(3) and (g)(2) of the clause, Seller shall report required executive compensation by posting the information to the Government's System for Award Management (SAM) database. All information posted will be available to the general public.)

FAR 52.204-21 BASIC SAFEGUARDING OF COVERED CONTRACTOR INFORMATION SYSTEMS (JUN 2016) (Applies unless Seller is furnishing commercially available off-the-shelf items.)

FAR 52.204-23 PROHIBITION ON CONTRACTING FOR HARDWARE, SOFTWARE, AND SERVICES DEVELOPED OR PROVIDED BY KASPERSKY LAB AND OTHER COVERED ENTITIES (JUL 2018)

FAR 52.204-25 PROHIBITION ON CONTRACTING FOR CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT (AUG 2020) (Copies of notices provided by Seller to the Contracting Officer shall also be provided to EMCORE.)

FAR 52.209-6 PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (JUN 2020) (Applies if this Contract exceeds the threshold specified in FAR 9.405-2(b) on the date of award of this Contract except does not apply if this Contract is for commercial off the shelf items. Copies of notices provided by Seller to the Contracting Officer shall be provided to EMCORE.)

FAR 52.211-5 MATERIAL REQUIREMENTS (AUG 2000) (Note 2 applies.)

FAR 52.215-2 AUDIT AND RECORDS-NEGOTIATION (JUN 2020) (Applies if this Contract exceeds the simplified acquisition threshold in effect at the time of award of this Contract and if: (1) Seller is required to furnish cost or pricing data, or (2) the Contract requires Seller to furnish cost, funding, or performance reports, or (3) this is

an incentive or redeterminable type contract. Note 3 applies. Alternate II applies if Seller is an educational or non-profit institution.)

FAR 52.215-10 PRICE REDUCTION FOR DEFECTIVE CERTIFIED COST OR PRICING DATA (AUG 2011) (Applies if submission of certified cost or pricing data is required. Notes 2 and 4 apply except the first time “Contracting Officer” appears in paragraph (c)(1). “Government” means “EMCORE” in paragraph (d)(1). Rights and obligations under this clause shall survive completion of the Work and final payment under this Contract.)

FAR 52.215-11 PRICE REDUCTION FOR DEFECTIVE CERTIFIED COST OR PRICING DATA - MODIFICATIONS (JUN 2020) (Applies if submission of certified cost or pricing data is required for modifications. Notes 2 and 4 apply except the first time “Contracting Officer” appears in paragraph (d)(1). “Government” means “EMCORE” in paragraph (e)(1). Rights and obligations under this clause shall survive completion of the Work and final payment under this Contract.)

FAR 52.215-12 SUBCONTRACTOR CERTIFIED COST OR PRICING DATA (JUN 2020) (Applies if this Contract exceeds the threshold under FAR 15.403 and is not otherwise exempt.)

FAR 52.215-13 SUBCONTRACTOR CERTIFIED COST OR PRICING DATA - MODIFICATIONS (JUN 2020) (Applies if this Contract exceeds the threshold under FAR 15.403 and is not otherwise exempt.)

FAR 52.215-14 INTEGRITY OF UNIT PRICES (JUN 2020) (Applies if this Contract exceeds the simplified acquisition threshold. Delete paragraph (b) of the clause.)

FAR 52.215-15 PENSION ADJUSTMENTS AND ASSET REVERSIONS (OCT 2010) (Applies if this Contract meets the applicability requirements of FAR 15.408(g). Note 5 applies.)

FAR 52.215-16 FACILITIES CAPITAL COST OF MONEY (JUN 2003) (Applies only if this Contract is subject to the Cost Principles at FAR Subpart 31.2 and Seller proposed facilities capital cost of money in its offer.)

FAR 52.215-17 WAIVER OF FACILITIES CAPITAL COST OF MONEY (OCT 1997) (Applies only if this Contract is subject to the Cost Principles at FAR Subpart 31.2 and Seller did not propose facilities capital cost of money in its offer.)

FAR 52.215-18 REVERSION OR ADJUSTMENT OF PLANS FOR POST-RETIREMENT BENEFITS (PRB) OTHER THAN PENSIONS (JUL 2005) (Applicable if this Contract meets the applicability requirements of FAR 15.408(j). Note 5 applies.)

FAR 52.215-19 NOTIFICATION OF OWNERSHIP CHANGES (OCT 1997) (Applies if this Contract meets the applicability requirements of FAR 15.408(k). Note 5 applies.)

FAR 52.215-20 REQUIREMENTS FOR CERTIFIED COST OR PRICING DATA OR INFORMATION OTHER THAN COST OR PRICING DATA (OCT 2010) (Note 2 applies in paragraph (a)(1).)

FAR 52.215-21 REQUIREMENTS FOR CERTIFIED COST OR PRICING DATA OR INFORMATION OTHER THAN COST OR PRICING DATA - MODIFICATIONS (JUN 2020) (Note 2 applies in paragraphs (a)(1) and (b).)

FAR 52.215-23 LIMITATION ON PASS-THROUGH CHARGES (JUN 2020) Applies if this is a cost-reimbursement subcontract in excess of the simplified acquisition threshold, except if the prime contract to which this contract relates is with DoD, then the clause applies to both cost-reimbursement subcontracts and fixed-price subcontracts, except those identified in 15.408(n)(2)(i)(B)(2), that exceed the threshold for obtaining cost or pricing data in accordance with FAR 15.403-4. Notes 4 and 6 apply.)

FAR 52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS (OCT 2018) (Note 8 applies.)

FAR 52.219-9 SMALL BUSINESS SUBCONTRACTING PLAN (JUN 2020) (Applies if this Contract exceeds the threshold at FAR 19.702(a) except the clause does not apply if Seller is a small business concern. Note 2 is applicable to paragraph (c) only. Seller's subcontracting plan is incorporated herein by reference. Note 8 applies.)

FAR 52.222-4 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT - OVERTIME COMPENSATION (MAY 2018) (Applies if the Contract may require or involve the employment of laborers and mechanics. Note 8 applies.)

FAR 52.222-21 PROHIBITION OF SEGREGATED FACILITIES (APR 2015) (Note 8 applies.)

FAR 52.222-26 EQUAL OPPORTUNITY (SEP 2016) (Note 8 applies.)

FAR 52.222-35 EQUAL OPPORTUNITY FOR VETERANS (JUN 2020) (Applies if this Contract is valued at or above the threshold specified in FAR 22.1303(a) on the date of this Contract. Note 8 applies.)

FAR 52.222-36 AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES (JUN 2020) (Applies if this contract exceeds the threshold specified in FAR 22.1408(a) on the date of award of this Contract. Note 8 applies.)

FAR 52.222-37 EMPLOYMENT REPORTS ON VETERANS (JUN 2020) (Applies if this Contract is valued at or above the threshold specified in FAR 22.1303(a) on the date of this Contract. Note 8 applies.)

FAR 52.222-40 NOTIFICATION OF EMPLOYEE RIGHTS UNDER THE NATIONAL LABOR RELATIONS ACT (DEC 2010) (Applies if this Contract exceeds \$10,000. Note 8 applies.)

FAR 52.222-41 SERVICE CONTRACT ACT OF 1965 (AUG 2018) (Applies if this Contract is for services subject to the Service Contract Act. The clause does not apply if this Contract has been administratively exempted by the Secretary of Labor or exempted by 41 U.S.C. 356, as interpreted in Subpart C of 29 CFR Part 4. Note 8 applies.)

FAR 52.222-50 COMBATING TRAFFICKING IN PERSONS (OCT 2020) (Note 2 applies. In paragraph (e) Note 3 applies.)

FAR 52.222-54 EMPLOYMENT ELIGIBILITY VERIFICATION (OCT 2015) (Applies if this Contract exceeds \$3,500 except for commercial services that are part of the purchase of a COTS item (or an item that would be a COTS item, but for minor modifications), performed by the COTS provider, and are normally provided for that COTS item. Note 8 applies.)

FAR 52.222-55 MINIMUM WAGES UNDER EXECUTIVE ORDER 13658 (NOV 2020) (Applies if this Contract is subject to the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute, and is to be performed in whole or in part in the United States. "Contracting Officer" means "EMCORE.")

FAR 52.222-62 PAID SICK LEAVE UNDER EXECUTIVE ORDER 13706 (JAN 2017) (Applies if this Contract is subject to the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute, and are to be performed in whole or in part in the United States.)

FAR 52.223-3 HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA (JAN 1997) (Applies if this Contract involves hazardous material. Notes 2 and 3 apply, except for paragraph (f) where Note 4 applies.)

FAR 52.223-7 NOTICE OF RADIOACTIVE MATERIALS (JAN 1997) (Applies to Work containing covered radioactive material. In the blank insert "30". Notes 1 and 2 apply.)

FAR 52.223-11 OZONE-DEPLETING SUBSTANCES (JUN 2016) (Applies if the Work was manufactured with or contains ozone-depleting substances.)

FAR 52.223-18 ENCOURAGING CONTRACTOR POLICIES TO BAN TEXT MESSAGING WHILE DRIVING (JUN 2020) (Applies if this Contract exceed the micro-purchase threshold as defined in FAR 2-101 on the date of award of this Contract. Note 8 applies.)

FAR 52.223-99 ENSURING ADEQUATE COVID-19 SAFETY PROTOCOLS FOR FEDERAL CONTRACTORS (OCT 2021) (DEVIATION) (Available as of the date of this Contract at <https://www.whitehouse.gov/wp-content/uploads/2021/09/FAR-Council-Guidance-on-Agency-Issuance-of-Deviations-to-Implement-EO-14042.pdf>) (Applies if this Contract exceeds the simplified acquisition threshold in effect at the time of award of this Contract and Seller is required to provide services performed in whole or in part within the United States or its outlying areas.)

FAR 52.224-3 PRIVACY TRAINING (JAN 2017) (Applies if Seller will (1) have access to a system of records; (2) create, collect, use, process, store, maintain, disseminate, disclose, dispose, or otherwise handle personally identifiable information; or (3) design, develop, maintain, or operate a system of records. In paragraph (d), Note 6 applies.)

FAR 52.225-1 BUY AMERICAN ACT -- SUPPLIES (MAY 2014) (Applies if the Work contains other than domestic components. Note 2 applies to the first time "Contracting Officer" is mentioned in paragraph (c).)

FAR 52.225-5 TRADE AGREEMENTS (OCT 2019) (Applies if the Work contains other than U.S. made or designated country end products as specified in the clause.)

FAR 52.225-8 DUTY FREE ENTRY (OCT 2010) (Applies if Work will be imported into the Customs Territory of the United States. Note 2 applies.)

FAR 52.225-13 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (JUN 2008)

FAR 52.227-1 AUTHORIZATION AND CONSENT (JUN 2020) (Applies only if the Prime Contract contains this clause.)

FAR 52.227-2 NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (JUN 2020) (Applies if this Contract exceeds the simplified acquisition threshold. Notes 2 and 4 apply.)

FAR 52.227-9 REFUND OF ROYALTIES (APR 1984) (Applies when reported royalty exceeds \$250. Note 1 applies except for the first two times "Government" appears in paragraph (d). Note 2 applies.)

FAR 52.227-10 FILING OF PATENT APPLICATIONS-CLASSIFIED SUBJECT MATTER (DEC 2007) (Applies if the Work or any patent application may cover classified subject matter.)

FAR 52.227-11 PATENT RIGHTS-OWNERSHIP BY THE CONTRACTOR (MAY 2014) (Applies if this Contract includes, at any tier, experimental, developmental, or research Work and Seller is a small business concern or domestic nonprofit organization. FAR 52.227-13 applies in lieu of this clause if Seller is not located in the United States or does not have a place of business located in the United States or is subject to the control of a foreign government.)

FAR 52.227-13 PATENT RIGHTS - OWNERSHIP BY THE GOVERNMENT (DEC 2007) (Applies if this Contract is for experimental, developmental or research Work and Seller is not located in the United States or does not have a place of business located in the United States or is subject to the control of a foreign government. Paragraph (g) is deleted.)

FAR 52.227-14 RIGHTS IN DATA - GENERAL (MAY 2014) (Does not apply if DFARS 252.227-7013 applies).

FAR 52.228-5 INSURANCE -- WORK ON A GOVERNMENT INSTALLATION (JAN 1997) (Applies if this Contract involves Work on a Government installation. Note 2 applies. Note 4 applies to paragraph (b). Unless

otherwise specified by this Contract, the minimum kinds and amount of insurance shall be as described in FAR 28.307-2.)

FAR 52.230-2 COST ACCOUNTING STANDARDS (JUN 2020) (Applies only when referenced in this Contract that full CAS coverage applies. "United States" means "United States or EMCORE." Delete paragraph (b) of the clause.)

FAR 52.230-3 DISCLOSURE AND CONSISTENCY OF COST ACCOUNTING PRACTICES (JUN 2020) (Applies only when referenced in this Contract that modified CAS coverage applies. "United States" means "United States or EMCORE." Delete paragraph (b) of the clause.)

FAR 52.230-4 DISCLOSURE AND CONSISTENCY OF COST ACCOUNTING PRACTICES FOR CONTRACTS AWARDED TO FOREIGN CONCERNS (JUN 2020) (Applies only when referenced in this Contract, modified CAS coverage applies. Note 3 applies in the second and third sentences.)

FAR 52.230-5 COST ACCOUNTING STANDARDS -- EDUCATIONAL INSTITUTIONS (JUN 2020) (Applies only when referenced in this Contract that this CAS clause applies. "United States" means "United States or EMCORE." Delete paragraph (b) of the clause.)

FAR 52.230-6 ADMINISTRATION OF COST ACCOUNTING STANDARDS (JUN 2010) (Applies if FAR 52.230-2, FAR 52.230-3, FAR 52.230-4 or FAR 52.230-5 applies.)

FAR 52.232-40 PROVIDING ACCELERATED PAYMENTS TO SMALL BUSINESS SUBCONTRACTORS (DEC 2013) (Applies if Seller is a small business concern. Note 1 applies. This clause does not apply if EMCORE does not receive accelerated payments under the Prime Contract. Not all agencies provide accelerated payments.)

FAR 52.233-3 PROTEST AFTER AWARD (AUG 1996) (In the event EMCORE's customer has directed EMCORE to stop performance of the Work under the Prime Contract under which this Contract is issued pursuant to FAR 33.1, EMCORE may, by written order to Seller, direct Seller to stop performance of the Work called for by this Contract. "30 days" means "15 days" in paragraph (b)(2). Note 1 applies except the first time "Government" appears in paragraph (f). In paragraph (f) add after "33.104(h) (1)" the following: "and recovers those costs from EMCORE".)

FAR 52.234-1 INDUSTRIAL RESOURCES DEVELOPED UNDER DEFENSE PRODUCTION ACT TITLE III (SEP 2016) (Notes 1 and 2 apply.)

FAR 52.237-2 PROTECTION OF GOVERNMENT BUILDINGS, EQUIPMENT AND VEGETATION (APR 1984) (Applies if Work is performed on a Government installation. Note 2 applies. Note 4 applies to the second time "Government" appears in the clause.) FAR 52.242-13 BANKRUPTCY (JUL 1995) (Notes 1 and 2 apply.)

FAR 52.242-13 BANKRUPTCY (JUL 1995) (Notes 1 and 2 apply.)

FAR 52.242-15 STOP-WORK ORDER (AUG 1989) (Notes 1 and 2 apply.)

FAR 52.243-1 CHANGES - FIXED PRICE (AUG 1987) (Notes 1 and 2 apply. Alternate I applies if this Contract is for services. Alternate II applies if this contract is for supplies and services.)

FAR 52.243-6 CHANGE ORDER ACCOUNTING (APR 1984) (Applies if the Prime Contract requires Change Order Accounting. Note 2 applies.)

FAR 52.244-5 COMPETITION IN SUBCONTRACTING (DEC 1996)

FAR 52.244-6 SUBCONTRACTS FOR COMMERCIAL ITEMS (NOV 2020)

FAR 52.245-1 GOVERNMENT PROPERTY (JAN 2017) (ALT I) (APR 2012) (“Contracting Officer” means “EMCORE” except in the definition of Property Administrator and in paragraphs (h)(1)(iii) where it is unchanged, and in paragraphs (c) and (h)(4) where it includes EMCORE. “Government” is unchanged in the phrases “Government property” and “Government furnished property” and where elsewhere used except in paragraph (d)(1) where it means “EMCORE” and except in paragraphs (d)(2) and (g) where the term includes EMCORE. The following is added as paragraph (n) “Seller shall provide to EMCORE immediate notice if the Government or other customers (i) revokes its assumption of loss under any direct contracts with Seller, or (ii) makes a determination that Seller’s property management practices are inadequate, and/or present an undue risk, or that Seller has failed to take corrective action when required.”)

FAR 52.246-2 INSPECTION OF SUPPLIES - FIXED PRICE (AUG 1996) (Note 2 applies. Note 3 applies, except in paragraph (b) the second time “Government” appears; (f), (h), (j), and (l) where Note 1 applies.)

FAR 52.246-4 INSPECTION OF SERVICES - FIXED PRICE (AUG 1996) (Note 3 applies, except in paragraphs (e) and (f) where Note 1 applies.)

FAR 52.246-26 REPORTING OF NONCONFORMING ITEMS (JUN 2020) Applies if this Contract is for the items listed in paragraph (g) of the clause. Copies of reports provided under this clause shall be provided to EMCORE as well as the Contracting Officer. Seller shall notify EMCORE when it issues a GIDEP report pursuant to this clause.

FAR 52.247-63 PREFERENCE FOR U.S.-FLAG AIR CARRIERS (JUN 2003) (Applies if this Contract involves international air transportation.)

FAR 52.247-64 PREFERENCE FOR PRIVATELY OWNED U.S. FLAG COMMERCIAL VESSELS (FEB 2006)

FAR 52.248-1 VALUE ENGINEERING (JUN 2020) (Applies if this Contract exceeds the simplified acquisition threshold, as defined in FAR 2.101 on the date of award of this Contract. Note 1 applies, except in paragraphs (c)(5), where Note 3 applies and except in (b)(3) where Note 4 applies, and where “Government” precedes “cost” throughout. Note 2 applies. In paragraph (m) “Government is unchanged.” Also, “Government” does not mean “EMCORE” in the phrase “Government costs.”)

FAR 52.249-2 TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED-PRICE) (APR 2012) (Notes 1 and 2 apply. Note 4 applies to the first time “Government” appears in paragraphs (b)(4) and (b)(6), it applies to all of paragraph (b)(8) and it applies to the second time “Government” appears in paragraph (d). In paragraph (n) “Government” means “EMCORE and the Government” . In paragraph (c) “120 days” is changed to “60 days.” In paragraph (d) “15 days” is changed to “30 days,” and “45 days” is changed to “60 days.” In paragraph (e) “1 year” is changed to “6 months.” Paragraph (j) is deleted. In paragraph (l) “90 days” is changed to “45 days.” Settlements and payments under this clause may be subject to the approval of the Contracting Officer.)

FAR 52.249-5 TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (EDUCATIONAL AND OTHER NONPROFIT INSTITUTIONS) (AUG 2016) (Applies in lieu of FAR 52.249-2 if this Contract is for research and development Work with an educational or nonprofit institution on a no-profit or no-fee basis. Notes 1 and 2 apply. In paragraph (c) “120 days” is changed to “60 days.” In paragraph (d) “1 year” is changed to “6 months” In paragraph (e) “1 year” is changed to “6 months.” Paragraph (h) is deleted. Settlements and payments under this clause may be subject to the approval of the Contracting Officer.)

FAR 52.249-8 DEFAULT (FIXED-PRICE SUPPLY AND SERVICE) (APR 1984) (Notes 1 and 2 apply, except Note 1 is not applicable to paragraph (c). Note 4 applies to the second and third time “Government” appears in paragraph (e). Timely performance is a material element of this Contract.)

F. PROVISIONS OF THE DEPARTMENT OF DEFENSE FEDERAL ACQUISITION REGULATION SUPPLEMENT (DFARS) APPLICABLE TO ORDERS FOR NON-COMMERCIAL ITEMS UNDER A U.S. DEPARTMENT OF DEFENSE PRIME CONTRACT

To the extent indicated in the Ts&Cs, the following DFARS clauses apply to this Contract:

DFARS 252.203-7001 PROHIBITION ON PERSONS CONVICTED OF FRAUD OR OTHER DEFENSE CONTRACT-RELATED FELONIES (DEC 2008) (Applies if this Contract exceeds simplified acquisition threshold. The terms “contract,” “contractor,” and “subcontract” shall not change in meaning in paragraphs (a) and (d). Delete paragraph (g). In paragraph (e), the remedies described in subparagraphs (2) and (3) are available to EMCORE not the Government. In paragraph (f), note 5 applies.)

DFARS 252.203-7002 REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS (SEP 2013)

DFARS 252.203-7003 AGENCY OFFICE OF THE INSPECTOR GENERAL (AUG 2019) (Applies when FAR 52.203-13 applies to this Contract.)

DFARS 252.203-7004 DISPLAY OF FRAUD HOTLINE POSTER(S) (AUG 2019) (Applies in lieu of FAR 52.203-14. Applies if this Contract exceeds the threshold at DFARS 203.1004(b)(2)(ii)).

DFARS 252.204-7009 LIMITATIONS ON THE USE AND DISCLOSURE OF THIRD PARTY CONTRACTOR REPORTED CYBER INCIDENT INFORMATION (OCT 2016) (Applies if this Contract involves services that include support for the Government’s activities related to safeguarding covered defense information and cyber incident reporting.)

DFARS 252.204-7012 SAFEGUARDING COVERED DEFENSE INFORMATION AND CYBER INCIDENT REPORTING (DEC 2019) (Applies if this Contract is for operationally critical support or for which performance will involve covered defense information. Seller shall furnish EMCORE copies of notices provided to the Contracting Officer at the time such notices are sent. Seller shall also furnish EMCORE copies of any reports Seller receives from its lower tier subcontractors.)

DFARS 252.204-7015 NOTICE OF AUTHORIZED DISCLOSURE OF INFORMATION FOR LITIGATION SUPPORT (MAY 2016)

DFARS 252.204-7018 PROHIBITION ON THE ACQUISITION OF COVERED DEFENSE TELECOMMUNICATIONS EQUIPMENT OR SERVICES (DEC 2019) (Copies of reports provided by Seller under this clause will be provided to EMCORE.)

DFARS 252.204-7020 NIST SP 800-171 DOD ASSESSMENT REQUIREMENTS (NOV 2020)

DFARS 252.211-7003 ITEM UNIQUE IDENTIFICATION AND VALUATION (MAR 2016) (Applies if this Contract requires the Work to contain unique item identification.” Items subject to unique item identification are identified elsewhere in this Contract. All reports required to be submitted under this clause shall be submitted to EMCORE. “Government” means “EMCORE” except in the definition of “issuing agency” in paragraph (a).)

DFARS 252.215-7008 ONLY ONE OFFER (JUL 2019) (Applies if this subcontract exceeds the simplified acquisition threshold.)

DFARS 252.215-7010 REQUIREMENTS FOR CERTIFIED COST OR PRICING DATA AND OTHER DATA THAN CERTIFIED COST OR PRICING DATA (JUL 2019) This clause applies in lieu of FAR 52.215-20. Contracting Officer means “EMCORE” Paragraph (b)(ii)(E) is deleted.

DFARS 252.219-7003 SMALL BUSINESS SUBCONTRACTING PLAN (DoD CONTRACTS) - BASIC (DEC 2019) (Applies if FAR 52.219-9 applies to this Contract.)

DFARS 252.222-7006 RESTRICTION ON THE USE OF MANDATORY ARBITRATION AGREEMENTS (DEC 2010) (The certification in paragraph (b)(2) applies to both Seller in its own capacity and to Seller’s covered subcontractors.)

DFARS 252.223-7001 HAZARD WARNING LABELS (DEC 1991) (Applies if this Contract requires the delivery of hazardous materials.)

DFARS 252.223-7008 PROHIBITION OF HEXAVALENT CHROMIUM (JUN 2013) (Note 2 applies.)

DFARS 252.223-7999 ENSURING ADEQUATE COVID-19 SAFETY PROTOCOLS FOR FEDERAL CONTRACTORS (DEVIATION 2021-O0009) (OCT 2021) (Available as of the date of this Contract at <https://www.acq.osd.mil/dpap/policy/policyvault/USA001998-21-DPC.pdf>) (Applies if this Contract exceeds the simplified acquisition threshold in effect at the time of award of this Contract and Seller is required to provide services performed in whole or in part within the United States or its outlying areas.)

DFARS 252.225-7001 BUY AMERICAN AND BALANCE OF PAYMENTS PROGRAM (DEC 2017) (Applies if the Work contains other than domestic components. Applies in lieu of FAR 52.225-1.)

DFARS 252.225-7007 PROHIBITION ON ACQUISITION OF CERTAIN ITEMS FROM COMMUNIST CHINESE MILITARY COMPANIES (DEC 2018) Applies if this contract is for an item on the United States Munitions List or the 600 series of the Commerce Control List.)

DFARS 252.225-7009 RESTRICTION ON ACQUISITION OF CERTAIN ARTICLES CONTAINING SPECIALTY METALS (DEC 2019) (Applies if the Work to be furnished contains specialty metals. Paragraph (d) is deleted.)

DFARS 252.225-7012 PREFERENCE FOR CERTAIN DOMESTIC COMMODITIES (DEC 2017)

DFARS 252.225-7013 DUTY-FREE ENTRY (APR 2020) (Notes 1 and 2 apply in subparagraph (c). Applies in lieu of FAR 52- 225-8. The prime contract number and identity of the Contracting Officer are contained elsewhere in this contract. If this information is not available, contact EMCORE's authorized representative.)

DFARS 252.225-7016 RESTRICTION ON ACQUISITION OF BALL AND ROLLER BEARINGS (JUN 2011) (Applies if Work supplied under this Contract contains ball or roller bearings. Note 1 applies to subparagraph (a) (2).)

DFARS 252.225-7021 TRADE AGREEMENTS (SEP 2019) (Applies if the Work contains other than U.S.-made, qualifying country, or designated country end products. Applies in lieu of FAR 52.225-5.)

DFARS 252.225-7033 WAIVER OF UNITED KINGDOM LEVIES (APR 2003) (Applies if this Contract is with a United Kingdom firm. Note 2 applies. Note 1 applies to the second sentence of paragraph (a).)

DFARS 252.225-7043 ANTI-TERRORISM/FORCE PROTECTION POLICY FOR DEFENSE CONTRACTORS OUTSIDE THE UNITED STATES (JUN 2015) (Applies where Seller will be performing or traveling outside the U.S. under this Contract. For paragraph (c), see applicable information cited in DFARS 225.7401.)

DFARS 252.225-7048 EXPORT-CONTROLLED ITEMS (JUN 2013)

DFARS 252.225-7052 RESTRICTION ON THE ACQUISITION OF CERTAIN MAGNETS, TANTALIM, AND TUNGSTEN (OCT 2020) (Applies except where an exception in paragraph (c) applies.)

DFARS 252.226-7001 UTILIZATION OF INDIAN ORGANIZATIONS, INDIAN-OWNED ECONOMIC ENTERPRISES AND NATIVE HAWAIIAN SMALL BUSINESS CONCERNS (APR 2019) (Applies if this Contract exceeds \$500,000. Note 2 applies to paragraph (c) the first time "Contracting Officer" appears. In subparagraph (f)(1) "Contractor" shall mean "EMCORE." EMCORE shall have no liability to Seller for any incentive payment under this clause unless and until the Government provides said incentive payment to EMCORE.)

DFARS 252.227-7013 RIGHTS IN TECHNICAL DATA -- NONCOMMERCIAL ITEMS (FEB 2014) (Applies in lieu of FAR 52.227- 14.)

DFARS 252.227-7014 RIGHTS IN NONCOMMERCIAL COMPUTER SOFTWARE AND NONCOMMERCIAL COMPUTER SOFTWARE DOCUMENTATION (FEB 2014) (Applies in lieu of FAR 52.227-14.)

DFARS 252.227-7015 TECHNICAL DATA -- COMMERCIAL ITEMS (FEB 2014) (Applies to commercial items delivered under this Contract)

DFARS 252.227-7016 RIGHTS IN BID OR PROPOSAL INFORMATION (JAN 2011)

DFARS 252.227-7019 VALIDATION OF ASSERTED RESTRICTIONS - COMPUTER SOFTWARE (SEP 2016)

DFARS 252.227-7025 LIMITATIONS ON THE USE OR DISCLOSURE OF GOVERNMENT-FURNISHED INFORMATION MARKED WITH RESTRICTIVE LEGENDS (MAY 2013) (For paragraph (c)(1), Note 3 applies.)

DFARS 252.227-7026 DEFERRED DELIVERY OF TECHNICAL DATA OR COMPUTER SOFTWARE (APR 1988) (Note 1 applies.)

DFARS 252.227-7027 DEFERRED ORDERING OF TECHNICAL DATA OR COMPUTER SOFTWARE (APR 1988) (Note 1 applies to the first sentence.)

DFARS 252.227-7028 TECHNICAL DATA OR COMPUTER SOFTWARE PREVIOUSLY DELIVERED TO THE GOVERNMENT (JUN 1995) (The definitions for "contract" and "subcontract" shall not apply herein, except for the first reference to contract. Note 4 applies.)

DFARS 252.227-7030 TECHNICAL DATA - WITHHOLDING OF PAYMENT (MAR 2000) (Notes 1 and 2 apply to (a); Note 4 applies to (b).)

DFARS 252.227-7037 VALIDATION OF RESTRICTIVE MARKINGS ON TECHNICAL DATA (SEP 2016)

DFARS 252.227-7038 PATENT RIGHTS - OWNERSHIP BY THE CONTRACTOR (LARGE BUSINESS) (JUN 2012) (Applies if (1) Seller is not small business or nonprofit organization subject to FAR 52.227-11, and (2) the Contract is for experimental, developmental, or research Work.)

DFARS 252.228-7005 MISHAP REPORTING AND INVESTIGATION INVOLVING AIRCRAFT, MISSILES, AND SPACE LAUNCH VEHICLES (NOV 2019) (In paragraph (a) note 5 applies. In paragraph (b) note 3 applies.)

DFARS 252.231-7000 SUPPLEMENTAL COST PRINCIPLES (DEC 1991)

DFARS 252.232-7017 ACCELERATING PAYMENTS TO SMALL BUSINESS SUBCONTRACTORS - PROHIBITION ON FEES AND CONSIDERATION (APR 2020) (Note 1 applies.)

DFARS 252.235-7003 FREQUENCY AUTHORIZATION - BASIC (MAY 2014) (Applies if this Contract requires developing, producing, constructing, testing, or operating a device requiring a frequency authorization. Note 2 applies.)

DFARS 252.239-7018 SUPPLY CHAIN RISK (FEB 2019)

DFARS 252.243-7001 PRICING OF CONTRACT MODIFICATIONS (DEC 1991) (Applies if this is a fixed price contract).

DFARS 252.244-7000 SUBCONTRACTS FOR COMMERCIAL ITEMS (OCT 2020).

DFARS 252.246-7003 NOTIFICATION OF POTENTIAL SAFETY ISSUES (JUN 2013) (Applies if this Contract is for (i) parts identified as critical safety items; (ii) systems and subsystems, assemblies, and subassemblies integral to a system; or (iii) repair, maintenance, logistics support, or overhaul services for systems and subsystems,

assemblies, subassemblies, and parts integral to a system. Seller shall provide notifications to EMCORE and the contracting officer.)

DFARS 252.246-7007 CONTRACTOR COUNTERFEIT ELECTRONIC PART DETECTION AND AVOIDANCE SYSTEM (AUG 2016) (Paragraphs (a) through (e) apply. In paragraph (c)(2) Note 3 applies. In paragraph (c)(6) Note 6 applies.)

DFARS 252.246-7008 SOURCES OF ELECTRONIC PARTS (MAY 2018) (Applies if this contract is for electronic parts or assemblies containing electronic parts, unless Seller is the original manufacturer. Note 1 applies except in paragraph (d). Note 2 applies.)

DFARS 252.247-7023 TRANSPORTATION OF SUPPLIES BY SEA - BASIC (FEB 2019) (Applies in lieu of FAR 52.247-64 in all Contracts for ocean transportation of supplies. In the first sentence of paragraph (g), insert a period after "Contractor" and delete the remainder of the sentence. Paragraph (f) and (g) shall not apply if this Contract is at or below the simplified acquisition threshold. Notes 1 and 2 apply to paragraph (g).)

DFARS 252.249-7002 NOTIFICATION OF ANTICIPATED CONTRACT TERMINATION OR REDUCTION (JUN 2020) (Applies if this Contract is equal or exceeds the threshold specified in DFARS 249.7003(c)(2)(i) and 249.7003(c)(2)(ii)). Note 2 applies. Delete paragraph (d)(1) and the first five words of paragraph (d)(2).)

G. CERTIFICATIONS AND REPRESENTATIONS

Seller acknowledges that EMCORE will rely upon Seller certifications and representations, including representations as to business size and socio-economic status as applicable, contained in this clause and in any written offer, proposal or quote, or company profile submission, which results in award of a contract to Seller. By entering into such contract, Seller republishes the certifications and representations submitted with its written offer, including company profile information, and oral offers/quotations made at the request of EMCORE, and Seller makes those certifications and representations set forth below. Seller shall immediately notify EMCORE of any change of status regarding any certification or representation.

FAR 52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (Applicable to solicitations and contracts the threshold specified in FAR 3.808 on the date of subcontract award)

1. Definitions. As used in this provision-- "Lobbying contact" has the meaning provided at 2 U.S.C. 1602(8). The terms "agency," "influencing or attempting to influence," "officer or employee of an agency," "person," "reasonable compensation," and "regularly employed" are defined in the FAR clause of this solicitation entitled "Limitation on Payments to Influence Certain Federal Transactions" (52.203-12).
2. Prohibition. The prohibition and exceptions contained in the FAR clause of this solicitation entitled "Limitation on Payments to Influence Certain Federal Transactions" (52.203-12) are hereby incorporated by reference in this provision.
3. Certification. Seller hereby certifies to the best of its knowledge and belief that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on its behalf in connection with the awarding of this contract.
4. Disclosure. If any registrants under the Lobbying Disclosure Act of 1995 have made a lobbying contact on behalf of the offeror with respect to this contract, Seller shall complete and submit, with its offer, to EMCORE OMB Standard Form LLL, Disclosure of Lobbying Activities, to provide the name of the registrants. Seller need not report regularly employed officers or employees of the offeror to whom payments of reasonable compensation were made.

5. Penalty. Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by 31 U.S.C. 1352. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure required to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

FAR 52.209-5 Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters

1. Seller certifies, to the best of its knowledge and belief, that Seller and/or any of its Principals—
 - a. Are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;
 - b. Have not, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or State antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property;
 - c. Are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph 1.b of this provision; and
 - d. Have not, within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds the threshold at 9.104-5(a)(2) for which the liability remains unsatisfied.
2. Federal taxes are considered delinquent if both of the following criteria apply: (i) The tax liability is finally determined. The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge to the liability, the liability is not finally determined until all judicial appeal rights have been exhausted. (ii) The taxpayer is delinquent in making payment. A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.
3. For purposes of the certification at paragraph 1 above, “Principal” means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a division, or business segment; and similar positions).
4. Seller certifies, to the best of its knowledge and belief, that Seller has not, within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.
5. Seller shall provide immediate written notice to EMCORE if, at any time prior to contract award, Seller learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
6. The certification in paragraph 1 above is a material representation of fact upon which reliance was placed when making award. If it is later determined that Seller knowingly rendered an erroneous certification, in addition to other remedies available, EMCORE may terminate this contract for default.

FAR 52.222-22 Previous Contracts and Compliance Reports

1. Seller represents that if Seller has participated in a previous contract or subcontract subject to the Equal Opportunity clause (FAR 52.222-26):
 - a. Seller has filed all required compliance reports and
 - b. that representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards.
2. Paragraph 1 applies only to the extent (1) Seller performs Work in the United States, or (2) recruits employees in the United States to Work on this Contract.

FAR 52.222-25 Affirmative Action Compliance

1. Seller represents: (1) that Seller has developed and has on file at each establishment, Affirmative Action programs required by the rules and regulations of the Secretary of Labor (41 CFR 60-1 and 60-2), or (2) that in the event such a program does not presently exist, Seller will develop and place in operation such a written Affirmative Action Compliance Program within one-hundred twenty (120) days from the award of this Contract.
2. Paragraph 1 applies only to the extent (1) Seller performs Work in the United States, or (2) recruits employees in the United States to Work on this Contract.

FAR 52.204-24 / 52.204-25 Representations Regarding Certain Telecommunications and Video Surveillance Services or Equipment

1. Seller represents that it will not provide “covered telecommunications equipment or services” to EMCORE in the performance of this Contract.
2. Seller represents that it does not use “covered telecommunications equipment or services,” or use any equipment, system, or service that uses “covered telecommunications equipment or services.”
3. “Covered telecommunications equipment or services” has the meaning provided in FAR Clause 52.204-25 (AUG 2020).
4. If, at any time in the future, Seller identifies any breach of either of the above representations in connection with this Contract, or Seller is notified of such by a lower-tier subcontractor at any tier or by any other source, Seller shall have the following reporting obligations to EMCORE, in addition to any other applicable reporting obligations:
 - (i) Immediately upon such identification by, or notification to, Seller, Seller shall report to EMCORE: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.
 - (ii) Within 5 business days of such identification by, or notification to, Seller, Seller shall report to EMCORE: Any further available information about mitigation actions undertaken or recommended. In addition, Seller shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.
5. Seller shall obtain substantially similar representations from all vendors/suppliers of Seller in support of the Contract, and shall also require those vendors/suppliers to obtain substantially similar representations from all of their vendors/suppliers at all tiers.

