

GENERAL TERMS AND CONDITIONS

Applicable to Frontier Electronic Systems Corporation Purchase Orders and Subcontracts

1. **ORDER ACCEPTANCE.** The purchase order (or subcontract) and all documents incorporated therein by reference, together with any subsequent written changes issued in writing by Frontier Electronic Systems Corporation (hereafter "FES") constitute the entire agreement between the Parties. Accordingly, any terms or conditions proposed by Seller that are inconsistent with or in addition to the terms and conditions contained in the order shall be void and of no effect unless specifically agreed to by FES, in writing, and incorporated into the order prior to performing. Failure to provide an acknowledgment pursuant to Article 2 below will be construed by FES to mean that the Seller agrees to meet all terms and conditions, specifications, delivery dates, and other requirements set forth in the order.

2. **ACKNOWLEDGMENT.** Except in conjunction with a formal subcontract, written acknowledgment of a purchase order is required within three (3) working days after receipt by the Seller. FAX or mail acknowledgment to the attention of FES Buyer designated on the front page of the order.

3. **AUTHORIZED PERSONNEL.** Only the Buyer designated on the front page of the order or other representative(s) designated in writing by FES shall be authorized to redirect the effort or in any way amend any part of the order

4. **PRICE.** Unless specified elsewhere in the order, all prices indicated are firm fixed price. Articles shipped may not be invoiced at higher prices than shown on the order. Seller warrants and represents that the price or prices specified in the order do not exceed Seller's currently established selling prices for the same or substantially similar items whether to the Government or to any other industrial customer for similar material or services in like quantities.

5. **PAYMENTS.** FES shall, upon receipt of a proper invoice, subject to any withholding or set-off provisions entitled to FES under the terms of the order, pay the Seller the amount specified in the order for the item(s) accepted within the payment terms and time specified on the cover page of the order. In computing payment discounts, if any, such time shall commence upon FES's receipt of a proper invoice or receipt and acceptance of items delivered, whichever is later.

6. **DELIVERY.** Time is of the essence in the Seller's performance of the order. Should it be necessary, partial shipments and payments are permitted as long as the order identifies individual quantities and unit prices. If the Seller fails to make delivery of any goods or services in the manner required or by the delivery date set forth in the order, FES may, by written notice or Change Order to Seller, claim an equitable adjustment, terminate the order in whole or in part, or pursue any other remedies permitted by law.

7. **CHANGES.** FES reserves the right, by written notice or change order issued hereunder, to make changes in descriptions of items (including part numbers), drawings, designs, specifications, type of samples, method of shipment, packaging, place of delivery, or quality requirements of items ordered. Upon receipt, Seller agrees to proceed diligently in the performance of the order. To the extent feasible, any impact of the change required on the order's price, schedule, or other terms and conditions will be mutually addressed at the time of issuance. However, should this not be the case, the Seller agrees to assert its right to an equitable adjustment within seven (7) working days after receipt of a duly authorized change order.

8. **TERMINATION FOR CONVENIENCE.** If the order is for supplies or services in support of a Government contract, FES reserves the right to terminate performance of work under the order, in whole or in part, under the provisions of FAR 52.249-2 (Termination for

Convenience of the Government) except for paragraphs (c) and (i), or DFARS 252.211-7000 (Termination--Commercial Items), in effect on the date of the order and as incorporated by reference hereto. With regard to definitions therein, "Contractor" shall mean the Seller, and "Government" and "Contracting Officer" means FES. The period for submitting Seller's termination settlement proposal is reduced to six (6) months and for requesting an equitable adjustment to 45 days.

9. **TERMINATION FOR DEFAULT.** (A) FES may, by written notice to Seller, cancel the order in whole or in part -- (i) if Seller fails to deliver goods or to perform services within the time specified by the order or any duly authorized written extension; (ii) if Seller fails to perform any other provision of the order or fails to make progress, so as to endanger any other provision of the order, and, in either of these two circumstances, does not cure the failure within ten (10) days after receipt of notice from FES specifying the failure; or (iii) in the event of Seller's suspension of business, insolvency, institution of bankruptcy, liquidation proceedings by or against Seller, appointment of a trustee or receiver for Seller's property or business, or an assignment, reorganization or arrangement by Seller for the benefit of its creditors. (B) Seller agrees to continue work not cancelled. (C) If FES cancels the order in whole or in part, in addition to remedies provided by law, FES may require Seller to transfer title and deliver to FES, as directed by FES, any (i) completed goods, and (ii) any partially completed goods and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereafter collectively "manufacturing materials") that the Seller has specifically produced or acquired for the cancelled portion of the order. Upon direction from FES, Seller will also protect and preserve property in its possession in which FES or the Government has an interest. (D) FES will pay the contract price for goods or services accepted. Payment for manufacturing materials accepted by FES and for the protection and preservation of property will be at a price determined in accordance with Article 8 above, except that Seller will not be entitled to profit. FES may withhold from any amount due under the order any sum FES determines necessary to protect FES or the Government against loss because of outstanding liens or claims of former lien holders. (E) If, after cancellation, it is determined that Seller was not in default, the rights and remedies of the parties will be as if the order had been terminated in accordance with Article 8 above (Termination for Convenience).

10. **PACKAGING AND PACKING.** Unless specified elsewhere in the order or referenced attachments, normal commercial packaging and packing shall be utilized to assure receipt of acceptable merchandise. No packing or carting charges are authorized without written approval. Seller shall mark all packages with the Purchase Order number and, as applicable, any appropriate hazardous material notices pursuant to Article 26 below.

11. **INSPECTION AND ACCEPTANCE.** All articles shipped and work performed are subject to final FES inspection and acceptance at FES facility unless specified elsewhere in the order. Title will not pass from the Seller to FES until final acceptance by FES. Any deliverable found to be in noncompliance prior to acceptance shall be returned, at the Seller's expense, for repair or replacement. FES reserves the right to an equitable adjustment against the Seller for any damages resulting from such delays in Seller's performance.

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12. **WARRANTY.** (1) To the extent supplies or services furnished under the order are covered by a commercial warranty, the Seller agrees to provide no less than the most favorable commercial warranty the Seller provides to any customer for such supplies or services. The Seller shall provide the Buyer with a copy of the warranty for inclusion in the order's official file records. (2) For supplies or services that are not covered by a commercial warranty, the Seller warrants that all articles, including components and raw materials therein, will conform with all pertinent design or performance specifications or drawings, and will be free from defects in material and workmanship, including latent defects, for a period of eighteen months after final acceptance by FES or one-year after FES delivers the end item to its customer, whichever is earlier. When correction or replacement of defective goods is required by FES, Seller shall proceed with reasonable promptness to perform such correction or replacement at Seller's expense, including transportation. Seller's warranty shall survive acceptance and payment by FES and shall run to FES, its successors, assigns, and customers. The Seller shall not be held responsible for consequential damages.

13. **DATA RIGHTS.** In the event the order requires the delivery of technical data and/or computer software, all such noncommercial data shall be construed to be delivered with "unlimited rights" as defined under FAR 52.227-14 unless expressly agreed to otherwise under the terms of the order. At time of delivery, the Seller shall also certify that, to the best of the Seller's knowledge and belief, the data is complete, accurate, and will comply with the requirements of the order.

14. **ASSIGNMENT.** Seller shall not assign or sublet the work to be done hereunder without FES written consent, but this provision shall not restrict Seller in the procurement of components, parts, or materials unless specified elsewhere in the order or its attachments. If Seller is not a manufacturer, Seller agrees to require compliance with all the provisions of the order by its manufacturer the same as though such manufacturer was the Seller hereunder and if the order is terminated for FES convenience under Article 8 above. All claims for money due or to become due from FES shall be subject to deduction for any set-off, recoupment or counterclaim for any present or future claim which FES may have against the Seller whether such arose before or after any assignment by Seller of any claims for money due hereunder.

15. **PROPERTY.** Unless otherwise agreed in writing, all designs, patterns, tools, dies, jigs, fixtures, drawings, test equipment, or materials furnished "as is" by FES in connection with the order shall be and remain the property of FES and shall not be used in any manner for any party other than FES. Further, in the event unique tools, dies, jigs, fixtures, test equipment, or other items are required specifically and solely for performance of the order and for which the cost of such items has been included in computing the price of the deliverables specified in the order shall, upon payment thereof, become the property of FES. All such property shall be segregated from Seller's property and adequately identified as FES property while in Seller's custody or control. Such property shall be used at Seller's risk and be kept insured at Seller's expense in an amount equal to the replacement cost with loss payable to FES. Such property shall be returned to FES upon demand in the same condition as originally received, reasonable wear and tear excepted. FES shall have no obligation to furnish or pay for tools, dies, jigs, or equipment of any kind required for Seller's performance of the order, unless otherwise stated in the order.

16. **NONDISCLOSURE.** Seller shall keep confidential all specifications, drawings, or other data or information furnished by FES or prepared by Seller specifically in connection with the performance of

the order, together with all copies, and shall not make or permit copies to be made except with FES written consent and except as required for Seller's adequate performance of the order. At the request of FES, Seller shall promptly deliver to FES all drawings, specifications, and other data or papers furnished by FES or prepared by Seller in connection herewith together with all copies in Seller's possession or control and shall make no further use, either directly or indirectly, of any such drawings, specifications, data, other papers, or of any information derived therefrom in the performance of work for any other customer except with FES prior written consent.

17. **PROCUREMENT INTEGRITY.** Seller shall comply with all Federal, State, or local laws, rules, orders, or regulations as applicable in the performance of the order. With regard to this order, Seller also warrants that they have complied, and will continue to comply, with all respects to the "Procurement Integrity Act" as implemented under FAR 3.104.

18. **GOVERNING LAW.** The order shall be governed in all respects by the laws of the State of Oklahoma. Any provision herein found by a court of competent jurisdiction to be invalid, illegal, or otherwise unenforceable shall be invalid only with respect to the offending provision and shall not affect the other terms and conditions herein.

19. **REMEDIES AND WAIVERS.** The rights and remedies of the parties set forth in the order are cumulative and in addition to any other rights or remedies that they may have at law or in equity. No waiver of a breach of any provision of the order shall constitute a waiver of continuing or future breach of such provision or of any other provisions herein.

20. **DISPUTES.** Both parties shall exercise their best efforts to settle all disputes arising under the order by mutual agreement. If an agreement can not be reached on any request for equitable adjustment, claim, appeal or action arising under or relating to this agreement, the parties shall be free to exercise any legal or equitable remedies which may be available under the order and the laws in accordance with with the clause at FAR 52.233-1. However, pending a decision, appeal, judgment, or the settlement of any dispute arising under, out of, or in conjunction with the order (except with respect to any cancellation or termination of effort), the Seller shall proceed diligently with the performance of the order.

21. **CERTIFICATIONS AND REPRESENTATIONS.** All certifications and representations, which the Seller has submitted to FES in connection with the award of the order, are incorporated by reference and have been relied upon by FES as part of the basis on which the order was awarded. Seller agrees to advise FES promptly, and in writing, should there be any change in Seller's status with respect to the matters covered by the certifications and representations provided.

22. **SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS SUBCONTRACTING PLAN.** Pursuant to FAR Part 19, if the Seller submitted or is otherwise required to have a Small Business and Small Disadvantaged Business Subcontracting Plan in connection with the award of the order, such plan is incorporated by reference. This Article is applicable only to orders over \$650,000 to large businesses.

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23. **GOVERNMENT ACCESS.** Seller agrees, at no additional cost, to provide the Government, their authorized representatives, and/or FES access to the Seller's facility at all reasonable times in order to perform periodic surveillance and/or inspection. Unless otherwise notified or unless specified elsewhere in the order, shipment of product is NOT withheld nor is prior authorization to ship required. By acceptance of the order, the Seller further agrees to flow this requirement to each of its suppliers.

24. **INDEMNIFICATION.** The Seller shall indemnify, defend, protect, and hold harmless FES, its officers, employees, and agents from and against all cost, losses, expense, damages, claims, suits, or any liability whatsoever, including attorney's fees, arising out of or in connection with the work to be performed hereunder, or any act or omission of Seller, its agents, employees, or subcontractors.

25. **RATED ORDER.** If a Defense Priorities and Allocations System (DPAS) priority rating appear on the first page of the order, the order is a rated order certified for national defense use and the Seller is required to follow all the provisions of the DPAS regulation (15 CFR 700).

26. **HAZARDOUS MATERIAL NOTIFICATION.** In accordance with Occupational Safety and Health Administration requirements, the Seller agrees to provide Material Safety Data Sheets (MSDS) with the delivery of any goods which have or contain any hazardous characteristics, materials, substances, etc. Failure of the Seller to provide the MSDS may, at FES sole discretion, result in (i) the withholding of payment, including off-sets against subsequent deliverables if necessary, until the MSDS are received, (ii) refusal to take delivery from the carrier, or (iii) a requirement for the Seller to remove the goods from FES premises at the Seller's expense.

27. **ORDER OF PRECEDENCE.** Should any of the various parts of the order be found to be inconsistent, the following order of precedence will apply: (i) special terms and conditions; (ii) the terms and conditions in this form; (iii) specifications; and (iv) all other attachments incorporated in the order by reference. Should the purchase order be a part of a formal subcontract, the Order of Precedence clause under the subcontract shall govern in lieu of this Article.

28. **GOVERNMENT FLOWDOWN CLAUSES.** The following clauses are incorporated by reference from the Federal Acquisition Regulations (FAR) and Department of Defense Supplement (DFARS) and apply to the extent indicated. Unless otherwise provided, the clauses are those in effect as of the date of the order. Upon request, FES shall make available to the Seller (i) the full text of any such clause herein (including its date), and (ii) the particulars of any clause specified under FES prime contract and/or higher-tier subcontract as applicable having a bearing upon any specific order.

At no time shall privity of contract exist between the Seller and the United States Government (or a higher-tier contractor) with regard to the order. Accordingly, all such clauses shall, with respect to the rights, duties, and obligations of the parties hereto, be interpreted and construed in such a manner as to recognize and give effect to: (i) the contractual relationship between FES and the Seller under the order, (ii) the rights of the higher-tier subcontractor, if applicable, with respect thereto under any higher-tier order, and (iii) the rights of the Government with respect thereto under the prime contract from which such clauses are derived. Where rights, duties, and obligations are expressed as applying to the "Government" or "Contracting Officer," they shall generally apply by reason of the flow-down to FES; and where expressed as applying to the "Contractor" or "Subcontractor," they shall generally apply by reason of the flow-down to the Seller. As an exception to such generalizations, some clause preambles explicitly address the appropriate relationships

(e.g., FAR 52.215-2, Audit--Negotiations), as such, the definition of the parties thereto are to be accorded precedence.

The DFARS contract clauses identified below: (i) are applicable only if the order results from a prime contract or higher-tier subcontract with FES that originates from a Department of Defense contracting activity, (ii) shall supersede any FAR contract clauses of the same subject matter to any extent inconsistent therewith, and (iii) are subject to any specific Article otherwise addressed in the front of this form.

Clauses applicable to all orders \$100,000 or less (unless the conditions of the order exempt the applicability of the clause, e.g., no hazardous material involved or no data is required as a deliverable under the order):

52.209-6	Protecting the Government's Interest when Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment. This clause is required for first-tier subcontractor.
52.211-15	Defense Priority and Allocation Requirements.
52.222-4	Contract Work Hours and Safety Standards Act--Overtime Compensation.
52.222-21	Prohibition of Segregated facilities.
52.222-22	Previous Contracts and Compliance Reports.
52.222-26	Equal Opportunity (subparagraph (b)(1) through (11).
52.222.35	Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans.
52.222-50	Combating Trafficking in Persons.
52.222-41	Service Contract Act of 1965.
52.225-1	Buy American Act.
52.225-13	Restrictions on Certain Foreign Purchases.
52.227-14	Rights in Data--General. This clause is applicable only if technical data and/or computer software is to be originated, developed, or delivered under the order. If so, all data shall be construed to be delivered with unlimited rights unless otherwise agreed to under a special provision to the order.
52.242.15	Stop Work Order.
<u>52.245-1</u>	<u>Government Property</u>
52.247-63	Preference for U.S.-Flag Air Carriers.
52.247-64	Preference for Privately-Owned U.S.-Flag Commercial Vessels. Required except for orders described in paragraph (e)(4).
52.249-1	Termination for Convenience of the Government.
252.203-7001	Prohibition on persons convicted of fraud or other defense-contract related (g).

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252.211-7003	Item Identification and Valuation. This clause is required if paragraph (c) (1) of this clause applies.	52.215-14	Integrity of Unit Prices (excluding paragraph(c)).
252.215-7000	Pricing Adjustments.	52.222-36	Affirmative Action for Workers with Disabilities.
252.227-7013	Rights in Technical Data and Computer Software. The applicability of this clause is the same as for 52.227-14 above.	52.227-1	Authorization and Consent including Alt 1.
Additional clauses applicable to orders over \$650,000:			
252.227-7018	Rights in noncommercial technical data and computer software-Small Business Innovation Research (SBIR) Program.. The applicability of this clause is the same as for 52.227-14 above.	52.215-10	Price Reduction for Defective Cost or Pricing Data.
		52.215-11	Price Reduction for Defective Cost or Pricing Data – Modifications.
		52.215-24	Subcontractor Cost or Pricing Data.
252.227-7019	Validation of asserted restrictions-Computer software. The applicability of this clause is the same as for 52.227-14 above.	52.215-12	Subcontractor Cost or Pricing Data.
		52.215-13	Subcontractor Cost or Pricing Data-Modifications
252.227-7037	Validation of Restrictive Markings on Technical Data. The applicability of this clause is the same as for 52.227-14 above.	52.215-15	Pension Adjustments and Asset Reversions
252.246-7003	Notification of Potential Safety Issues.	In the event FES contract or higher-tier subcontract originated from the National Aeronautics and Space Agency (NASA), as reflected on the front page of the order, all references to DFARS contract clauses identified above shall be deleted and the following NASA FAR Supplement (NFS) clauses are added by reference in place thereof. The NFS clauses shall supersede any FAR contract clauses of the same subject matter to any extent inconsistent therewith, and are subject to any specific Article otherwise addressed in the front of this form.	
252.247-7023	Transportation of supplies by sea.		
252.247-7024	Notification of Transportation of Supplies by Sea.		
Additional clauses applicable to orders over \$100,000:			
52.203-6	Restrictions on Subcontractor Sales to the Government.	1852.204-76	Security requirements for unclassified information technology resources. This clause is required for any printing, duplicating, and copying in excess of the limits specified in paragraph (c) of this clause
52.203-7	Anti-kickback Procedures (excluding paragraph (c) (1)). FES may withhold from sums owed Seller the amount of any kickback paid by Seller or its suppliers at any tier if (a) the Contracting Officer so directs, (b) the Contracting Officer has offset the amount of such kickback against money owed FES under the prime contract.	1852.209-70	Product Removal from Qualified Products List.
		1852.211-70	Packaging, handling, and transportation. This clause is required for items that will become components of deliverable Class I, II or III items.
52.203-12	Limitation on Payments to Influence Certain Federal Transactions.	1852.223-70	Safety and Health. This clause applies only if the order (i) exceeds \$1,000,000 or (ii) regardless of the dollar amount, involves the use of hazardous materials or operations.
52.222-36	Affirmative Action for Workers with Disabilities. Required	1852.219-74	Use of Rural Area Small Businesses.
52.222-37	Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era, and other eligible Veterans.	1852.223-72	Potentially Hazardous Items. Seller shall, to the extent applicable, identify all items considered to be hazardous under paragraph (a). Unless stipulated to the contrary by the Seller, FES shall presume no hazardous items are incorporated.
52.223-14	Toxic Chemical Release Reporting except paragraph (e).	1852.223-74	Drug-and Alcohol-free workforce. This clause is required in which work is performed by an employee in a sensitive position, except subcontracts for commercial items.
52.227-1	Authorization and Consent.	1852.227-14	Rights in Data--General. This clause is applicable only if technical data and/or computer software is to
52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement. A concurrent copy of each notice sent to the Government will be sent to FES.		
52.204-2	Security Requirements. This clause applies only if access to classified material is required in the performance of the order.		
52.215-2	Audit and Records—Negotiations.		

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be originated, developed, or delivered under the order.

- 1852.227-70 New Technology.
- 1852.227-72 Designation of New Technology Representative and Patent Representative.
- 1852.227-85 Invention reporting and rights-Foreign. This clause is required where the performance of research, experimental design, engineering, or developmental work is contemplated.
- 1852.234-2 Earned Value Management System. This clause is required for subcontracts with an estimated dollar value of \$50M or more. Subcontracts with an estimated \$50M or less shall comply with the requirements of this clause except for the requirement in paragraph (b), to obtain compliance/validation.
- 1852.235-70 Center for Aerospace Information. This clause applies only if the order involves research and development.
- 1852.237-72 Access to Sensitive Information. This clause is required for all parties that may involve access to sensitive information.
- 1852.237-73 Release of sensitive information. This clause is required for all parties that may require the furnishing of sensitive information.
- 1852.244-70 Geographic Participation in the Aerospace Program. This clause applies only if the order exceeds \$100,000.
- 1852.246-73 Manned Space Flight Item.
- 1852.247-71 Protection of the Florida manatee
- 1852.252-70 Compliance with NASA FAR Supplement.