

## **EB\_NNS SPECIALTERMS**

### **SPECIAL CONTRACT CLAUSES INCORPORATED WHEN REQUIRED**

#### **BY ELECTRIC BOAT, NEWPORT NEWS, OR OTHER SHIPBUILDER CONTRACT:**

To the extent the following clauses are incorporated as required by Prime or upper tier Subcontract, they are incorporated into this order.

#### **41.0 PUBLIC RELEASE OF INFORMATION (INCLUDING NNPI)**

(1) Information, data, photographs, sketches, advertising, displays, promotional brochures, or other materials related to Work under this Purchase Order, which Seller desires to publish, display, or release internally, to other contractors, to Government agencies, or to the public, requires prior Buyer approval and shall be transmitted to the Buyer at least eight weeks prior to the desired printing or release date. Information and technical data described above may NOT be transmitted over the internet (except in certain cases when suitably encrypted and prior written approvals have been obtained) or posted to an internet home page. Posting information and/or technical data subject to export control on the Web is to be treated as tantamount to public disclosure. This includes descriptive or promotional material which links or relates, directly or indirectly, Seller's product line, manufacturing facilities, or manufacturing capabilities to performance of Naval Nuclear Propulsion work. As part of the approval request, Seller shall identify the specific media to be used, as well as other pertinent details of the proposed release.

All releases, regardless of tier of supplier, must have prior written approval of the Buyer (and the Government, when required). Should any information described above be requested, subpoenaed, or otherwise sought by a court of competent jurisdiction or other judicial or administrative authority, this should be promptly brought to the attention of Buyer to permit appropriate measures to be taken to protect the information. Under no circumstances should this information be released to such authority without prior notification and agreement of the Buyer.

Seller agrees that this requirement of prior Buyer approval of any release shall survive the Purchase Order and that Seller shall not for a period of twenty years after issuance of this Purchase Order (or order extension period, if applicable) either directly or indirectly issue any such release without requisite approval of the Buyer, its successors, or assignees.

Seller shall include all provisions of this article including this sentence in all lower-tier subcontracts under this Purchase Order.

(2) In accordance with Government policy and Buyer's requirements, release or publication of any information, data, speeches, advertisements, press releases, photographs, promotional brochures, technical papers, and the like that is related to the material or services produced or provided in performance of this Purchase Order whether it be Naval Nuclear Propulsion Work or otherwise, is prohibited unless prior Buyer written authorization for release or publication has been requested and obtained by Seller in writing. This includes, without limitation, reference to supplying any particular item or service to Buyer as identified elsewhere herein:

(a) Naval Nuclear Propulsion Information (NNPI) must be protected from unauthorized release. NNPI may only be disclosed to U.S. citizens with a legitimate need to know for performance of this purchase order and who are not otherwise prohibited from receiving NNPI (e.g., U.S. citizen representatives of foreign nationals or foreign interests, etc.)

Dual Citizenship - Special controls identified in OPNAVINST N9210.3 apply prior to providing NNPI to U.S. citizens with dual citizenship. Refer to the other clauses herein dealing with NNPI and other export controls.(b) Seller must insure that all required licenses and/or approvals are obtained prior to any export or disclosure of technical data or equipment subject to export control, whether such export takes place in the U.S. or abroad; and

(c) Buyer written approval is required prior to the export or disclosure to other than U.S. persons (as defined in the ITAR), whether in the U.S. or abroad, of any equipment or technical data subject to export control.

(d) In addition, Seller must comply with all distribution restrictions (e.g., Distribution Statement D; NOFORN; etc.) and other markings on documents.

(e) Provisions similar to the foregoing shall be flowed down to lower-tier subcontractors at any tier.

#### 42.0 SUPPLEMENTAL EXPORT CONTROL

##### 6.b(i) REPRESENTATION AND WARRANTY

Seller represents and warrants that it is either:

(1) a U.S. Person as that term is defined in the U.S. Export Laws and Regulations, or that

(2) it has disclosed to Purchaser's Representative in writing the country in which it is incorporated or otherwise organized to do business, or if a natural person, all citizenships and U.S. immigration status.

(ii) Non-U.S. Personnel. Seller shall not give any non-"U.S. Person" (includes non-U.S. entities and representatives of non-U.S. entities, regardless of nationality) access to "Export-Controlled Items", or provide an unauthorized Defense Service as those terms are defined in the applicable U.S. Export Laws and Regulations without the prior written consent of Purchaser and obtaining all required licenses and approvals.

Disclosure of NNPI is even more restricted (Refer to 5.a (4) and Part II).

Any request for such consent must state the intended recipient's citizenship(s), and status under 8 U.S.C. 1101 and 8 U.S.C. 1324 (the "Immigration and Naturalization Act"), and such other information as purchaser may reasonably request. No consent granted by Purchaser in response to Seller's request hereunder shall relieve Seller of its obligations to comply with the provisions of U.S.

Export Laws and Regulations, nor shall any such consent constitute a waiver of the requirements of U.S. Export Laws and Regulations, nor constitute consent for Seller to violate any provision of the U.S. Export Laws and Regulations.

(iii) Indemnification. Seller shall indemnify and save harmless Purchaser from and against any and all damages, liabilities, penalties, fines, costs, and expenses, including attorney's fees, arising out of claims, suit, allegations or charges of Seller's failure to comply with the provisions of this paragraph and breach of the warranty set forth in (i) above. Any failure of Seller to comply with the requirements or any breach of the warranty contained in this paragraph shall be a material breach of this Purchase Order.

(iv) Subcontracts. The substance of this paragraph shall be incorporated into any subcontract entered into by the Seller for the performance of any part of the work under this Purchase Order.

(v) Notification. Seller will notify Buyer if any deliverable under this Contract is subject to the export control laws or regulations of Seller's country.

##### 6.c RESTRICTION ON ACCESS TO EXPORT-CONTROLLED EQUIPMENT AND TECHNICAL DATA BY CERTAIN EMPLOYEES.

(1) Non-U.S. Personnel/Students - Seller shall not give any non-"U.S. Person" (includes non-U.S. entities and representatives of non-U.S. entities, regardless of nationality) access to Export-Controlled Items, or provide an unauthorized Defense Service as those terms are defined in the applicable U.S. Export Laws and Regulations without:

(1) The prior written consent of the Purchaser, and

(2) Obtaining all required licenses and approvals.

(3) Seller shall impose a similar restriction on its lower-tier subcontractors under this Order (when lower-tier subcontractors are eligible and/or approved by Electric Boat and the U.S. Government to receive U.S. technical data).

#### 6.i. EXPORT PROHIBITIONS - OFFSHORE PROCUREMENTS.

(This clause applies if this Purchase Order/Letter Contract requires the export of unclassified technical data subject to the United States International Traffic in Arms Regulations (ITAR) (22 CFR 120 et seq.) to "foreign persons" for offshore procurement of "defense articles" under a DSP-5, Offshore Procurement license (See ITAR 124.13 ).

When this clause applies, Seller shall comply with the following requirements:

1. Unless otherwise expressly directed by the Buyer in writing, the Seller agrees that it shall deliver, or have delivered, all of the defense articles to be manufactured or produced in performance of this subcontract/letter contract/purchase order (collectively "Order") only to the Buyer in the United States ("U.S.") or to an agency of the U.S. Government; and

2. The technical data of U.S. origin to be used in the foreign manufacture of defense articles does not exceed that required for bid purposes on a build-to-print basis (build to print means producing an end-item (i.e., system, subsystem, or component) from technical drawings and specifications (which contain no process or know-how information) without the need for additional technical assistance). Release of supporting documentation (e.g., acceptance criteria, object code software for numerically controlled machines) is permissible.

Build-to-Print does not include the release of any information which discloses design methodology, engineering analysis, detailed process information or manufacturing know-how); and

3. The technical data shall be used only for the manufacture of the defense articles required by this Order or in performance of work required by this Order; and

4. The technical data shall not be disclosed to any other person or entity, except subcontractors in the same country, unless such person or entity is expressly authorized pursuant to an approved U.S. export license or agreement and unless prior written Buyer approval has been granted. This prohibition on the further disclosure of export-controlled technical data applies to both technical data furnished by, or on behalf of, Buyer and to any such technical data incorporated in documents generated by Seller and/or Seller's lower-tier subcontractors; and

5. Neither the Seller nor any other "foreign person" or foreign entity, including Seller's lower-tier subcontractors, may acquire any rights in the data; and

6. The Seller, as well as all lower-tier subcontractors at all tiers, shall return to the Buyer in the U.S., or at the Buyer's written direction, destroy, ALL of the technical data exported pursuant to this Order upon fulfillment of their terms ; and

7. The Seller agrees to incorporate all of the prohibitions, restrictions, and limitations of this clause in all lower-tier subcontracts between with "foreign persons" in the approved country for manufacture of equipment and defense articles (as well as components, subcomponents, and parts thereof) for delivery pursuant to this Order, and Seller shall require its lower-tier subcontractors at all tiers to do likewise. Seller will notify the Buyer if any deliverable under this Order is subject to the export control laws or regulations of Seller's country.

#### 6.j. OFFSET CREDITS, INTERNATIONAL.

Unless otherwise agreed to and incorporated in writing herein, all offset benefit credits or countertrade credits resulting from this subcontract/letter contract/purchase order, and from any lower-tier subcontracts hereunder, shall accrue solely to the benefit of, and shall be the property of, Electric Boat Corporation to be applied the offset program of Buyer's choice.

Seller agrees to cooperate with Buyer and to assist Buyer in securing the applicable offset credits from the respective country government authorities.

#### 43.0 EXPORT CONTROL MARKING

In addition to the requirements of this paragraph, the Seller shall comply with all other requirements relative to Naval Nuclear Propulsion Information wherever located in this Purchase Order.

Seller shall place the following statement on documents containing defense technical data that is controlled by the Arms Export Control Act:

"WARNING - This document contains technical data whose export is restricted by the Arms Export Control Act (Title 22, U.S.C. Sec. 2751, et seq.) or the Export Administration Act of 1979, as amended, Title 50, U.S.C., App 2401, et seq. Violations of these export laws can result in severe criminal penalties. Disseminate in accordance with provisions of OPNAVINST 5510.161."

Seller agrees to insert in all subcontracts issued under this Purchase Order, a contract provision substantially the same as this paragraph including this sentence.

#### 44.0 FOREIGN CORRUPT PRACTICES ACT PROHIBITIONS (FCPA)

(Applicable to both U.S. and non-U.S. persons and U.S. and non-U.S. business concerns.)

By accepting this subcontract/purchase order or by commencing work of any kind with respect to this subcontract/purchase order, the Seller certifies and represents that:

(1) it has not taken, and warrants that it will not take, any action(s) with respect to work hereunder that would cause it, the Buyer, and/or any other party to be in non-compliance with the U.S. Foreign Corrupt Practices Act of 1977, as amended (15 U.S.C. 78dd-1, et seq.) ("FCPA"); and

(2) it has not made or solicited and will not make or solicit any offer, payment, promise to pay, or authorization to pay any money, gift, or anything of value to any governmental official or any political party, party official, or candidate, either directly or through an intermediary, corruptly for the purpose of influencing any official act, omission, or exercise of influence by the recipient, to assist Buyer or Seller in obtaining or retaining business.

The anti-bribery provisions of the U.S. FCPA make it unlawful for a U.S. person, and certain foreign (i.e., non-U.S.) issuers of securities, to make a corrupt payment to a foreign official for the purpose of obtaining or retaining business for or with, or directing business to, any person. Since 1998, the anti-bribery provisions of the FCPA also apply to foreign firms and persons who cause, directly or through agents, an act in furtherance of such a corrupt payment to take place within the territory of the United States. In part, specifically, the anti-bribery provisions of the FCPA prohibit the willful use of the mails or any means of instrumentality of interstate commerce corruptly in furtherance of any offer, payment, promise to pay, or authorization of the payment of money or anything of value to any person, while knowing that all or a portion of such money or thing of value will be offered, given or promised, directly or indirectly, to a foreign official to influence the foreign official in his or her official capacity, induce the foreign official to do or to omit to do an act in violation of his or her lawful duty, or to secure any improper advantage in order to assist in obtaining or retaining business for or with, or directing business to, any person. (Source: U.S. Dept. of Justice Web Site <http://www.justice.gov/criminal/fraud/fcpa/>) Severe penalties may result from failure to comply.

Seller shall insure that the substance of this clause is included in all lower-tier subcontracts at any tier.

#### 45.0 COUNTERFEIT PARTS/COUNTERFEIT WORK PROHIBITION.

(Also, refer to the clauses herein pertaining to Inspection and Test; Warranty; Fraud and Falsification; Reduction or Suspension of Contract Payments Upon Finding of Fraud or Falsification; and FAR 52.211-5, Material Requirements.)

(a) Definitions and Acronyms - For purposes of performance and this clause, as used hereunder:

(i) "Authentic" shall mean:

(A) Genuine; (B) from the legitimate source claimed or implied by the marking and design of the product offered; and (C) manufactured by, or at the behest and to the standards of, the manufacturer that has lawfully applied its name and trademark for that model/version of the material.

(ii) "Counterfeit Parts" shall mean a part, component, module, or assembly whose origin, material, source of manufacture, performance, or characteristics are misrepresented. This term includes, but is not limited to, (A) parts that have been (re)marked to disguise them or falsely represent the identity of the manufacturer, (B) defective parts and/or surplus material scrapped by the original manufacturer, and (C) previously used parts pulled or reclaimed and provided as "new".

(iii) "Counterfeit Work" - For purposes of this clause, Work consists of those parts delivered under this contract that are the lowest level of separately identifiable items (e.g., articles, components, goods, and assemblies).

"Counterfeit Work" means Work that is or contains items misrepresented as having been designed and/or produced under an approved system or other acceptable method. The term also includes approved Work that has reached a design life limit or has been damaged beyond possible repair, but is altered and misrepresented as acceptable.

(iv) "Independent Distributor" shall mean a person, business, or firm that is neither authorized nor franchised by an Original Component Manufacturer ("OCM") to sell or distribute the OCM's products but which purports to sell, broker, and/or distribute such OCM products. Independent Distributors are also referred to as unfranchised distributors, unauthorized distributors, and/or brokers.

(v) "OCMs" means Original Component Manufacturers.

(vi) "OEMs" means Original Equipment Manufacturers.

(b) New and Authentic - The Seller represents and warrants that only new and authentic components, subcomponents, parts, material and supplies are procured, used, incorporated into, and/or delivered in performance of this order. No other material, part, or component other than a new and authentic part is to be used unless approved in advance in writing by Buyer. Except, used, reconditioned, or remanufactured supplies, or unused former Government surplus property, that is authentic may be used in this subcontract performance if the Seller has proposed in writing the use of such supplies, and then only if Buyer and Buyer's Contracting Officer or higher-tier contractor has authorized their use in writing.

SELLER must present complete and compelling support for its request and include in its request all actions to ensure the parts/components thus procured are legitimate parts. Buyer's approval of Seller's request(s) does not relieve

Seller's responsibility to comply with all order requirements, including the representations and warranties in this clause and stated elsewhere.

(c) Prohibition on Counterfeits / Purchase from OEMs/OCMs - Seller agrees and shall ensure that Counterfeit Parts or Counterfeit Work are not delivered to or incorporated into Buyer's supplies and that the Work contains no

Counterfeit Parts or Counterfeit Work.

The intentional or unintentional use, incorporation, or delivery of Counterfeit Parts or Counterfeit Work is strictly PROHIBITED. This includes it being provided either as an end item deliverable or as a component or subcomponent of an end item deliverable under this subcontract/purchase order/letter contract.

To further mitigate the possibility of the inadvertent use of Counterfeit Parts or Counterfeit Work, Seller shall only purchase authentic parts/components/products to be delivered or incorporated as Work to Buyer directly from the OCM/OEM, or through an OCM/OEM authorized distributor chain.

Work shall not be acquired from independent distributors or brokers unless approved in advance in writing by Buyer.

Seller must make available to Buyer, at Buyer's request, OEM/OCM documentation that authenticates traceability of the components to that applicable OEM/OCM.

(d) Traceability - The Seller shall maintain a system or method of item traceability that ensures tracking of the supply chain back to the manufacturer of all Electrical, Electronic, and Electromechanical (EEE) assemblies and subassemblies being delivered per this order.

(e) Conforming Material Requirement - Unless Buyer specifically agrees otherwise in writing (e.g., P.O. supplement; VIR disposition; etc.), the Seller shall tender to Buyer (or to Buyer's designee) for acceptance only material, parts and supplies that have been inspected in accordance with the inspection system and have been found by the Seller to conform with all of the requirements of this subcontract/purchase order.

Counterfeit Parts and Counterfeit Work are NONCONFORMING regardless of their otherwise acceptable condition, quality, performance, functionality, and/or suitability for purpose.

(f) Termination - Providing Counterfeit Parts or Counterfeit Work shall constitute a material breach of this contract and Buyer may, at Buyer's sole option, terminate this order for the default of the Seller.

(g) Replacement - In the event that Work delivered under this order constitutes or includes Counterfeit Parts or Counterfeit Work, Seller shall, at its expense, promptly replace such Counterfeit Work or Counterfeit Parts with genuine Work or genuine Parts conforming to the requirements of this order. Notwithstanding any other provision in this Contract, Seller shall be liable for all costs relating to the removal and replacement of Counterfeit Work, including without limitation the Buyer's costs of removing Counterfeit Work, of reinserting replacement Work and of any testing necessitated by the reinstallation of Work after Counterfeit Work has been exchanged.

(h) Product Impoundment and Reporting - Counterfeit Parts or Counterfeit Work identified as such and items suspected of being counterfeit shall be impounded pending reporting to the appropriate authorities and final disposition of the items. The Seller shall be liable for all costs relating to impoundment, removal, and replacement. Electric Boat may turn such items over to the appropriate authorities (e.g., without limitation, Office of Inspector General, Defense Criminal Investigative Service, Federal Bureau of Investigation, etc.) for investigation and reserves the right to withhold payment for the items pending the results of the investigation and any proceedings related to the matter. Notwithstanding any other provision of this order, the Buyer shall be under no obligation to pay for any of such items determined to be counterfeit or unacceptable.

(i) Notification Requirement -

(1) Seller shall immediately notify Buyer in writing with the pertinent facts if Seller becomes aware or suspects that it has furnished Counterfeit Parts or Counterfeit Work. When requested by Buyer Seller shall provide OCM/OEM documentation that authenticates traceability of the affected items to the applicable OCM/OEM.

(2) Seller shall immediately notify Buyer in writing if it cannot purchase or acquire authentic components, subcomponents, parts, material and supplies directly from the OCM/OEM or through an OCM/OEM authorized distributor chain.

(3) Seller shall also immediately notify Buyer in writing if it or its subcontractors at any tier cannot maintain tracking of the supply chain back to the OCM/OEM.

(j) Rights and Remedies - This clause applies in addition to any quality provision, specification, statement of work or other provision included in this order addressing the authenticity of Work. To the extent such provisions conflict with this clause, this clause prevails. The remedies contained in this clause are in addition to any other rights and remedies the Buyer may have at law, equity or under other provisions hereunder.

(k) Survivability - This clause shall survive the completion, expiration, or termination of this order.

(l) Penalties - This purchase order and activities hereunder are within the jurisdiction of the United States Government. Any knowing and willful act to falsify, conceal or alter a material fact, or any false,

fraudulent or fictitious statement or representation in connection with the performance of work under this purchase order may be punishable in accordance with applicable Federal statutes.

(m) Indemnification - Seller agrees to indemnify Buyer and to hold Buyer harmless to the full extent of any loss, damage, or expense (including reasonable attorney's fees), including, but not limited to, any amount withheld from Buyer resulting from a violation of these requirements by Seller or its subcontractors at any tier. Notwithstanding anything to the contrary stated or implied elsewhere, Seller agrees that this indemnification is NOT subject to any limitation of Seller's liability.

(n) Flow Down Requirement - Seller shall flow the requirements of this clause or substantially equivalent requirements to its subcontractors and suppliers at any tier for the performance of this contract.

#### 46.0 FRAUD AND FALSIFICATION.

Refer also to the clause herein entitled "Business Conduct".

Seller shall include all provisions of the following text including this sentence in all lower-tier subcontracts under this Purchase Order.

This Purchase Order is a subcontract or lower-tier subcontract under a Government prime contract. As such, activities thereunder are within the jurisdiction

of the U.S. Government. Any knowing and willful act to falsify, conceal, or alter a material fact, or any false, fraudulent or fictitious statement or representation in connection with the performance of work under this purchase order may be punishable in accordance with applicable Federal statutes.

Seller shall include the following statement preprinted on each Certificate of Conformance initiated by the Seller and provided to the Buyer in connection with this purchase order:

"NOTE: The recording of false, fictitious or fraudulent statements or entries on this document may be punishable as a felony under Federal Statute."

Federal Law (18 USC 1001) provides, in part, as follows:

"Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully -

(1) falsifies, conceals or covers up by any trick, scheme, or device, a material fact;

(2) makes any materially false, fictitious or fraudulent statements or representations; or

(3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious or fraudulent statement or entry, shall be fined under this title or imprisoned not more than 5 years, or if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both. ."

Seller agrees that all employees or other persons engaged in or who will be engaged in the performance of work under this Purchase Order, will be, if they have not been previously, informed in writing of the above language and that there is a risk of Federal criminal penalties associated with any knowing and willful falsification, concealment, or misrepresentation in connection with work performed under Government contracts and subcontracts such as

this Purchase Order.

Seller will make employees aware of the above prior to them commencing work under this purchase order.

Any inability or unwillingness of a lower-tier supplier to comply with this provision should be documented in writing and submitted to the Purchaser.

#### 47.0 COMPLIANCE WITH LAWS; OBTAINING AND MAINTAINING APPROVALS; PERMITS AND LICENSES; AND WORKSITE SAFETY.

(1) Compliance with Laws - In performing work under this Purchase Order, Seller shall comply with all applicable foreign or domestic laws, orders, rules, ordinances and regulations to include but not limited to the Occupational Safety and Health and Toxic Substance Control Acts and those pertaining to import and export control and compliance.

(2) Approvals/Permits/Licenses - Except for those specifically identified in the Purchase Order as not the responsibility of the Seller, Seller agrees that it shall obtain and maintain in good standing, and shall require its lower-tier subcontractors to obtain and to maintain in good standing, all necessary and applicable approvals, permits and licenses (including export and/or import licenses, when required) required for performance of the work under this Purchase

Order; pay all fees and other charges required, and shall comply with all applicable laws, codes, regulations, guidelines and directives of any local, State,

and/or Federal governmental authority.

They shall be obtained and maintained for as long as necessary for the satisfactory completion of the Seller's and its subcontractor's responsibilities under this Purchase Order.

If work is to be performed outside the U.S., this includes compliance with those of the foreign country; however, this does not authorize any breach of U.S. law to comply with foreign laws, etc. Any such potential conflicts shall immediately be brought to the attention of the Buyer.

The cost of such permits, licenses, and compliance is deemed to be included in the cost or price stated in this Purchase Order.

This includes, but is not limited to, those in connection with import and export control as well as those in connection with any movement over the public highways of overweight/over-dimensional loads and hazardous materials. Seller agrees to insert the substance of the above paragraph in all lower-tier subcontracts under this Purchase Order.

(3) Indemnification - Seller agrees to indemnify and hold the Buyer harmless to the full extent of any loss, damages, and expenses, including reasonable attorney's fees, incurred by Buyer as a result of Seller's or its subcontractor's failure to obtain and maintain in good standing the required approvals, permits and licenses for which they are responsible or failure to comply with any applicable law or regulation as required in the performance of the work under this Purchase Order.

Seller shall immediately notify Buyer in writing if any permits, licenses, and/or approvals that Seller is required to obtain in performance of this



Order are denied, withheld, suspended, revoked, or expired prior to completion of all work required by this Order and its terms. (4) Access to Buyer's Premises -

Access by

non-U.S. citizens to Purchaser's property/worksites is prohibited unless approved in writing by Purchaser.

(5) Worksite Safety - While on Purchaser's owned or controlled property/worksites, Seller, its agents, employees, and subcontractors shall comply with all of Purchaser's safety and security rules and regulations to include but not limited to those identified in the clauses below entitled "Work on Buyer's Owned or Controlled Premises/Property/Work Site" and "Standards of Conduct for Visitors."

(6) Failure to Comply & Default Remedies - In addition to any other remedies Purchaser may be entitled to, Purchaser may, at its sole discretion, without notice and an opportunity to cure:

(i) terminate this Purchase Order for Default, or for Convenience at the Purchaser's sole option, if Seller is unable to obtain and maintain the necessary approvals, licenses, and/or permits, or if Seller fails to comply with any of the provisions of this clause.

Seller agrees that Buyer may terminate this purchase order for convenience if Buyer is unable to obtain and maintain any licenses, permits, or approvals

(including export licenses) on behalf of itself, Seller, or others that Buyer is

obligated to obtain or that Buyer has agreed to obtain on another's behalf; or

(ii) deny access to or expel from Purchaser's property/worksites, any employee, subcontractor or agent of Seller found violating any of the provisions of this clause.

Failure by Seller or its subcontractors to obtain in a timely manner and to maintain all necessary approvals, permits and/or licenses when they are required shall NOT constitute an excusable delay or a force majeure and Buyer reserves the right to exercise, at its sole discretion, all rights and remedies available to it under law and in equity.

#### 48.0 PROPRIETARY INFORMATION AND INTELLECTUAL PROPERTY.

(Refer also to DFARS clauses in Part III dealing with rights in technical data and rights in non-commercial computer software.)

(a) Purchaser's Information: Except to the extent that information is clearly in the public domain, all information provided by Purchaser to Seller during the performance of this Purchase Order and all improvements, modifications and derivations thereto shall be deemed to be the proprietary information of Purchaser.

Seller agrees: (i) to hold Purchaser's proprietary information in confidence and to protect it from release to third parties;

(ii) to disclose Purchaser's proprietary information only to Seller's employees who have a need-to-know and only after they have been made aware of the proprietary nature of the information; and

(iii) to use such proprietary information solely for the purposes of

performing this Purchase Order.

The restriction on release to third parties contained in this paragraph will not apply to release by the Seller to subcontractors that Seller uses in performing this Purchase Order provided the Seller includes in such subcontracts a provision substantially the same as this paragraph.

(b) Seller's Information: Unless specified to be delivered under this Purchase Order and unless properly marked in accordance with the DFARS clauses invoked herein, Seller shall not provide or disclose any equipment, information, technical data, computer software or computer software documentation ("Information") to Purchaser or its representatives that Seller considers to be proprietary, business sensitive, confidential, or to have limited or restricted rights. Unless properly marked and in the absence of an appropriate written agreement to the contrary, except as stated above, no information (including knowledge or information about Seller's products, methods, or manufacturing processes which Seller may disclose to Buyer incident to the performance of the work under this order) furnished to Purchaser (whether documentary, oral, visual or otherwise) shall be considered confidential or proprietary or require any particular handling or precaution or have any restriction on Purchaser's right to use, modify, reproduce, perform, display, release, or disclose such information in whole or in part, in any manner, and for any purpose whatsoever, and to have or authorize others to do so.

Accordingly, such Information shall be deemed to be acquired free from any restrictions and shall be deemed to have been disclosed as part of the consideration for this Purchase Order and Seller agrees not to assert any claim (other than a claim for patent infringement) against Buyer by reason of Buyer's use or alleged use thereof. It is Seller's responsibility to control its employees inadvertent disclosure to Buyer of Information not intended to be disclosed.

(c) Non-Incorporation of Seller's Information:

Seller shall not incorporate any patented, proprietary, business sensitive, or limited rights Information, technical data, process, hardware, or software into any item proposed to be designed, modified, manufactured, produced, or delivered under this Purchase Order without notifying Buyer in advance and receiving Buyer's prior written concurrence.

(d) Intellectual Property (Refer also to Clause 61 entitled "Patents and Copyrights"):

(1) Seller warrants that the items, services, and work performed or delivered under this Order will not infringe or otherwise violate the intellectual property rights of any third party in either the United States or in any foreign country.

(2) Rights in Data and Inventions:

In addition to the Government's rights in data and inventions, Seller agrees that the Buyer (Electric Boat Corporation) in performance of its prime contract and higher-tier contract obligation(s), shall have an unlimited, irrevocable, world-wide, paid-up, royalty-free right to make, have made, sell, offer for sale, use, execute, reproduce, display, perform, distribute (internally or externally) copies of, and prepare derivative, and authorize others to do any, some, or all of the foregoing, any and all, inventions, discoveries,

improvements, mask works and patents as well as any and all data, copyrights, reports, and works or authorship, conceived, developed, generated or delivered in performance of this Order.

Seller certifies the originality of all deliverable items and states that no portion is protected by any copyright or similar right vested in any third party.

(e) Ownership:

All reports, memoranda or other materials in written form, including machine readable form, prepared by Seller pursuant to this Order and furnished to Buyer

by, or on behalf of, Seller hereunder shall become the sole property of the Buyer (Electric Boat Corporation).

#### 49.0 ACCESS TO PROPRIETARY DATA OR COMPUTER SOFTWARE.

1. Performance under this Purchase Order may require that the Seller have access to technical data, computer software, or other sensitive data of another party who asserts that such data or software is proprietary. If access to such data or software is required or to be provided, the Seller shall enter into a written agreement with such party prior to gaining access to such data or software. The agreement shall address, at a minimum,

(a) access to, and use of, the proprietary data or software exclusively for the purposes of performance of the Work required by this Purchase Order; and

(b) safeguards to protect such data or software from unauthorized use or disclosure for so long as the data or software remains proprietary. In addition, the agreement shall allow Buyer and Government or their employees the same access to such data or software, as provided to Seller. A copy of the executed agreement shall be provided to the Buyer. The Buyer may unilaterally modify the Purchase Order to list those third parties with which the Seller has agreement(s).

2. The Seller agrees to:

(a) indoctrinate its personnel who will have access to the data or software as to the restrictions under which access is granted;

(b) not disclose the data or software to another party or other Seller personnel except as authorized by the Buyer;

(c) not engage in any other action, venture, or employment wherein this information will be used, other than under this Purchase Order, in any manner inconsistent with the spirit and intent of this requirement;

(d) not disclose the data or software to any other party, including, but not limited to, joint venturer, affiliate, successor, or assign of the Seller; and

(e) reproduce the restrictive stamp, marking, or legend on each use of the data or software whether in whole or in part.

3. The restrictions on use and disclosure of the data and software described above also apply to such information received from the Buyer through any means to which the Seller has access in the performance of this Purchase Order that contains proprietary or other restrictive markings.

4. The Seller agrees that it will promptly notify the Buyer of any attempt by an individual, company, or Buyer representative not directly involved in the

effort to be performed under this Purchase Order to gain access to such proprietary information. Such notification shall include the name and organization of the individual, company, or Buyer representative seeking access to such information.

5. The Seller shall include this requirement in subcontracts of any tier which involve access to information covered by paragraph A.

#### 50.0 LOGISTIC SUPPORT REQUIREMENT/MANUFACTURE OF REPAIR PARTS (BASED ON NAVSEA 5252.227-9112, MAY 1998, MODIFIED)

If (i) the Seller is providing a ship component or an item of equipment; and (ii) the Purchase Order specification, by reference to a Military Specification

or otherwise, specifies repair parts or stock components (collectively "repair parts"), and (iii) the Seller intends manufacturing the ship component or equipment outside the United States or Canada; then Seller agrees that, in addition to any other data required by this Purchase Order, Seller shall furnish sufficient data so that the repair parts can be reproduced in the United States or Canada. The requirements of this paragraph shall not apply if Seller has made arrangements satisfactory to the Purchaser and approved by the Government for the manufacturing of repair parts in the United States or Canada. For the purposes of this paragraph, the term "sufficient data" means detail drawings and other technical information sufficiently extensive in detail to show design, construction, dimensions, and operation or function, manufacturing methods or processes, treatment or chemical composition of materials, plant layout, and tooling. Seller shall provide all data in English and according to the United States system of weights and measures. All drawings for components, assemblies, subassemblies and parts protected by U.S. patents shall contain a prominent notation to that effect fully identifying the patent or patents involved, and bearing the number of the Buyer's prime contract and this subcontract. Unless Seller has made arrangements satisfactory to the Purchaser and approved by the Government for the manufacturing of repair parts in the United States or Canada, Seller shall grant, and shall include in all lower-tier subcontracts

for the purchase of ship components or equipment's from a foreign source a clause, acceptable to the Buyer's Contracting Officer that grants, to the United States Government for a period of seven (7) years, Government Purpose Rights as defined in the clause of this Purchase Order entitled Rights in Technical Data - Non Commercial Items (DFARS 252.227-7013) in all technical data necessary to manufacture spare and repair parts for such components or equipment.

#### 51.0 NNPI - NAVAL NUCLEAR PROPULSION INFORMATION SECURITY CONTROLS & ADDITIONAL SECURITY REQUIREMENTS

(This clause applies if performance of this order involves access to NNPI.)

(a) The provisions of the DOE-DOD Classification Guide for the Naval Nuclear Propulsion Program, CG-RN-1, Revision 3, and its Interpretive Guidance Bulletins and OPNAVINST N9210.3 are applicable to all Naval Nuclear Propulsion Information (NNPI) work done under this Purchase Order.

(b) Disclosure of Restricted Data as defined in the Atomic Energy Act of

1954 as amended, relating to the Naval Nuclear Propulsion Program to employees of contractors granted Limited Clearance under the provisions of the DOD 5220.22M, National Industrial Security Program Operating Manual (NISPOM) is denied.

(c) The Seller shall invoke the foregoing provisions, as appropriate, in all subcontracts hereunder which involve access to NNPI.

52.0 NNPI - TRANSMISSION ABROAD OF EQUIPMENT OR TECHNICAL DATA RELATING TO THE NUCLEAR PROPULSION OF NAVAL SHIPS (Based on NAVSEA 5252.227-9101, JAN 2008, MODIFIED) (Note: Also includes controls for other than equipment or technical data defined as NNPI.)

(a) The supplies specified to be delivered under this contract may relate to the nuclear propulsion of naval ships.

(b) Equipment and technical data defined as Naval Nuclear Propulsion Information (NNPI) under OPNAVINST N9210.3 shall not be disclosed to foreign nationals.

(c) For other than equipment or technical defined as NNPI in paragraph (b) above, except with the prior written consent of the Buyer and the Contracting Officer (or his designated representative), the Seller shall not, at any time during or after the performance of this contract, transmit or authorize the transmittal of, any technical data or equipment as defined in paragraph (d) below,

(1) Outside the United States; or

(2) Irrespective of location,

(i) To any foreign national, not working on this contract or any subcontract hereunder; or

(ii) To any foreign organization (including foreign subsidiaries and affiliates of the Seller); or

(iii) To any foreign government; or

(iv) To any international organization.

(d) As used in this requirement, the following terms shall have the following definitions:

(1) "United States" means the States, the District of Columbia, Puerto Rico, American Samoa, the Virgin Islands, Guam, and any areas subject to the complete sovereignty of the United States;

(2) "Equipment" means all supplies of the kind specified to be delivered under this contract, all component parts thereof, and all models of such supplies and component parts; but "equipment" does not include standard commercial supplies and component parts, and models thereof; (3)

"Technical Data" means all professional, scientific, or technical information and data produced or prepared for the performance of this contract, or on or for the operation, maintenance, evaluation, or testing of any contract item, whether or not the information and data were specified to be delivered under this contract including, without limitation, all writings, sound recordings, pictorial reproductions, and drawings or other graphical representations; but "technical data" does not include such information and data on standard commercial supplies and component parts to the extent that the information and data

do not relate to the use, operation, maintenance, evaluation and testing of such supplies and component parts in or in connection with any item, or component parts thereof, specified to be delivered under this contract.

(e) Flow Down Requirement:

The Seller agrees to insert in all subcontracts under this contract provisions which shall conform substantially to the language of this requirement, including this paragraph (e).

(f) Notwithstanding any other provisions of this requirement, this requirement shall not apply:

(1) Where the transmittal or authorization for the transmittal of equipment or technical data is to be made pursuant to a contract or agreement to which the United States is a party; and

(2) Where the transmittal is to be of equipment or technical data which the Buyer's Contracting Officer, or his designated representative, has declared in writing to be thereafter exempt from this requirement.