

**Delfasco, LLC.
Procurement Terms and Conditions
DOD Contracting**

(2010)

This document contains requirements and Terms and Conditions under which Delfasco, LLC conducts its procurement activity. The provisions in Section 2 are “flow down” provisions from the U. S. Government. Reference to these flow-down provisions, as well as all other provisions on the face of the Purchase Order (PO), or other such contract, incorporates all applicable clauses of the contract as set forth in full text, except to the extent expressly altered in the Delfasco Purchase Order, Contract, etc.

No date of issue or revision is listed for referenced Government clauses (FAR, DFARS, FAR SUPPLEMENT, etc.). Periodically these clauses are changed/updated/deleted. Unless specifically stated otherwise, the clause(s) incorporated into the Purchase Order (PO) are those in effect as of the date of the PO/Contract, whichever is earlier.

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SECTION 1 – GENERAL PROVISIONS

Section 1 is applicable for ALL contracts

1.1 DEFINITIONS

As used throughout the document, the following terms shall have the meanings set forth below unless otherwise indicated:

- (a) **“DELFASCO”** means Delfasco, LLC acting through its duly authorized Procurement Representative, or Buyer, who is the only person authorized to direct the efforts of the Contractor.
- (b) **“CHANGE ORDER”, “SUPPLEMENTAL AGREEMENT”, or “AMENDMENT”** mean a formal written order describing the change to be made, issued, and signed by Delfasco.
- (c) **“CONTRACT”** means a mutually binding legal relationship between Delfasco and Contractor that obligates Contractor to furnish Articles and Delfasco to pay for them. In addition to bilateral instruments, contracts include, but are not limited to, purchase orders, letter contracts, awards and notices of awards, and bilateral contract modifications.
- (d) **“CONTRACTOR”** means the Offeror, Seller, individual, partnership, corporation, or association contracting to furnish the described materials
- (e) **“MATERIALS”** refers to the goods, products, supplies, parts, assemblies, or other items constituting the subject matter of the Contract, which are to be furnished by Contractor to Delfasco.
- (f) **“COMMERCIAL COMPONENT”** means any component that is a **“COMMERCIAL ITEM”**, as used in Government funded contracts, is defined in FAR 2.101 Definitions.
- (g) **“SERVICES”** to include and performed by either professional or non-professional personnel on either an individual or an organizational basis. Services include those for (1) maintenance, overhaul, repair, servicing, rehabilitation, salvage, modernization, or modification of supplies, systems, or equipment; (2) routine recurring maintenance of real property; (3) housekeeping and base services; (4) ADVISORY AND ASSISTANCE SERVICES; (5) operation of Government-owned equipment, facilities, and systems; (6) communication services; (7) ARCHITECT-ENGINEER SERVICES; (8) transportation and related services; and (9) RESEARCH AND DEVELOPMENT.
- (h) **“SUBCONTRACT”**, except as otherwise provided in the Contract, means all contracts placed by the Contractor or lower tier Subcontractors for the specific purpose of performing any portion of work under the Contract, and includes, but is not limited to, purchase orders, changes, and modifications thereto.
- (i) **“TECHNICAL DATA”**, of a scientific or technical nature. Consists of all applicable drawings, associated lists, specifications, standards, performance requirements, quality assurance provisions, and packaging details.
- (j) **“DOCK DATE”, “REQUIRED DATE” or “SCHEDULE DELIVERY DATE”** means the date of receipt at destination, not ship date, irrespective of Free on Board (FOB) point.

Note: Definitions, terminology and references obtained from (FAR), (DFAR), and The Government Contracts Reference Book (2nd edition, 1998)

1.2 TERMS AND CONDITIONS

Delfasco objects to, and is not bound by, any term or condition, which differs from or adds to the Contract. No terms and conditions other than the terms and conditions set forth in the Contract, including terms and conditions in any document attached to or incorporated by reference in the Contract, shall be binding upon Delfasco unless accepted by Delfasco in writing by authorized individual. Contractor shall be deemed to have assented to all terms and conditions herein if Contractor begins performance or transmits acknowledgement of the Contract by written or electronic means.

1.3 PRECEDENCE

All documents and clauses in the Contract shall be read, to the extent practical, so as to be consistent. In the event of conflict, the order of precedence for the Contract is:

- (a) The typed requirements on the face of the Contract
- (b) Supplemental Procurement Terms and Conditions (if any) incorporated into the Contract
- (c) The General Provisions (Section 1)
- (d) The Special Provisions (Section 2), if applicable
- (e) Provisions for the Control of Government Property at Suppliers (Section 3), if applicable
- (f) The Statement of Work incorporated into the Contract, if any
- (g) Any other documents specifically incorporated herein either by actuality or by reference

1.4 SCHEDULE

- (a) Contractor shall strictly adhere to the Contract's promise date(s), schedule delivery date(s), or completion schedule(s). Contractor shall not deliver Articles more than fifteen (15) calendar days prior to these dates unless authorized in writing by Delfasco. Articles delivered to Delfasco in advance of schedule on the PO and without written authorization may be returned at Contractor's expense and without any obligation to Delfasco.
- (b) In the event of any anticipated or actual delay in the performance of the Contract, Contractor shall:
 - (1) Promptly notify Delfasco in writing of the reasons for the actual/anticipated delay and the actions being taken to overcome or minimize the delay
 - (2) Provide Delfasco with a written recovery schedule.
 - (3) If Delfasco requests, Contractor shall, at Contractor's expense, ship via air or other expedited routing to avoid the delay or minimize it as much as possible.
 - (4) Contractor agrees to flow down this provision to its Subcontractors, and notify Delfasco when there are anticipated or actual delays at a subcontract level that could affect performance under the Contract.
 - (5) Notification shall not be construed to relieve Contractor of its obligation to comply with Contract delivery requirements.
- (c) Delfasco shall be entitled to either an equitable price reduction for late deliveries, or the right to terminate the Contract for default for late deliveries. Failure of the parties to reach agreement on an equitable price reduction shall be a dispute under the **DISPUTES** clause 1.6. Contractor has a duty to continue performance under the Contract pending resolution of the dispute.

1.5 CHANGES

- (a) Delfasco may at any time, by written order, and without notice to sureties, if any, make changes within the general scope of the contract in any one or more of the following:
- (1) Technical requirements and descriptions, statements of work, drawings, designs, or specifications
 - (2) Method of shipment or packing
 - (3) Place of delivery, inspection, acceptance, or performance
 - (4) Reasonable adjustments in quantities, delivery schedules, or both
 - (5) Amount of Delfasco – furnished property

Contractor shall comply immediately with such direction.

- (b) If such change increases or decreases the cost or time required to perform the Contract, Delfasco and Contractor shall negotiate an equitable adjustment in price or schedule, or both, to reflect the increase or decrease. Delfasco shall then modify the Contract to reflect such adjustment.
- (c) Contractor shall submit any "Proposal For Equitable Adjustment" (hereafter referred to as "Proposal") under the clause within thirty (30) calendar days from the date of receipt of the written change order. Delfasco, at its option, may receive and act upon a proposal submitted later than thirty (30) days but before final payment of the Contract.
- (d) If Contractor's proposal includes the cost of property made obsolete or excess by the change, Delfasco shall have the right to prescribe the manner of the disposition of the property.
- (e) Failure of the parties to reach agreement on an equitable adjustment shall be addressed under the **DISPUTES** clause 1.6. In any event, Contractor has a duty to proceed with its performance under the contract pending resolution of the dispute, and nothing in the clause shall excuse Contractor from proceeding with the Contract as changed.

1.6 DISPUTES

In the event of any dispute or disagreement arising under or relating to the Contract, the parties agree to make diligent and reasonable attempts to resolve through negotiations all such disputes or disagreements prior to resorting to any remedy available in law or equity. Notwithstanding the dispute or disagreement, and pending final resolution, Contractor agrees to proceed with the performance of the Contract to the extent directed by Delfasco.

1.7 RIGHT TO ADEQUATE ASSURANCE OF PERFORMANCE

- (a) The Contract imposes an obligation on each party that the other's expectation of receiving due performance will not be impaired. When reasonable grounds for insecurity arise with respect to the performance of either party, the other party may in writing demand adequate assurance of due performance, and until the party receives such assurance, may, if commercially reasonable, suspend any performance for which the party has not already received the agreed return.

- (b) After receipt of a justified demand, failure to provide within thirty (30) calendar days such assurance of due performance as is adequate under the circumstances of the particular case is a repudiation of the Contract.

1.8 ON-SITE REPRESENTATION

In the event Delfasco assigns on-site representation for the Contract, the Contractor shall provide the use of office space, office supplies, furnishings, telephones, etc., for the contract period of performance or as mutually agreed to by Delfasco and Contractor. Delfasco's on-site representation shall interface with the Contractor and monitor all aspects of Contractor's progress and performance to ensure compliance with specific technical, quality, and schedule requirements contained within the Contract.

1.9 TECHNICAL ASSISTANCE

Delfasco's engineering and technical personnel may, from time to time, render assistance or give technical advice to, or effect an exchange of information with Contractor's personnel in a liaison effort concerning the Articles of the Contract. Such an exchange of information or advice given shall not authorize Contractor to change the Articles or the provisions of the Contract. No change shall be made without the prior written consent of Delfasco.

1.10 WAIVERS/APPROVALS

- (a) No waiver, alteration, or modification of any of the provisions of the Contract shall be binding on Delfasco unless evidenced by a written change or modification to the Contract signed by Delfasco authorized individual.
- (b) Delfasco's approval of Contractor's design or article shall not relieve Contractor of the warranties or any other requirements of the Contract. Waivers by Delfasco of any drawings or specification requirements for one or more Articles shall not constitute a waiver of such requirements for the remaining articles unless so stated in writing by Delfasco. The provisions of the clause shall not limit or affect the rights of Delfasco under **ACCEPTANCE** clause 1.20.

1.11 SUSPENSION OF WORK

- (a) Delfasco's Purchasing Representative may, by written order, suspend all or part of the work to be performed under the Contract for a period of up to six (6) months. Within such period of any suspension of work, Delfasco's Purchasing Representative shall, in writing:
 - (1) Cancel the order suspending work, (or)
 - (2) Terminate the Contract in accordance with **TERMINATION FOR CONVENIENCE** clause 1.12, or **TERMINATION FOR DEFAULT** clause 1.13 (or)
 - (3) Extend the stop work period.
- (b) Upon receipt of such an order, Contractor shall immediately comply with its terms and take all reasonable steps to minimize incurring costs (including stand-by costs) allocable to the work covered by the order during the work stoppage.
- (c) Contractor shall resume work whenever a suspension is canceled or the stop work period or its extensions expires.

- (d) Delfasco and the Contractor shall negotiate an equitable adjustment in Contract price or schedule or both, if:
 - (1) The Contract is not terminated, (or)
 - (2) The suspension results in a change in Contractor's cost of performance or ability to meet the Contract delivery schedule, (or)
 - (3) Contractor submits a claim for adjustment within thirty (30) calendar days after the suspension is canceled.

1.12 TERMINATION FOR CONVENIENCE

- (a) Delfasco may terminate performance of work under the Contract in whole or, from time to time, in part when it is in Delfasco's best interest to do so. Delfasco shall terminate by issuing to the Contractor a Notice of Termination specifying the extent of termination and the effective date.
- (b) After receipt of a Notice of Termination, and except as directed by Delfasco, the Contractor shall immediately proceed with the following obligations:
 - (1) Stop work as specified in the Notice of Termination.
 - (2) Place no further subcontracts or orders except as necessary to complete the continued portion of the Contract.
 - (3) Terminate all subcontracts to the extent they relate to the work terminated.
 - (4) Complete performance of the work not terminated.
 - (5) As directed by Delfasco, transfer title and deliver to Delfasco:
 - (i) The fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced or acquired for the work terminated, and
 - (ii) The completed or partially completed plans, drawings, information, and property that, if the contract had been completed, would be required to be furnished to Delfasco.
 - (6) Comply with the instructions by Delfasco in the Notice of Termination and any subsequent written instructions.
- (c) After termination, Contractor shall submit a final termination settlement proposal for equitable adjustment to Delfasco in the form and with the certifications prescribed by Delfasco. Contractor shall submit the proposal promptly, but no later than ninety (90) calendar days of the Notice of Termination, unless extended in writing by the Delfasco Procurement Representative upon written request of the Contractor within the 90-day period. If Delfasco determines that the circumstances justify it, a termination settlement proposal may be received and acted on after the 90 days or any extension. If the Contractor fails to submit the proposal within the time allowed, Delfasco may determine, on the basis of information available, the amount, if any, due the Contractor because of the termination and shall pay the amount determined. Such determination shall be conclusive.
- (d) Subject to paragraph (c) of the clause, the Contractor and Delfasco may agree upon the whole or any part of the amount to be paid or remaining to be paid because of the termination. The amount may include a reasonable allowance for profit on work completed; however, the agreed amount may not exceed the total Contract price as reduced by:

(1) The amount of payments previously made (or)

(2) The Contract price of work not terminated.

The Contract may be modified and the Contractor paid the agreed amount subject to (1) and (2) above.

- (e) If the Contractor and Delfasco fail to agree on the entire amount to be paid because of the termination of work, Delfasco shall pay the Contractor the amounts determined by Delfasco to be due the Contractor. Failure of the parties to reach agreement shall be a dispute under **DISPUTES** clause 1.6. A dispute shall not excuse continued performance on the non-terminated portion of the Contract.
- (f) When applicable (FAR 52.249-2) **Termination for Convenience of the Government (Fixed-Price)** clause 2.84, or (FAR 52.249-6) **Termination (Cost-Reimbursement)** clause 2.85, both in **SPECIAL PROVISIONS** in Section 2 – take precedence over the clause.

1.13 TERMINATION FOR DEFAULT

- (a) Delfasco may, subject to paragraphs (d) and (e) of the clause, by written notice of default to the Contractor, terminate the Contract in whole or in part if the Contractor fails to:
- (1) Deliver the Articles or to perform the services within the time specified in the Contract or any extension,
 - (2) Make progress, so as to endanger performance of the Contract [but see paragraph (b) of the clause], or
 - (3) Perform any of the other provisions of the Contract [but see paragraph (b) of the clause].
- (b) Delfasco's rights to terminate the Contract under paragraphs (a) (2) and (a) (3) of the clause may be exercised if the Contractor does not cure such failure within 10 days (or more if authorized in writing by Delfasco) after receipt of the notice from Delfasco specifying the failure.
- (c) If Delfasco terminates the Contract in whole or in part, it may acquire from another source, under the terms and in the manner Delfasco considers appropriate, Articles or services similar to those terminated, and the Contractor will be liable to Delfasco for any excess costs of those Articles or services. The Contractor shall continue the work not terminated.
- (d) Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the Contract arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include (1) acts of God or of the public enemy, (2) acts of the Federal Government in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) freight embargoes, and (9) unusually severe weather. In each instance the failure to perform must be beyond the control and without the fault or negligence of the Contractor.
- (e) If the failure to perform is caused by the default of a Subcontractor at any tier, and if the cause of the default is beyond the control of both the Contractor and Subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform, unless the subcontracted Articles or services were obtainable from other sources in sufficient time for the Contractor to meet the required delivery schedule.
- (f) If the Contract is terminated for default, Delfasco may require the Contractor to transfer title and deliver to Delfasco, as directed by Delfasco, any (1) completed articles, and (2) partially

completed articles that the Contractor has specifically produced or acquired for the terminated portion of the Contract. Upon direction of Delfasco, the Contractor shall also protect and preserve property in its possession in which Delfasco has an interest.

- (g) Delfasco shall pay contract price for completed articles delivered and accepted. Contractor and Delfasco shall agree on the amount of payment for articles delivered and accepted and for the protection and preservation of the property. Failure to agree will be a dispute under **DISPUTES** clause 1.6. Delfasco may withhold from these amounts any sum Delfasco determines to be necessary to protect Delfasco against loss because of outstanding liens or claims of former lien holders.
- (h) If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of Delfasco.
- (i) Contractor agrees that any assistance given them by Delfasco on the Contract or any acceptance of delinquent or nonconforming items will be solely for the purpose of mitigating damages. It is not the intention of Delfasco to condone any delinquency, waive any defect, or waive any rights Delfasco has under the Contract.
- (j) The rights and remedies of Delfasco in the clause are in addition to any other rights and remedies provided by law or under the contract.
- (k) When applicable (FAR 52.249-6) **Termination (Cost-Reimbursement)** clause 2.85, or (FAR 52.249-8) **Default (Fixed-Price Supply and Service)** clause 2.86, both in **SPECIAL PROVISIONS** in Section 2 – take precedence over the clause.

1.14 DELFASCO/GOVERNMENT FURNISHED PROPERTY

- (a) Delfasco shall furnish to Contractor, at the time(s) and location(s) stated in the Contract, any Delfasco/Government-furnished property described in the Contract. If that property, suitable for its intended use, is not delivered to the Contractor, Delfasco shall equitably adjust the affected provisions of the Contract in accordance with clause **CHANGES** clause 1.5, when:
 - (1) Contractor submits a timely written request for an equitable adjustment, (or)
 - (2) The facts warrant an equitable adjustment.
- (b) Title to Delfasco/Government-furnished property shall remain in Delfasco/Government. Contractor shall use the Delfasco/Government-furnished property only in connection with the Contract. Contractor shall maintain adequate property control records in accordance with sound industrial practice and shall make such records available for Delfasco inspections at all reasonable times.
- (c) Upon delivery of Delfasco/Government-furnished property to Contractor, Contractor assumes the risk and responsibility for its loss or damage, except:
 - (1) For reasonable wear and tear, (or)
 - (2) To the extent property is consumed in performing the Contract; (or)
 - (3) As otherwise provided for by the provisions of the Contract.
- (d) Contractor shall promptly notify the Delfasco Procurement Representative if Delfasco/Government-furnished property is lost, damaged, or destroyed.

- (e) Upon completing the Contract, Contractor shall follow the instructions of Delfasco regarding the disposition of Delfasco/Government-furnished property not consumed in performing the Contract or previously delivered to Delfasco/Government.
- (f) Delfasco/Government and all its designees shall have access at all reasonable times to the premises in which any Delfasco/Government property is located for the purpose of inspecting the Delfasco/Government property.
- (f) When applicable, **PROVISIONS FOR THE CONTROL OF GOVERNMENT PROPERTY AT SUPPLIERS** in Section 3 – takes precedence over the clause.

1.15 COMPLIANCE WITH OCCUPATIONAL SAFETY AND HEALTH ACT (OSHA)

Articles delivered under the Contract shall be in compliance with OSHA standards. Contractor agrees, at its expense, to repair, modify, or replace any articles not in compliance with OSHA standards, and to hold harmless and indemnify Delfasco and its Customers from any liability and expense (including attorney's fees) by reason of property damage or personal injury (including death) occasioned in whole or part from a violation of OSHA standards.

1.16 ELIMINATION OF OZONE-DEPLETING SUBSTANCES

In accordance with Public Law 102-484 National Defense Authorization Act for Fiscal Year 1993, Section 326, the Contract or related subcontracts shall not contain any specification or requirement that can only be met by, or require the use of, a Class I ozone-depleting substance unless such use is specifically authorized in writing by Delfasco.

1.17 PACKING, MARKING, AND SHIPPING

Unless otherwise specified in the Contract:

- (a) All articles shall be packed, marked, and shipped in accordance with good commercial practices to ensure protection in shipment and storage. Contractor shall be liable for any expense incurred by Delfasco as a result of improper preservation, packaging, packing, marking, or method of shipment and shall reimburse Delfasco for any such expenses.
- (b) Contractor shall strictly comply with the delivery requirements of the Contract. In the event of Contractor's failure to so comply with the delivery requirements, Delfasco may, in addition to all other remedies, require Contractor, at Contractor's expense, to ship articles via air freight or expedited routing to avoid or minimize delay.

1.18 HAZARDOUS MATERIALS PACKING CERTIFICATION OF EQUIVALENCY

Prior to bringing any hazardous material or chemical (as determined by OSHA regulation at 29 CFR Section 1910.1200[d]) onto Delfasco's property or work sites, Contractor shall provide to Delfasco, under separate cover, a "Material Safety Data Sheet" for each such material or chemical. The Material Safety Data Sheet shall be OSHA Form 20 or equivalent, containing all of the information required by 29 CFR Section 1910.1200 (g).

1.19 INSPECTION

- (a) Contractor shall provide and maintain an inspection system in accordance with sound business practices and as otherwise provided in the Contract. Records of all inspection work by Contractor shall be kept complete and available to Delfasco during the performance of the Contract and for four (4) years after final payment, and in such manner as may be specified elsewhere in the Contract.
- (b) At no additional cost to Delfasco, articles shall be subject to inspection, surveillance and test at reasonable times and places, including Contractor's and its subcontractors' locations. Delfasco and its Customer shall perform inspections, surveillance and tests so as not to unduly delay the work.
- (c) If Delfasco or its Customer performs an inspection or test on the premises of Contractor or its subcontractors, Contractor shall furnish, and require its subcontractors to furnish, without additional charge, reasonable data, facilities, access and assistance for the safe and convenient performance of these duties.
- (d) Contractor shall inform Delfasco when the work is ready for inspection.

1.20 ACCEPTANCE

- (a) Delfasco shall accept articles or give Contractor notice of rejection within a reasonable time, notwithstanding any payment or prior test or inspection. No inspection, test, delay or failure to inspect or test, or failure to discover any defect or other nonconformance shall relieve Contractor of any obligations under the Contract or impair any rights or remedies of Delfasco or its customer.
- (b) In case any article or lot of articles is defective in material or workmanship, or otherwise not in strict conformance with the requirements of the Contract, Delfasco shall have the right either to reject it, require its correction, or accept it with an equitable adjustment in price or other consideration. Delfasco acceptance of a nonconforming article does not release Contractor from its warranty or latent defect obligations. Any article that has been rejected or requires correction shall be replaced or corrected by, and at the expense of the Contractor, including transportation charges. If, after notice by Delfasco, Contractor fails to promptly replace or correct any defective article within the contractual delivery schedule, Delfasco may:
 - (i) By contract or otherwise, replace or correct such article and charge to Contractor the cost incurred by Delfasco;
 - (ii) Without further notice terminate the Contract in accordance with **TERMINATION FOR DEFAULT** clause 1.13.
 - (iii) Require a reduction in price that is equitable under the circumstances.

1.21 WARRANTY

- (a) Contractor warrants that all articles furnished under the Contract shall be free from defects in materials and workmanship. To the extent articles are not manufactured pursuant to detailed designs furnished by Delfasco, the articles shall be free from defects in design and fit for their intended purpose. The foregoing warranties are in addition to all other warranties, either express or implied, and shall survive inspection, test, acceptance of, and payment for the articles. The warranty shall run to Delfasco and its successors, assigns, and customers. Unless a different

period is set forth elsewhere in the Contract, the warranty shall extend for a period of one (1) year after final acceptance by Delfasco.

- (b) If the articles delivered under the Contract will be incorporated into an end item to be delivered to Delfasco's customer, Contractor's obligation under the clause shall extend to one (1) year after delivery of the end item to Delfasco's customer. All warranties shall extend to Delfasco and its customers.
- (c) If any article delivered under the Contract does not meet the warranties or requirements specified herein, Delfasco may, at its election:
 - (i) Require Contractor to correct, at no cost to Delfasco, any defective or nonconforming article by repair or replacement;
 - (ii) Return the defective or nonconforming article to Contractor and recover from Contractor the contract price of the article, plus transportation charges;
 - (iii) Submit a claim to Contractor for damages (including incidental, special consequential damages) caused by the defective or nonconforming article. The foregoing remedies are in addition to all other remedies at law or under the Contract and shall not be deemed to be exclusive.

1.22 INVOICES AND PAYMENT

- (a) Contractor shall normally submit a separate invoice for each delivery/completion of articles. When there are several items to be invoiced during a given month, Contractor shall limit the number of submitted invoices on the Contract to no more than four per month, with multiple items on a given invoice. Each Contractor invoice shall be for delivery/completion of articles on only one contract.
- (b) Contractor shall not submit any invoice for articles prior to the Contract schedule delivery date, or actual delivery date, whichever is later.
- (c) Each Contractor invoice shall contain as a minimum the Contract number, Contract line item for each article, article description (including serial numbers, if required), and quantity delivered of each article, invoiced amount for each article, and the total amount of the submitted invoice. Unless otherwise stated in the Contract, invoiced amounts for each article must exactly match what is in the Contract.
- (d) Payment due date, including prompt payment discounts, shall be based on the date articles are received or services completed, or the date a correct invoice is received, whichever is later. Payment shall be deemed made when it is deposited in the mail.
- (e) Delfasco shall be entitled at all times to set-off any amounts owed by Contractor to Delfasco against any amount payable by Delfasco to Contractor.

1.23 EXTRAS

Except as otherwise provided for in the Contract, no payment for extras shall be made unless such extras and the price therefore have been authorized in writing by Delfasco.

1.24 RECORDS

Unless a different period is set forth elsewhere in the Contract, Contractor shall retain all pertinent books, documents, papers, and records involving transactions related to the Contract for a period of four (4) years after final payment on the Contract. Upon written request by Delfasco, Contractor shall make them available for examination by Delfasco or any of its authorized representatives.

1.25 RELEASE OF INFORMATION

- (a) No release of information, or confirmation or denial of same, with respect to the Contract or other Delfasco projects, obtained in the performance of the Contract, shall be made without the prior coordination and express written approval of Delfasco. This includes but is not limited to advertisements, brochures, news releases (including photographs, films, public announcements, or denial or confirmation of the same, or interviews with news media representatives) and the like. The provision shall apply equally to subcontracts and Contractor shall include the substance of the provision in all of its subcontracts. The provision does not apply to information that is reportable to the U.S. Government pursuant to Public Laws or Regulations.
- (b) Contractor shall not, at any time during or subsequent to performance of the Contract, disclose to others the terms of the Contract or any other information, knowledge, or data, including business, technical, financial, or information that are of a proprietary or trade secret nature, that Contractor may receive from Delfasco during the course of the Contract.

1.26 INSURANCE

- (a) If, in the performance of the Contract, Contractor or any of its subcontractors perform any work on premises owned, leased, occupied, or controlled by Delfasco, Contractor shall procure and maintain, and shall require its subcontractors to procure and maintain for the entire period of performance of the Contract, insurance of at least the kinds and minimum amounts set forth on the face of the Contract, or if not so stated, insurance in an amount not less than the price or amount of the Contract. Prior to commencement of any work, Contractor shall furnish to Delfasco a "Certificate of Insurance" covering such insurance. Policies evidencing required insurance shall contain an endorsement to the effect that cancellation or any material change in the policies adversely affecting the interests of Delfasco or its customers shall not become effective for such period as may be prescribed by the laws of the state in which the Contract calls for performance, and in no event less than thirty (30) days after written notice to Delfasco.
- (b) Failure on the part of Contractor to furnish such certifications prior to the commencement of work or to continue to maintain such insurance during the performance of the Contract shall be cause for Contractor to be declared in default under the Contract.

1.27 CONTRACTOR EMPLOYEES

Contractor and Contractor's employees are not employees of Delfasco and are not entitled to any Delfasco employee benefits or privileges; however, all Contractor employees shall be subject to the applicable rules and regulations governing Delfasco employees while on premises owned, leased, occupied or controlled by Delfasco. Contractor shall require that each of its employee(s) engaged in work on premises owned, leased, occupied, or under the control of Delfasco display such identification as may be approved and directed by Delfasco.

1.28 INDEMNIFICATION

Contractor agrees to indemnify and hold Delfasco, its officers, employees, agents, and representatives, harmless from any and all claims, liabilities, losses, damages, costs, or expenses (including reasonable attorney's fees) for:

- (a) Property damage or personal injury including death, of whatever kind or nature arising out of, as a result of, or in connection with Contractor, its employees', agents', subcontractors', and lower-tier subcontractors' performance pursuant to the Contract,
- (b) Nonconformance to Cost Accounting Standards, if flowed down, including the proposal or submission of unallowable costs, expenses, or other charges incurred or anticipated to be incurred on the Contract,
- (c) Any liability which arises as the result of failure of Contractor or its lower-tier subcontractors to comply with any law, regulation, or clause whose terms are part of the Contract, and/or
- (d) Claims from any person and for whatever reason, including negligence, due to any first aid or ambulance services provided or not provided by Delfasco.
- (e) Liability from any actual or alleged patent, copyright, trademark, or trade secret infringement by reason of any manufacture, use, or sale of any articles delivered by Contractor under the Contract, or for any items manufactured from reports, drawings, blueprints, data, or technical information delivered by Contractor under the Contract.

1.29 INTELLECTUAL PROPERTY

- (a) All technical work product, including, but not limited to, ideas, information, data, documents, drawings, software, software documentation, designs, specifications, and processes produced by or for Contractor, either alone or with others, in the course of or as a result of any work performed by or for Contractor which is covered by the Contract using funds paid for by Delfasco under the Contract shall be the exclusive property of Delfasco and be delivered to Delfasco promptly upon request.
- (b) All inventions conceived, developed, or first produced by or for Contractor, either alone or with others, in the course of or as a result of any work performed by or for Contractor which is covered by the Contract using funds paid for by Delfasco under the Contract, and any patents based on any such inventions (both domestic and foreign), shall be the exclusive property of Delfasco. Contractor shall promptly disclose all such inventions to Delfasco in written detail, and execute all papers, cooperate with Delfasco, and perform all acts necessary or appropriate in connection with the filing, prosecution, maintenance, or assignment of related patents or patent applications to Delfasco.
- (c) All works of authorship, including, but not limited to, documents, drawings, software, software documentation, photographs, video tapes, sound recordings, and images, created by or for Contractor, either alone or with others, in the course of or as a result of any work performed by or for Contractor which is covered by the Contract using funds paid for by Delfasco under the Contract, together with all copyrights subsisting therein, shall be the sole property of Delfasco. To the extent permitted under United States copyright law, all such works shall be works made for hire, with the copyrights therein vesting in Delfasco. The copyrights of all other such works, including all of the exclusive rights therein, shall be promptly transferred and formally assigned free of charge to Delfasco.
- (d) In the event of any inconsistency between this clause and any Government clause incorporated by reference into the Contract, the incorporated Government clause shall govern.

1.30 PARTS OBSOLESCENCE

Contractor shall notify Delfasco of any pending or contemplated future action to discontinue articles purchased pursuant to the Contract and shall allow Delfasco to submit a forecast of expected annual

usage prior to Contractor finalizing its decision to discontinue the articles. Contractor shall provide Delfasco with a "Last Time Buy Notice" at least twelve months prior to the actual discontinuance. Contractor shall extend opportunities to Delfasco to place last time buys of such articles with deliveries not to exceed twelve months after the last time buy date.

1.31 ASSIGNMENT AND SUBCONTRACTING

- (a) Neither the Contract nor the rights, duties, or interests therein may be delegated, assigned, or otherwise transferred in any manner without the prior written consent of Delfasco. None of the articles to be delivered under the Contract shall be acquired by Contractor from a subcontractor or third party in completed or substantially completed form without the prior written consent of Delfasco. The limitation shall not apply to Contractor's purchase of standard commercial supplies or raw materials.
- (b) Contractor shall issue no subcontract under the Contract that provides for payment on a cost-plus-percentage-of-cost basis.

1.32 BANKRUPTCY

- (a) In the event of the appointment of a trustee, receiver, or liquidator for all or a portion of Contractor's property, or for any act or petition in bankruptcy, whether voluntary or involuntary, as defined in the Bankruptcy Reform Act of 1978, Title 11, United States Code, as amended, Delfasco may terminate the right of Contractor to proceed with the further performance of the Contract without further obligation, except that Delfasco shall be obliged to pay for any article accepted prior to any of the foregoing occurrences at the prices specified in the Contract.
- (b) During the performance of the Contract, Contractor shall submit financial information at such times and in such content and form as Delfasco may reasonably require. The Contract may be terminated by Delfasco in accordance with **TERMINATION FOR DEFAULT** clause 1.13, whenever Contractor's financial condition may jeopardize performance of the Contract.

1.33 EXPORT OF TECHNICAL DATA

- (a) Contractor represents and warrants that no technical data furnished to it by Delfasco or developed by Contractor during performance of the Contract shall be disclosed to any foreign national, firm, or country, including foreign nationals employed by or associated with the United States, without first complying with all requirements of the Subchapter M - International Traffic in Arms Regulation, (22 CFR Section 120 et seq.); the Export Administration Act, and Department of Defense Directive 5230.25, "Withholding of Unclassified Technical Data From Public Disclosure" (32 CFR Section 250) including the requirement for obtaining an export license, if applicable.
- (b) Contractor shall first obtain the written consent of Delfasco prior to submitting any request for authority to export any such technical data.
- (e) Contractor shall indemnify and hold Delfasco harmless for all claims, demands, damages, costs, fines, penalties, attorney's fees, and all other expenses arising from Contractor's failure to comply with the clause and stated Statutes and Regulations.

1.34 RIGHTS AND REMEDIES

Any failures, delays, or forbearances of either party in insisting upon or enforcing any provisions of the Contract, or in exercising any rights or remedies under the Contract, shall not be construed as a waiver or relinquishment of any such provisions, rights, or remedies; rather, the same shall remain in

full force and effect. The rights and remedies set forth in the Contract are cumulative and in addition to any other rights or remedies that the parties may have at law or in equity. If any provision of the contract becomes void or unenforceable by law, the remaining shall be valid and enforceable.

1.35 ADDITIONAL FLOWDOWN CLAUSES

In the event that any clause which is not already incorporated herein is required to be included in the Contract by law, regulation, the Prime Contract, or higher-tier Subcontract, or in the event that Delfasco's Prime Contract or higher-tier Subcontract is modified subsequent to the effective date of the Contract so as to modify or add any additional such clause or requirement, Contractor agrees to enter into a modification of the Contract to insert the clause or any such clause or requirements. If any such additional clause or requirement causes an increase or decrease in the cost of, or the time required, for the performance of any part of the work under the Contract, an equitable adjustment shall be made in the Contract price or delivery schedule, or both, pursuant to **CHANGES** clause 1.5.

1.36 APPLICABLE LAWS

Irrespective of the place of performance, the Contract shall be governed by and construed according to the laws of the State from which it is issued, except that when Federal common law of Government contracts exist on substantive matters requiring construction under the Contract, such Federal common law shall apply in lieu of state law. Contractor shall comply with all applicable Federal, State, and Local laws in the performance of the Contract.

1.37 COMMERCIAL ITEMS AND COMMERCIAL COMPONENTS ON GOVERNMENT CONTRACTS

FAR 52.244-6 Subcontracts for Commercial Items and/or commercial components in its entirety is incorporated herein by reference and is applicable only for procurement of commercial items or commercial components on Government funded contracts.

1.38 ENTIRE AGREEMENT

The Contract contains the entire agreement of the parties, and supersedes any and all prior agreements, understandings, and communications between Delfasco and Contractor related to the subject matter of the Contract.

1.39 INTERNATIONAL TRAFFIC IN ARMS REGULATIONS

The Seller represents and warrants that it shall comply with all U.S. export and import laws and regulations. Further, by acceptance of this Order, the Seller certifies that they are registered in accordance with the U.S. Department of State as required by Subchapter M - International Traffic in Arms Regulations (22 C.F.R. Parts 120-130), if required. Any commodities, technical data and/or services provided by the Buyer to the Seller in connection with this Order (hereinafter referred to as "Items Provided by Buyer"), as well as any commodities, technical data and/or services developed or produced therefrom by the Seller (hereinafter referred to as "Items Produced by Seller for Buyer under the terms of this Purchase Order"), are subject to the requirements of the International Traffic in Arms Regulations (ITAR), (22 C.F.R. Part 120, et seq.) the Export Administration Regulations (EAR), (15 C.F.R. Part 730, et seq.) and/or Department of Defense Directive 5230.25, "Withholding of Unclassified Technical Data from Public Disclosure".

The Seller represents and warrants that neither the Items Provided by Buyer, nor the Items Produced by Seller for Buyer under the terms of this Purchase Order, will be exported, transferred or disclosed outside the United States or to any foreign person, as defined under ITAR and the EAR, unless any necessary United States Government export license or other authorization has been obtained.

The Seller shall obtain the written consent of the Buyer prior to exporting, transferring or disclosing any Items Provided by the Buyer or Produced by the Seller outside the United States or to any foreign person, and also shall obtain the written consent of the Buyer prior to submitting any application for a license or other authorization under ITAR and/or EAR. The Seller shall indemnify and hold Buyer harmless for all claims, demands, damages, costs, fines, penalties, attorneys' fees, and all other expenses arising from the Seller's failure to comply with this clause, the stated statutes and regulations, as they may be amended.

SECTION 2 – SPECIAL PROVISIONS

Section 2 is applicable for all Government funded contracts other than those for Commercial items as defined the Federal Acquisition Regulation (FAR).

2.1 GENERAL

The following contract clauses are incorporated by reference from the Federal Acquisition Regulation (FAR) or the Department of Defense FAR Supplement (DFARS), and apply to the extent indicated. Unless otherwise noted, “Government” means “Delfasco and/or Government”, and “Contracting Officer” means “Delfasco.”

2.2 FAR 52.202-1 Definitions

2.3 FAR 52.203-3 Gratuities

2.4 FAR 52.203-5 Covenant Against Contingent Fees

2.5 FAR 52.203-6 Restrictions on Subcontractor Sales to the Government

The clause applies if the Contract exceeds \$100,000.

2.6 FAR 52.203-7 Anti-Kickback Procedures

The clause applies if the Contract exceeds \$100,000. Delfasco may withhold from sums owed Contractor the amount of any kickback paid by Contractor or its subcontractors at any tier if (a) the Contracting Officer so directs, or (b) the Contracting Officer has offset the amount of such kickback against money owed Delfasco under the Prime Contract.

2.7 FAR 52.203-8 Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity

The clause applies if the Contract exceeds \$100,000, and Contractor, its employees, officers, directors, or agents participated personally and substantially in any part of the preparation of a proposal for the Contract. Contractor shall indemnify Delfasco for any and all losses suffered by Delfasco due to violations of the Act (as set forth in the clause) by Contractor or its subcontractors at any tier.

2.8 FAR 52.203-10 Price or Fee Adjustment for Illegal or Improper Activity

The clause applies if the Contract exceeds \$100,000. If the Government reduces Delfasco’s price or fee for violations of the Act by Contractor, Delfasco may withhold from sums owed Contractor the amount of the reduction.

2.9 FAR 52.203-12 Limitation on Payments to Influence Certain Federal Transactions

The clause applies if the Contract exceeds \$100,000.

2.10 FAR 52.204-2 Security Requirements and (Alternate II)

The clause applies to the extent that the Contract involves access to information classified as “Confidential”, “Secret”, or “Top Secret”. The Contractor shall comply with the Security Agreement (DD Form 441).

2.11 FAR 52.204-4 Printed or Copied Double-Sided on Recycled Paper

2.12 FAR 52.209-6 Protecting the Government’s Interest when Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment.

2.13 FAR 52.211-15 Defense Priority and Allocation Requirements (Alternate I)

- 2.14 FAR 52.214-26 Audit and Records – Sealed Bidding**
The clause applies when contracting by sealed bidding and the contract amount is expected to exceed \$650,000.
- 2.15 FAR 52.214-27 Price Reduction for Defective Cost or Pricing Data-Modifications – Sealed Bidding**
The clause applies when contracting by sealed bidding and the contract amount is expected to exceed \$650,000.
- 2.16 FAR 52.214-28 Subcontractor Cost or Pricing Data – Modifications – Sealed Bidding**
The clause applies when contracting by sealed bidding and the contract amount is expected to exceed \$650,000.
- 2.17 FAR 52.215-8 Order of Precedence – Uniform Contract Format**
- 2.18 FAR 52.215-10 Price Reduction for Defective Cost or Pricing Data**
The clause applies if cost or pricing data is required from the Contractor or any subcontractor.
- 2.19 FAR 52.215-12 Subcontractor Cost or Pricing Data**
The clause applies if cost or pricing data is required from the Contractor or any subcontractor.
- 2.20 FAR 52.216-7 Allowable Cost and Payment**
The clause applies when a cost-reimbursement contract is contemplated. In paragraph (d)(2)(i) the term “Contracting Officer” means Government Contracting Officer.
- 2.21 FAR 52.216-8 Fixed Fee**
The clause applies when a cost-plus-fixed-fee contract is contemplated.
- 2.22 FAR 52.216-10 Incentive Fee**
The clause applies when a cost-plus-incentive-fee is contemplated. In paragraph (e)(1) the elements to establish the fee payable formula will be set forth in the Contract.
- 2.23 FAR 52.216-14 Allowable Cost and Payment – Facilities Use**
- 2.24 FAR 52.216-26 Payments of Allowable Costs Before Definitization**
The clause applies to letter contracts when a cost-reimbursement definitive contract is contemplated.
- 2.25 FAR 52.219-8 Utilization of Small Business Concerns**
The clause applies if the Contract exceeds \$550,000 UNLESS a personal services contract is contemplated OR the Contract, together with all its subcontracts, is to be performed entirely outside of any State, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.
- 2.26 FAR 52.219-9 Small Business Subcontracting Plan**
The clause applies if the Contract exceeds \$550,000, offers subcontracting possibilities, and includes FAR 52.219-8. The offeror must provide Delfasco, LLC a formal Small Business Subcontracting Plan. The offeror shall also submit periodic reports so that the Government can determine the extent of compliance by the offeror with the subcontracting plan. Submit Standard Form SF294, subcontracting report for individual contracts and/or SF295 for summary subcontract report in accordance with FAR 52.219-8(j).The clause applies if the Contract exceeds \$550,000, offers subcontracting possibilities, and includes FAR 52.219-8.
- 2.27 FAR 52.219-16 Liquidated Damages – Subcontracting Plan**
The clause applies if FAR 52.219-9 applies.

- 2.28 FAR 52.222-1 Notice to the Government of Labor Disputes**
- 2.29 FAR 52.222-2 Payment for Overtime Premiums**
The clause applies when a cost-reimbursable contract over \$100,000 is contemplated. Unless stated otherwise in the contract, the overtime premium authorized in paragraph (a) shall be "zero".
- 2.30 FAR 52.222-3 Convict Labor**
- 2.31 FAR 52.222-4 Contract Work Hours and Safety Standards Act – Overtime Compensation**
EXCEPT as noted in FAR 22.305, the clause applies if the Contract exceeds \$100,000. The Contractor shall indemnify and reimburse Delfasco for any sums withheld from Delfasco by its Contracting Officer on account of liabilities of the Contractor or its subcontractors under the clause.
- 2.32 FAR 52.222-17 Labor Standards for Construction Work – Facilities Use**
- 2.33 FAR 52.222-20 Walsh-Healy Public Contracts Act**
The clause applies if the Contract exceeds \$10,000.
- 2.34 FAR 52.222-21 Prohibition of Segregated Facilities**
The clause applies if FAR 52.222-26 applies.
- 2.35 FAR 52.222-35 Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans**
The clause applies if the Contract exceeds \$25,000.
- 2.36 FAR 52.222-36 Affirmative Action for Workers With Disabilities**
The clause applies if the Contract exceeds \$10,000.
- 2.37 FAR 52.222-37 Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans**
The clause applies if FAR 52.222-35 applies.
- 2.38 FAR 52.222-38 Compliance with Veterans' Employment Reporting Requirements**
- 2.39 FAR 52.222-41 Service Contract Act of 1965, as Amended**
The clause applies if the Contract exceeds \$2,500 and is subject to the Act. See FAR 22.10.
- 2.40 FAR 52.222-42 Statement of Equivalent Rates for Federal Hires**
- 2.41 FAR 52.222-44 Fair Labor Standards Act and Service Contract Act – Price Adjustment**
- 2.42 FAR 52.223-5 Pollution Prevention and Right-to-Know Information**
- 2.43 FAR 52.223-6 Drug-Free Workplace**
- 2.44 FAR 52.223-10 Waste Reduction Program**
- 2.45 FAR 52.223-14 Toxic Chemical Release Reporting**
The clause applies if the Contract, including options, exceeds \$100,000.
- 2.46 FAR 52.225-8 Duty-Free Entry**
The clause applies if supplies that are identified to be accorded duty-free entry will be imported into the customs territory of the United States, OR other foreign supplies in excess of \$10,000 may be imported into the customs territory of the United States.

- 2.47 FAR 52.225-13 Restrictions on Certain Foreign Purchases**
The clause applies if the Contract exceeds \$2,500.
- 2.48 FAR 52.227-1 Authorization and Consent**
The clause applies only when it is flowed down to Delfasco by Delfasco's customer.
- 2.49 FAR 52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement**
The clause applies if the Contract exceeds \$100,000.
- 2.50 FAR 52.227-11 Patent Rights - Retention by the Contractor (Short Form)**
- 2.51 FAR 52.227-12 Patent Rights - Retention by the Contractor (Long Form)**
- 2.52 FAR 52-227-13 Patent Rights - Acquisition by the Government**
- 2.53 FAR 52.228-5 Insurance - Work on a Government Installation**
The clause applies when the Contract requires work on a Government installation.
- 2.54 FAR 52.229-3 Federal, State, and Local Taxes**
- 2.55 FAR 52.232-1 Payments**
- 2.56 FAR 52.232-8 Discounts for Prompt Payment**
- 2.57 FAR 52.232-11 Extras**
- 2.58 FAR 52.232-17 Interest**
- 2.59 FAR 52.232-18 Availability of Funds**
- 2.60 FAR 52.232-21 Limitation of Cost (Facilities)**
- 2.61 FAR 52.232-23 Assignment of Claims**
- 2.62 FAR 52.232-25 Prompt Payment**
- 2.63 FAR 52.232-33 Payment by Electronic Funds Transfer – Central Contractor Registration**
- 2.64 FAR 52.233-3 Protest After Award**
- 2.65 FAR 52.237-2 Protection of Government Buildings, Equipment, and Vegetation**
- 2.66 FAR 52.237-3 Continuity of Services**
- 2.67 FAR 52.240-1 Indemnification Under Public Law 85-804**
- 2.68 FAR 52.242-1 Notice of Intent to Disallow Costs**
The clause applies when a cost-reimbursable contract, a fixed-price incentive contract, or a contract providing for price redetermination is contemplated.
- 2.69 FAR 52.242-3 Penalties for Unallowable Costs**
The clause applies if the Contract exceeds \$500,000 and is NOT a fixed-price contract without incentives.
- 2.70 FAR 52.242-13 Bankruptcy**

- 2.71 FAR 52.243-6 Change Order Accounting**
- 2.72 FAR 52.244-5 Competition in Subcontracting**
- 2.73 FAR 52.244-6 Subcontracts for Commercial Items**
- 2.74 Provisions for the Control of Government Property at Suppliers**
See Section 3 below.
- 2.75 FAR 52.245-2 Government Property (Fixed-Price Contracts)**
- 2.76 FAR 52.245-8 Liability for the Facilities**
- 2.77 FAR 52.245-9 Use and Charges**
- 2.78 FAR 52.245-11 Government Property (Facilities Use)**
- 2.79 FAR 52.246-2 Inspection of Supplies – Fixed Price**
The clause applies if the is a fixed-price contract that exceeds \$100,000. The provisions of the clause providing for access, rights to inspect, safety protection, and relief from liability shall apply equally to Delfasco, its customer, and the Government. The clause takes precedence over clause 1.19 INSPECTION in Section 1 – GENERAL PROVISIONS.
- 2.80 FAR 52.246-3 Inspection of Supplies – Cost Reimbursement**
The clause applies if a cost-reimbursement contract is contemplated. The provisions of the clause providing for access, rights to inspect, safety protection, and relief from liability shall apply equally to Delfasco, its customer, and the Government. The clause takes precedence over clause 1.19 INSPECTION in Section 1 – GENERAL PROVISIONS.
- 2.81 FAR 52.246-25 Limitation of Liability – Services**
- 2.82 FAR 52.247-64 Preference for Privately Owned U.S.-Flag Commercial Vessels**
The clause applies when the Contract exceeds \$100,000 and may involve ocean transportation of supplies subject to the Cargo Preference Act of 1954 {See FAR 47.502(a)(3), 47.503(a), and 47.504}.
- 2.83 FAR 52.248-1 Value Engineering**
The clause applies if the Contract exceeds \$100,000.
- 2.84 FAR 52.249-2 Termination for Convenience of the Government (Fixed-Price)**
The clause applies if the is a fixed-price contract that exceeds \$100,000. Delete paragraph (d). In paragraph (e), the Contractor shall submit the proposal no later than ninety (90) calendar days from the effective date of termination, and in paragraph (l), the proposal for equitable adjustment shall be requested within 45 days from the effective date of partial termination. The clause takes precedence over clause 1.12 TERMINATION FOR CONVENIENCE in Section 1 – GENERAL PROVISIONS.
- 2.85 FAR 52.249-6 Termination (Cost-Reimbursement)**
The clause applies if a cost-reimbursement contract is contemplated. Delete paragraphs (e) and (n). In paragraph (f), the Contractor shall submit the proposal no later than ninety (90) calendar days from the effective date of termination. The clause takes precedence over clause 1.12 TERMINATION FOR CONVENIENCE and clause 1.13 TERMINATION FOR DEFAULT in Section 1 – GENERAL PROVISIONS.

- 2.86 FAR 52.249-8 Default (Fixed-Price Supply and Service)**
The clause applies if the is a fixed-price contract that exceeds \$100,000. The clause takes precedence over clause 1.13 TERMINATION FOR DEFAULT in Section 1 – GENERAL PROVISIONS.
- 2.87 FAR 52.249-13 Failure to Perform**
- 2.88 FAR 52.249-14 Excusable Delays**
The clause applies if FAR 52.249-6 is applicable.
- 2.89 FAR 52.251-1 Government Supply Sources (Alternate I)**
- 2.90 FAR 52.252-6 Authorized Deviations in Provisions**
- 2.91 FAR 52.253-1 Computer Generated Forms**
- 2.92 FAR 29.303 Application of State and Local taxes to Government contractors and subcontractors**

DFARS

- 2.93 DFAR 252.201-7000 Contracting Officer’s Representative**
- 2.94 DFAR 252.203-7001 Prohibition on Persons Convicted of Fraud or Other Defense-Contract-Related Felonies.**
- 2.95 DFAR 252.203-7002 Display of DoD Hotline Poster**
- 2.96 DFAR 252.204-7000 Disclosure of Information**
- 2.97 DFAR 252.204-7003 Control of Government Personnel Work Product**
- 2.98 DFAR 252.204-7004 Alternate A**
- 2.99 DFAR 252.204-7005 Oral Attestation of Security Responsibilities**
- 2.100 DFAR 252.205-7000 Provision of Information to Cooperative Agreement Holders**
- 2.101 DFARS 252.209-7000 Acquisition From Subcontractors Subject to On-site Inspection Under the Intermediate-Range Nuclear Forces (INF) Treaty**
- 2.102 DFAR 252.209-7004 Subcontracting with Firms That Are Owned or Controlled by the Government of a Terrorist Country**
- 2.103 DFAR 252.211-7000 Acquisition Streamlining**
The clause applies if the Contract exceeds \$1 million.
- 2.104 DFAR 252.215-7002 Cost Estimating System Requirements**
The clause applies if cost or pricing data is required from the Contractor.
- 2.105 DFAR 252.219-7003 Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (DoD Contracts).**
- 2.106 DFAR 252.223-7002 Safety Precautions for Ammunition and Explosives**
The clause applies if the Contract involves ammunition or explosives.
- 2.107 DFAR 252.223-7004 Drug-Free Work Force**

- 2.108 DFAR 252.223-7006 Prohibition on Storage and Disposal of Toxic and Hazardous Materials**
The clause applies if the Contract requires, may require, or permits contractor performance on a DOD installation.
- 2.109 DFAR 252.225-7009 Duty-Free Entry – Qualifying Country Supplies (End Products and Components)**
The clause applies if FAR 52.225-8 applies.
- 2.110 DFAR 252.225-7010 Duty-Free Entry – Additional Provisions**
The clause applies if FAR 52.225-8 applies.
- 2.111 DFAR 252.225-7012 Preference for Certain Domestic Commodities**
- 2.112 DFAR 252.225-7014 Preference for Domestic Specialty Metals**
The clause with its Alternate I applies if the Contract exceeds \$100,000 and requires delivery of an article containing specialty metals.
- 2.113 DFAR 252.225-7031 Secondary Arab Boycott of Israel.**
- 2.114 DFAR 252.225-7032 Waiver of United Kingdom Levies**
The clause applies if the Contract exceeds \$1 million with a United Kingdom firm.
- 2.115 DFAR 252.225-7037 Duty-Free Entry – Eligible End Products**
The clause applies when the Contract involves delivery of eligible end products to be accorded duty-free entry.
- 2.116 DFAR 252.226-7001 Utilization of Indian Organizations, Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns**
- 2.117 DFAR 252.227-7013 Rights in Technical Data – Noncommercial Items**
- 2.118 DFAR 252.227-7014 Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation.**
- 2.119 DFAR 252.227-7015 Technical Data--Commercial Items**
- 2.120 DFAR 252.227-7016 Rights in Bid or Proposal Information**
- 2.121 DFAR 252.227-7019 Validation of Asserted Restrictions – Computer Software**
- 2.122 DFAR 252.227-7027 Deferred Ordering of Technical Data or Computer Software**
- 2.123 DFAR 252.227-7034 Patents – Subcontracts**
- 2.124 DFAR 252.227-7037 Validation of Restrictive Markings on Technical Data**
- 2.125 DFAR 252.228-7005 Accident Reporting and Investigation involving Aircraft, Missiles, and Space launch Vehicles**
- 2.126 DFAR 252.242-7005 Cost/Schedule Status Report**
The clause applies if the Contract is other than firm-fixed-price, is 12 months or more in duration, and has critical or significant tasks defined by mutual agreement between Delfasco and Contractor.
- 2.127 DFAR 252.243-7001 Pricing of Contract Modifications**

- 2.128 DFAR 252.243-7002 Requests for Equitable Adjustment**
- 2.129 DFAR 252.245-7001 Reports of Government Property**
- 2.130 DFAR 252.247-7023 Transportation of Supplies by Sea**
The clause applies if the Contract exceeds \$100,000.
- 2.131 DFAR 252.247-7024 Notification of Transportation of Supplies by Sea**
- 2.132 DFAR 252.249-7002 Notification of Anticipated Contract Terminations or Reductions**
This clause applies if this Contract exceeds \$100,000.

OSC

- 2.133 OSC 52.201-4500 Authority of Government Representative**
The contractor is advised that contract changes, such as engineering changes, will be authorized only by the Contracting Officer or his representative in accordance with the terms of the contract. No other Government representative, whether in the act of technical supervision or administration, is authorized to make any commitment to the Contractor or to instruct the Contractor to perform or terminate any work, or to incur any obligation. Project Engineers, Technical Supervisors and other groups are not authorized to make or otherwise direct changes which in any way affect the contractual relationship of the Government and the Contractor.
- 2.134 OSC 52.245-4527 Centrally Reportable Industrial Plant Equipment**

CLAUSES REQUIRED WHEN OVER \$500,000

- 2.135 FAR 52.215-11 Price Reduction for Defective Cost or Pricing Data - Modifications**
The clause applies if cost or pricing data is required from the Contractor or any subcontractor for the pricing of contract modifications.
- 2.136 FAR 52.215-13 Subcontractor Cost or Pricing Data – Modifications**
The clause applies if FAR 52.215-11 applies.
- 2.137 FAR 52.226-1 Utilization of Indian Organizations and Indian-Owned Economic Enterprises**

CLAUSES REQUIRED WHEN APPLICABLE

- 2.138 FAR 52.204-1 Approval of Contract**
- 2.139 FAR 52.211-5 Material Requirements**
- 2.140 FAR 52.215-2 Audit and Records - Negotiation**
The clause applies if the Contract is a cost-reimbursement, incentive, time-and-materials, labor-hour, or price redeterminable contract, or any combination of these, or (c) Contractor has been required to submit cost or pricing data in connection with any pricing action relating to the Contract, or (e) Contractor is required to furnish reports as discussed in paragraph (e) of the referenced clause.
- 2.141 FAR 52.215-9 Changes or Additions to Make-or-Buy Program**
- 2.142 FAR 52.215-14 Integrity of Unit Prices**

The clause applies if the Contract exceeds \$100,000, and is NOT for construction or architect-engineer services under FAR Part 36, utility services under FAR Part 41, services where supplies are not required, or a contract for petroleum products.

2.143 FAR 52.215-15 Pension Adjustments and Asset Reversions

The clause applies when FAR 52.215-12 applies OR for which any preaward or postaward cost determinations will be subject to Part 31 of the FAR.

2.144 FAR 52.215-17 Waiver of Facilities Capital Cost of Money

2.145 FAR 52.215-18 Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other Than Pensions

The clause applies when FAR 52.215-12 applies OR for which any preaward or postaward cost determinations will be subject to Part 31 of the FAR.

2.146 FAR 52.215-19 Notification of Ownership Changes

The clause applies if cost or pricing data is required from the Contractor or any subcontractor.

2.147 FAR 52.217-2 Cancellation Under Multiyear Contracts

2.148 FAR 52.217-6 Option for Increased Quantity

2.149 FAR 52.217-8 Option to Extend Services

2.150 FAR 52.217-9 Option to Extend the Term of the Contract

2.151 FAR 52.222-26 Equal Opportunity

Only paragraphs (b)(1) through (b)(11) of the clause apply.

2.152 FAR 52.223-3 Hazardous Material Identification and Material Safety Data

2.153 FAR 52.223-7 Notice of Radioactive Materials

The number of days advance notice in paragraph (a) will be set forth in the Contract.

2.154 FAR 52.224-1 Privacy Act Notification

2.155 FAR 52.224-2 Privacy Act

2.156 FAR 52.227-3 Patent Indemnity (Alternate I and II)

2.157 FAR 52.227-5 Waiver of Indemnity

2.158 FAR 52.227-6 Royalty Information

2.159 FAR 52.227-9 Refund of Royalties

The clause applies if the amount of royalties reported during negotiation of the Contract exceeds \$250.

2.160 FAR 52.227-10 Filing of Patent Applications – Classified Subject Matter

The clause applies to all contracts that cover or are likely to cover classified subject matter.

2.161 FAR 52.227-14 Rights in Data – General

2.162 FAR 52.227-17 Rights in Data – Special Works

2.163 FAR 52.227-18 Rights in Data – Existing Works

- 2.164 FAR 52.228.11 Pledges of Assets**
- 2.165 FAR 52.228-14 Irrevocable Letter of Credit**
- 2.166 FAR 52.230-2 Cost Accounting Standards**
The clause, except paragraph (b), applies to all negotiated contracts in excess of \$550,000 UNLESS otherwise exempt from the requirement to include a CAS clause as specified in 48 CFR 9903.201-1. In addition to any other remedies provided by law or under the Contract, Contractor agrees to indemnify and hold Delfasco harmless to the full extent of any loss, damage, or expense incurred by Delfasco as a result of failure of the Contractor.
- 2.167 FAR 52.230-3 Disclosure and Consistency of Cost Accounting Practices**
The clause, except paragraph (b), applies to all negotiated contracts in excess of \$550,000 but less than \$25 million, and the Contractor certifies it is eligible for and elects to use modified CAS coverage (see 48 CFR 9903.201-2). In addition to any other remedies provided by law or under the Contract, Contractor agrees to indemnify and hold Delfasco harmless to the full extent of any loss, damage, or expense incurred by Delfasco as a result of failure of the Contractor.
- 2.168 FAR 52.230-6 Administration of Cost Accounting Standards**
The clause applies if FAR 52.230-2 or FAR 52.230-3 is applicable.
- 2.169 FAR 52.232-9 Limitation on Withholding of Payments**
- 2.170 FAR 52.232-12 Advance Payments (alternates I, III, IV, V)**
- 2.171 FAR 52.232-16 Progress Payments (Alternate I)**
The clause applies only if the Contract specifically provides for progress payments based on costs. If other than the customary progress payment rate or liquidation rate is allowed, it will be set forth in the Contract.
- 2.172 FAR 52.232-32 Performance-Based Payments**
- 2.173 FAR 52.233-1 Disputes**
- 2.174 FAR 52.243-1 Changes – Fixed Price (Alternate I)**
- 2.175 FAR 52.243-7 Notification of Changes**
- 2.176 FAR 52.245-1 Property Records**
- 2.177 FAR 52.245-7 Government Property (Consolidated Facilities)**
- 2.178 FAR 52.245-17 Special Tooling**
- 2.179 FAR 52.245-19 Government Property Furnished “As Is.”**
- 2.180 FAR 52.247-1 Commercial Bill of Lading Notations**
- 2.181 FAR 52.249-1 Termination for Convenience of the Government (Fixed-Price) (Short Form)**
- 2.182 FAR 52.249-4 Termination for Convenience of the Government (Services) (Short Form)**
- 2.183 FAR 52.250-1 Indemnification Under Public Law 85-804**
- 2.184 FAR 52.252-4 Alterations In Contract**

OPTIONAL CLAUSES

2.185 FAR 52.215-21 Requirements for Cost of Pricing Data or Information Other Than Cost or Pricing Data – Modifications (Alternates I, II, III, IV)

2.186 FAR 52.246.20 Warranty of Services

SECTION 3 – PROVISIONS FOR THE CONTROL OF GOVERNMENT PROPERTY AT SUPPLIERS

Section 3 is applicable when Government property is provided to the Contractor. When applicable, Section 3 takes precedence over clause 1.14 DELFASCO/GOVERNMENT FURNISHED PROPERTY in Section 1- GENERAL PROVISIONS

3.1 GENERAL

Contractor shall receive, use, manage, maintain, report, redistribute, and dispose of Government property in accordance with FAR 45 – GOVERNMENT PROPERTY, which is incorporated herein by reference. FAR and DFARS clauses called out below are incorporated by reference. Unless otherwise noted, “Government” means “DELFASCO and/or Government” and “Contracting Officer” means “DELFASCO”.

3.2 PROPERTY CONTROL SYSTEM

Contractor shall keep DELFASCO informed of the status of Government approval of its Property Control System. In the event that Contractor’s approved system becomes “unsatisfactory”, or the Government judges more than five separate categories of the system as “unsatisfactory”, Contractor shall notify DELFASCO immediately and provide a copy of the findings and the proposed Corrective Action Plan.

3.3 ADDITIONAL PROPERTY

If/when new Government property items are added to the Contractors records, the Contractor shall furnish DELFASCO with copies of purchase orders, work orders, receiving reports, or other pertinent data needed to facilitate the process of adding items to the official Government property records.

3.4 FAR 52.245-2 Government Property (Fixed-Price Contracts)

This clause is applicable if this Contract exceeds \$100,000 and a fixed-price type contract is contemplated. If this contract is a fixed-price type contract for \$100,000 or less, the provisions of clause 1.14 DELFASCO/GOVERNMENT FURNISHED PROPERTY IN Section 1 – GENERAL PROVISIONS shall apply. Alternate I Limited Risk of Loss shall apply only when DELFASCO has received approval in writing from its customer.

3.5 FAR 52.245-5 Government Property (Cost Reimbursement, Time-and-Material, or Labor-Hour Contracts)

This clause is applicable if a cost reimbursement, time-and-material, or labor-hour contract is contemplated. If this contract is a time-and-material or labor hour contract for \$100,000 or less, the provisions of clause 1.14 DELFASCO/GOVERNMENT FURNISHED PROPERTY IN Section 1 – GENERAL PROVISIONS shall apply.

3.6 FAR 52.245-17 Special Tooling

This clause is applicable when a fixed-price contract is contemplated, and either the contract will include special tooling provided by the Government or the Government will acquire title or right to title

in special tooling to be acquired or fabricated by the Contractor for the Government, other than special tooling to be delivered as an end item under the Contract. This clause shall apply to all special tooling accountable to the Contract.

3.7 FAR 52.245-18 Special Test Equipment

This clause applies when the Contractor will acquire or fabricate special test equipment for the Government but the exact identification of the special test equipment to be acquired or fabricated is unknown.

3.8 FAR 52.245-19 Government Property Furnished "As Is"

Unless specifically stated elsewhere in the Contract, all Government property furnished shall be "as is".

3.9 DFARS 252.245-7001 Reports of Government Property

SECTION 4 – PROVISIONS FOR THE CONTROL OF GOVERNMENT EXECUTIVE ORDERS IN SUBCONTRACTS

4.1 Executive Order 13201 Compliance. The Contractor agrees to comply with the provision of 29 CFR part 470 under the heading of "Executive Order 13201 Compliance". This Executive Order is flowed down on all subcontracts over \$100,000 and is applicable to these Terms and Conditions.

4.2 Executive Order 13360 Compliance. The Contractor agrees to comply with the provision of CFR Volume 69, No. 206 under the heading of "Executive Order 13360 of October 20, 2004, Providing Opportunities for Service-Disabled Veteran Businesses to increase their Federal Contracting and Subcontracting".