



A Cherokee Federal Company

Criterion Systems, LLC Purchase Order Terms and Conditions

Payment:

Criterion shall pay Vendor the invoiced amount within 45 days as specified on the front of the purchase order after receipt of receiving a proper invoice for different purchases and/or services. With respect to any rejected products or services, payment shall be due after acceptance of the products or services. Vendor's invoices and monthly statements must reference the Contract, Consulting Agreement, and/or Purchase order number. To ensure payment, invoice must be submitted within 90 days of services, products, or material being accepted by Criterion. The Vendor agrees to indemnify and hold Criterion harmless for any claims by the Government for fines, penalties, or request for refunds because of billing irregularities of the Vendor or rate disputes with the Vendor.

Delivery:

Delivery FOB point is destination unless otherwise specified on the purchase order. Vendor must fulfill delivery requirements in accordance with the number of days specified on the front of the PO unless a delay in delivery or acceptance is due to factors beyond the vendor's or Criterion's control. Criterion may, with or without cause and without prejudice to any other remedy they may have and after giving written notice cancel this purchase order at any time prior to shipment.

Warranty:

Vendor's standard commercial warranty is transferable to Criterion's customer. Vendor warrants that the goods to be furnished and the services to be rendered under this Purchase Order shall be manufactured, sold, used and rendered in compliance with all relevant federal, state, local law, orders, rules, ordinances, and regulations, including but not limited to all U.S. laws and regulations and the laws and regulations of Vendor's place of performance, and in compliance with applicable international prohibitions on child labor. Vendor certifies that with respect to the production of the goods and/or the performance of the services covered by this Purchase Order, it has fully complied with Sections 6, 7, 12, and 15 of the Fair Labor Standards Act of 1938, as amended, and of regulations and orders of the United States Department of Labor under Section 14 thereof, if applicable.

Termination for Convenience:

Criterion may terminate the Purchase Order in whole or in part if it is determined that a termination is in Criterion and/or the Government's best interests or if the Prime Contractor or the Government exercises its termination for convenience rights under the Prime Contract. Criterion may terminate this Agreement pursuant to this clause by issuing a written notice with the effective date of termination to the Vendor.



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Termination for Default:

Criterion may by written notice to the Vendor terminate for default this Order in whole or in part at any time if the Vendor fails to:

- (i) Deliver the services within the time specified in this Agreement, or any extension.
- (ii) Make progress, to endanger performance of the Order and Criterion; or
- (iii) Perform any of the other provisions of this Order.

Criterion has the right to terminate this Order if the Vendor does not cure such failure within 7 calendar days (or more if authorized in writing by Buyer) after receipt of notice from Criterion specifying the failure.

- If Criterion terminates this Order in whole or in part, it may acquire, under the terms and in the manner, Vendor considers appropriate, services equivalent to those terminated and Criterion shall be liable to Vendor for any excess costs for those services. However, the Vendor shall continue any work not terminated.
- Except for defaults of Lower-tier Subcontractors, if authorized, the Vendor shall not be liable for any excess costs if the failure to perform the Order arises from causes beyond the control and without the fault or negligence of the Seller. Examples of such causes include (1) acts of God or of the public enemy, (2) acts of the 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 Vendor

Indemnification:

Vendors shall indemnify and hold harmless Criterion and its owned and operated entities, owners, respective agents, officers, directors, managers, and employees from and against all claims, damages, losses and expenses including attorneys' fees arising out of or resulting from any claim or lawsuit brought against the company or any of its affiliates for alleged patent, trademark, or copyright infringement related to the products or goods in subject to a purchase order, injury or destruction of tangible property, interruption or loss of business, or imposition of any fine or charge by any governmental entity, and are caused in whole or in part by any negligent or intentional act or omission, or violation of a legal requirement.

Liability:

Criterion is not liable for any claim of any kind, for any loss, or for any damage arising out of, in connection with, or resulting from any purchase order in excess of the price allocable to the products or goods giving rise to such claims. Vendor will comply with all applicable federal, state and local laws, rules regulations and ordinances and will hold Criterion harmless from any liability resulting from Vendor's failure to do so.

Legal:

Irrespective of the place of performance, this Order will be construed and interpreted according

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to the Federal common law of government contracts as enunciated and applied by Federal judicial bodies, Boards of Contract Appeals, and quasi-judicial agencies of the Federal government. To the extent that the Federal common law of government contracts is not dispositive, the laws of the Commonwealth of Virginia shall apply, without regard to its conflict of laws provisions.

All disputes arising out of or related to this Agreement not resolved in accordance with Disputes will be subject to the exclusive jurisdiction and venue of the Virginia state and Federal courts located in Fairfax County or Alexandria, Virginia, and the parties hereby consent to such jurisdiction and venue. The prevailing party in any action to enforce this order shall be entitled to costs and attorneys' fees.

Disputes:

The parties shall attempt in good faith to resolve any controversy or claim arising between the parties out of or in connection with the provisions of this Agreement through amicable discussions between appropriate executives of the respective companies who are a party to this Order. If such discussions do not result in a resolution of the controversy or claim, either party may file suit in court as specified in *Legal* section above.

Claims & Litigation:

The Vendor shall give Criterion immediate notice in writing regarding the following:

- a. Any action, including any proceedings before a Federal, State, or local governmental or civilian agency, filed against the Seller arising out of the performance of this Subcontract; and,
- b. Any claim by a third party against the Seller, the cost and expense of which is, or may be allowable under this Subcontract.
- c. Except as may be expressly set forth in this document with the U.S. Government Contracting Officer's express consent, the subcontractor shall not acquire any direct claim or direct course of action against the U.S. Government.

In the event of the occurrence of either of the above, the Vendor shall immediately furnish Criterion copies of all pertinent papers and documents received by the Vendor with respect to such action or claim.

Intellectual Property:

Vendor agrees that all items developed by Vendor under this Order and charged to Criterion including, but not limited to Intellectual Property, Software, Software Programs, Technical Data and documents, etc., shall be considered "work for hire" on behalf of Criterion. Vendor agrees to assign all right, title and interests, including, but not limited to copyrights and patents to Criterion.

Upon completion, expiration or termination of this Order, Vendor shall return all items developed by Vendor in performance of this Order to Criterion.



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FAR/DFAR Clauses:

If this order is in support of a Federal customer, the following provisions apply:

The documents listed below are hereby incorporated by reference. In the event of an inconsistency or conflict between or among the provisions of this Order, the inconsistency shall be resolved by giving precedence in the following order:

1. FAR/DFAR: U.S. Government Terms and Conditions
2. Order Agreement: Specific Terms and Conditions
3. Statement of Work and Schedule (if applicable)
4. Vendor Pricing
5. Representations and Certifications

Lower Tier Subcontracting

The Vendor is prohibited from lower tier subcontracting without the prior approval of the Contractor's Subcontracts Administrator. The requests shall be submitted to the Subcontracts Administrator along with information and supporting documentation required under FAR 52.244-2. If lower-tier subcontracting is approved, Vendor agrees to incorporate the mandatory FAR and DFAR regulations in any lower-tier subcontract agreements.

Small Business Subcontracting Plan

FAR 52.219-9, as applicable, from the prime contract to subcontracts and purchase orders in accordance with FAR 19.708(b) and Public Law 95.507.

Defense Priority and Allocation Requirements

FAR 52.211-15 and 15 CFR 700.15 flow down DPAS rating to any subcontract or purchase order when placed in support of a rated contract, unless subcontract is valued at less than \$125,000 or below half the simplified acquisition threshold and delivery can be obtained in a timely fashion. Criterion will verify orders are identified with the appropriate DPAS rating, including separately marked ratings on combined DX, DO, and unrated orders, to include authorized signatures, specific delivery dates, and a DPAS substance statement in accordance with 15 CFR 700.12 and 15 CFR 700.17(d). Criterion will require written acceptance or rejection of the order or modification from subcontractor/vendor within 10 days of a DX rated order and 15 days of a DO rated order in accordance with 15 CFR 700.13(d).

Quality Management and Counterfeit Parts Detection and Avoidance Systems:

Criterion will ensure that materials and services are procured from responsive, responsible, and reliable sources for electronic parts in accordance with DFARS 252.246-7008. In accordance with DFARS 252.246-7007 and 7008 are flowed down to this order when the clause is applicable in accordance with DFARS 246.870-3. Vendor shall source material and parts that meet contractor quality requirements, including item marking requirements of DFARS 252.211-7003, Item Unique

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Identification and Valuation, if applicable, in accordance with DFARS 252.244-7001(c)(21). This Order incorporates FAR 52.246-11 Higher Level Contract Quality Requirements.

Restrictions on the Acquisition of Specialty Metals/Articles Containing Specialty Metals:

The Vendor certifies that any specialty metal delivered under a contract shall be melted or produced in the United States or its outlying areas in accordance with DFARS 252.225-7008(b). Any specialty metals incorporated in items delivered under a contract shall be melted or produced in the United States, its outlying areas, or a qualifying country as listed in DFARS 225.003(10) in accordance with DFARS 252.225-7009(b). In accordance with 10 U.S. Code 2533a there is a list of items that may not be procured with funds appropriated or otherwise available to the Department of Defense if the item is not grown, reprocessed, reused, or produced in the United States. The vendor shall ensure each of the exceptions to specialty metals requirements (electronic components, COTS, fasteners that are commercial items, items manufactured in a qualifying country, specialty metals under DFARS 225.7003-3, and end items containing a minimal of otherwise noncompliant specialty metals) are incorporated in accordance with DFARS 252.225-7009(c).

Limitations on Pass-Through Charges:

FAR 52.215-23, as applicable, from the prime to subcontracts and purchase orders in accordance with FAR 15.408. The Contracting Officer in writing when the subcontractor/vendor or lower tier subcontractor contract exceeds 70% of the total cost of the work performed after the award. The notification shall identify the revised cost and verify the work added in accordance with FAR 52.215-23(c)(1) and FAR 52.215-23(c)(2).

Purchase orders over the micro-purchase threshold (\$3,500 as defined at FAR 2.101 in effect as of the date of the prime contract) also include:

The following clauses apply to this Contract if the value of this Contract equals or exceeds \$10,000:

- 52.222-40 NOTIFICATION OF EMPLOYEE RIGHTS UNDER THE NATIONAL LABOR RELATIONS ACT (DEC 2010)

The following clauses apply to this Contract if the value of this Contract equals or exceeds \$15,000:

- 52.222-20 CONTRACTS FOR MATERIALS, SUPPLIES, ARTICLES, AND EQUIPMENT EXCEEDING \$15,000 (MAY 2014)
- 52.222-36 EQUAL OPPORTUNITY FOR WORKERS WITH DISABILITIES (JUL 2014)

The following clauses apply to this Contract if the value of this Contract equals or exceeds \$30,000:

- 52.204-10 Reporting Executive Compensation and First-Tier Subcontract Awards

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- All vendors must be registered in BETA SAM in order for Prime to report sales in FFATA

The following FAR clauses apply to this Contract if the value of this Contract equals or exceeds \$35,000:

- 52.209-6 PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (OCT 2015)

The following FAR clauses apply to this Contract if the value of this Contract equals or exceeds \$150,000:

- 52.203-6 RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT, ALTERNATE I (SEPT 2006)
- 52.222-17 NON-DISPLACEMENT OF QUALIFIED WORKERS (MAY 2014)
- 52.222-35 EQUAL OPPORTUNITY FOR VETERANS (OCT 2015)
- 52.222-37 EMPLOYMENT REPORTS ON VETERANS (OCT 2015)
- 52.203-11 CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS
- 52.203-12 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS

The following FAR clauses apply to this Contract if the value of this Contract equals or exceeds \$250,000:

- 25.100 and DFARS 225.7002 BUY AMERICAN AND BERRY AMENDMENT

The following clauses apply to this Contract if the value of this Contract equals or exceeds \$500,000:

- 252.226-7701 UTILIZATION OF INDIAN ORGANIZATIONS, INDIAN-OWNED ECONOMIC ENTERPRISES AND NATIVE HAWAIIAN SMALL BUSINESS CONCERNS (SEP 2004)

The following clauses apply to this Contract if the value of this Contract equals or exceeds \$700,000:

- 52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS (OCT2014)
- 52.219-9 SMALL BUSINESS SUBCONTRACTING PLAN (OCT 2015)
- 52.215-18 REVISION OR ADJUSTMENT OF PLANS FOR POSTRETIREMENT BENEFITS (PRB) OTHER THAN PENSIONS (JULY 2005)
- 52.215-19 NOTIFICATION OF OWNERSHIP CHANGES (OCT 1997)
- 252.219-7003 SMALL BUSINESS SUBCONTRACTING PLAN (DoD CONTRACTS) –



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BASIC (MAR 2016)

The following clauses apply to this Contract if the value of this Contract equals or exceeds \$1.5 MILLION:

- 252.211-7000 ACQUISITION STREAMLINING (OCT 2010)

The following clauses apply to this Contract if the value of this Contract equals or exceeds \$2 MILLION:

- 52.215-12 and 52.215-13, as applicable, from the prime contract to subcontracts and purchase orders in accordance with FAR 15.408. (SUBCONTRACTOR CERTIFIED COST OR PRICING DATA) (JUNE 2020)
- 15.403-4, 52.230-1, 52.230-2, 52.230-3, 52.230-4, 52.230-5, and 52.230-6 for orders that are subject to the Cost Accounting Standards (CAS) requirement. (If applicable)
- FAR 52.230-6 (ADMINISTRATION OF COST ACCOUNTING STANDARDS); Assess applicability and requirements of exemptions and waivers in accordance with 48 CFR 9903.201-1 (below the CAS threshold, sealed bid contracts, commercial item, prices set by law or regulation, modifying a contract or subcontract for a commercial item, adequate price competition, small business, foreign concern, and NATO PHM Ship program to be performed outside the US)

The following clauses apply to this Contract if the value of this Contract equals or exceeds \$5MILLION:

- 52.203-14 DISPLAY OF HOTLINE POSTER(S) (OCT 2015)
- 252.203-7003 AGENCY OFFICE OF INSPECTOR GENERAL (DEC 2015)

Purchase orders that have a value of more than \$5,000,000 and that have a performance period of more than 120 days also include:

- 52.203-13 CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT (In paragraph (b)(3)(i), the meaning of “agency office of the Inspector General” and “Contracting Officer” does not change, in paragraph (b)(3)(ii) the meaning of “Government” does not change and in paragraphs (b)(3)(iii) and (c)(2)(ii)(F), the meaning of “OIG of the ordering agency” “IG of the agency”, “agency OIG” and “Contracting Officer” do not change.)
- 52.203-14 DISPLAY OF HOTLINE POSTER(S) (OCT 2015)
- 252.203-7003 AGENCY OFFICE OF THE INSPECTOR GENERAL (DEC 2012)
- DISPLAY OF HOTLINE POSTERS (OCT 2015)