

<b>AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT</b>				1 CONTRACT ID CODE <b>S</b>	PAGE OF PAGES <b>1   25</b>
2 AMENDMENT/MODIFICATION NO <b>P00009</b>	3 EFFECTIVE DATE <b>03-Aug-2021</b>	4 REQUISITION/PURCHASE REQ NO <b>SEE SCHEDULE</b>	5 PROJECT NO (If applicable)		
6 ISSUED BY ACC-APG - COVID RESPONSE - W58P05 6472 NTEGRITY COURT (BU LDING 4401) ABERDEEN PROVING GROUND MD 21005-3013	CODE <b>W58P05</b>	7 ADMINISTERED BY (If other than item 6) <b>See Item 6</b>			
8. NAME AND ADDRESS OF CONTRACTOR (No., Street, County, State and Zip Code) DUOPROSS MEDITECH CORPORATION <b>(b) (6)</b> 27 SARAH DR FARMINGDALE NY 11735-1209				9A. AMENDMENT OF SOLICITATION NO.	
				9B. DATED (SEE ITEM 11)	
				X 10A. MOD. OF CONTRACT/ORDER NO. <b>W911SR20C0045</b>	
				X 10B. DATED (SEE ITEM 13) <b>03-Aug-2020</b>	
CODE <b>8LK11</b>	FACILITY CODE				
<b>11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS</b>					
<input type="checkbox"/> The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offer <input type="checkbox"/> is extended, <input type="checkbox"/> is not extended. Offer must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended by one of the following methods: (a) By completing Items 8 and 15, and returning _____ copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.					
<b>12. ACCOUNTING AND APPROPRIATION DATA (If required)</b>					
<b>13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS. IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.</b>					
A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.					
B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(B).					
X C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF: <b>Bilateral IAW FAR 52.212-4(c) Changes</b>					
D. OTHER (Specify type of modification and authority)					
E. IMPORTANT: Contractor <input type="checkbox"/> is not, <input checked="" type="checkbox"/> is required to sign this document and return <u>  1  </u> copies to the issuing office.					
<b>14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)</b> Modification Control Number: <b>(b) (6)</b> The purpose of this modification is: See "Block 14 Continuation Page" for details.					
Except as provided herein, all terms and conditions of the document referenced in Item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect					
15A. NAME AND TITLE OF SIGNER (Type or print) <b>(b) (6)</b>			16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print) <b>(b) (6)</b>		
			TEL: <b>(b) (6)</b> EMAIL: <b>(b) (6)</b>		
15B. CONTRACTOR/OFFEROR <b>(b) (6)</b> (Signature of person authorized to sign)		15C. DATE SIGNED <b>8/4/2021</b>	16B. UNITED STATES OF AMERICA BY <b>(b) (6)</b> (Signature of Contracting Officer)		16C. DATE SIGNED <b>03-Aug-2021</b>

## SECTION SF 30 BLOCK 14 CONTINUATION PAGE

**SUMMARY OF CHANGES**

## SECTION SF 30 - BLOCK 14 CONTINUATION PAGE

The following have been added by full text:

CHANGES TO DELIVERY DATES**As the result of this Modification the following has been changed:**

Modification (supplemental agreement) to Contract No. W911SR-20-C-0045 with DuoPross Meditech Corporation as detailed below to extend all CLINs on the existing contract through 30 September 2021, with the exception to the T&M CLIN, which will be extended through 31 August 2021.

The purpose of this modification is to:

1. Extend the Air Freight on the Time and Materials (T&M) CLIN 0014 from 03 August 2021 to 31 August 2021.
2. All remaining CLINS (CLINs 0008, 0009 and 0015) will be extended to 30 September 2021.
3. The Contractor shall continue to use Government-provided-aircraft under TRANSCOM contract award number HTC71119DW002, task order number HTC71121FW013; to provide the approximate weight allowances and restrictions stated therein through 31 August 2021.
4. Update Statement of Work to reflect the above changes.
5. Updated the Contract Specialist for this action to (b) (6).
6. The authority for these changes are included in the original contract, which is FAR 52.212-4(c) Changes clause.

The following have been modified:

Additional Delivery Information:

The Contractor shall deliver all needles and syringes with regular monthly deliveries in accordance with their final proposal and Attachment 2 "Shipping Information" in order to meet the total quantities and delivery deadlines for each CLIN. Due to potential mission changes, the Government reserves the right to update the delivery locations per agreement between the Contractor and the Contracting Officer via email (due to the urgent nature of this requirement).

Updated Delivery Schedule, 31 July 2021

See attached Excel Sheet

The following have been deleted:

P00004

P00005 STATEMENT OF WORK

SECTION SF 1449 - CONTINUATION SHEET

## SOLICITATION/CONTRACT FORM

The 'issued by' organization has changed from  
 USA CONTRACTING CMD-APG. - W911SR  
 EDGEWOOD CONTRACTING DIVISION  
 8456 BRIGADE STREET  
 BLDG E4215  
 ABERDEEN PROVING GROUND MD 21010-5401  
 to  
 ACC-APG - COVID RESPONSE - W58P05  
 6472 INTEGRITY COURT (BUILDING 4401)  
 ABERDEEN PROVING GROUND MD 21005-3013

The vendor signature required has changed from not required to required.  
 The effective date has changed from 03-Aug-2020 to 03-Aug-2021.

## DELIVERIES AND PERFORMANCE

The following Delivery Schedule item for CLIN 0008 has been changed from:

DELIVERY DATE	QUANTITY	SHIP TO ADDRESS	DODAAC / CAGE
13-MAY-2021	2,000,000	JPEO-CBRND (b) (6) SEE DELIVERY SCHEDULE FOR LOCATIONS APG MD 21010 FOB: Destination	W56XNH

To:

DELIVERY DATE	QUANTITY	SHIP TO ADDRESS	DODAAC / CAGE
30-SEP-2021	2,000,000	JPEO-CBRND (b) (6) SEE DELIVERY SCHEDULE FOR LOCATIONS APG MD 21010 FOB: Destination	W56XNH

The following Delivery Schedule item for CLIN 0008 has been changed from:

DELIVERY DATE	QUANTITY	SHIP TO ADDRESS	DODAAC / CAGE
03-AUG-2021	7,000,000	JPEO-CBRND (b) (6) SEE DELIVERY SCHEDULE FOR LOCATIONS APG MD 21010 FOB: Destination	W56XNH

To:

DELIVERY DATE	QUANTITY	SHIP TO ADDRESS	DODAAC / CAGE
30-SEP-2021	7,000,000	JPEO-CBRND (b) (6) SEE DELIVERY SCHEDULE FOR LOCATIONS APG MD 21010 FOB: Destination	W56XNH

The following Delivery Schedule item for CLIN 0009 has been changed from:

DELIVERY DATE	QUANTITY	SHIP TO ADDRESS	DODAAC / CAGE
12-JAN-2021	1,000,000	JPEO-CBRND (b) (6) SEE DELIVERY SCHEDULE FOR LOCATIONS APG MD 21010 FOB: Destination	W56XNH

To:

DELIVERY DATE	QUANTITY	SHIP TO ADDRESS	DODAAC / CAGE
30-SEP-2021	1,000,000	JPEO-CBRND (b) (6) SEE DELIVERY SCHEDULE FOR LOCATIONS APG MD 21010 FOB: Destination	W56XNH

The following Delivery Schedule item for CLIN 0009 has been changed from:

DELIVERY DATE	QUANTITY	SHIP TO ADDRESS	DODAAC / CAGE
31-DEC-2020	3,000,000	JPEO-CBRND (b) (6) SEE DELIVERY SCHEDULE FOR LOCATIONS APG MD 21010 FOB: Destination	W56XNH

To:

DELIVERY DATE	QUANTITY	SHIP TO ADDRESS	DODAAC / CAGE
30-SEP-2021	3,000,000	JPEO-CBRND (b) (6) SEE DELIVERY SCHEDULE FOR LOCATIONS APG MD 21010 FOB: Destination	W56XNH

The following Delivery Schedule item for CLIN 0009 has been changed from:

DELIVERY DATE	QUANTITY	SHIP TO ADDRESS	DODAAC / CAGE
03-AUG-2021	22,616,000	JPEO-CBRND (b) (6) SEE DELIVERY SCHEDULE FOR LOCATIONS APG MD 21010 FOB: Destination	W56XNH

To:

DELIVERY DATE	QUANTITY	SHIP TO ADDRESS	DODAAC / CAGE
30-SEP-2021	22,616,000	JPEO-CBRND (b) (6) SEE DELIVERY SCHEDULE FOR LOCATIONS APG MD 21010 FOB: Destination	W56XNH

The following Delivery Schedule item for CLIN 0014 has been changed from:

DELIVERY DATE	QUANTITY	SHIP TO ADDRESS	DODAAC / CAGE
POP 04-SEP-2020 TO 03-AUG-2021	N/A	JPEO-CBRND (b) (6) SEE DELIVERY SCHEDULE FOR LOCATIONS APG MD 21010 FOB: Destination	W56XNH

To:

DELIVERY DATE	QUANTITY	SHIP TO ADDRESS	DODAAC / CAGE
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POP 04-SEP-2020 TO 31-AUG-2021	N/A	JPEO-CBRND <b>(b) (6)</b> SEE DELIVERY SCHEDULE FOR LOCATIONS APG MD 21010 FOB: Destination	W56XNH
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The following Delivery Schedule item for CLIN 0015 has been changed from:

DELIVERY DATE	QUANTITY	SHIP TO ADDRESS	DODAAC / CAGE
03-AUG-2021	6,000,000	JPEO-CBRND <b>(b) (6)</b> SEE DELIVERY SCHEDULE FOR LOCATIONS APG MD 21010 FOB: Destination	W56XNH

To:

DELIVERY DATE	QUANTITY	SHIP TO ADDRESS	DODAAC / CAGE
30-SEP-2021	6,000,000	JPEO-CBRND <b>(b) (6)</b> SEE DELIVERY SCHEDULE FOR LOCATIONS APG MD 21010 FOB: Destination	W56XNH

TABLE OF CONTENTS

The Table of Contents has changed from:

Exhibit/Attachment Table of Contents

DOCUMENT TYPE	DESCRIPTION	PAGES	DATE
Exhibit A	CDRL_Syringe and Needle Final-1500	3	20-MAY-2020
Exhibit B	CDRL A004 Weekly Delivery Update	2	02-SEP-2020
Attachment 1	Attachment 1-Proposal Template Syringe & Needle-FINAL-Rev1	3	03-AUG-2020
Attachment 2	Shipping Information- Duopross Meditech	2	29-JUL-2020

to:

## Exhibit/Attachment Table of Contents

DOCUMENT TYPE	DESCRIPTION	PAGES	DATE
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The following have been added by full text:

P00009 STATEMENT OF WORK

Changes are shown below in red font text.

**REVISED STATEMENT OF WORK P00009**

## **PROCUREMENT OF SAFETY NEEDLES AND SYRINGES FOR COVID-19**

**1.0 SCOPE:** The Contractor, as an independent Contractor and not as an agent of the Government, shall furnish the necessary resources as specified in this Statement of Work (SOW), to manufacture and/or supply Safety Needles and Syringes.

### **2.0 BACKGROUND:**

On Friday, March 13, 2020, the President declared a national emergency concerning the novel coronavirus disease (COVID-19) under section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5207 (the "Stafford Act).

The mission of the Division of Strategic National Stockpile (DSNS), of the United States (U.S.) Department of Health and Human Services (HHS) Office of the Assistant Secretary for Preparedness and Response (ASPR), is to ensure the availability and rapid deployment of lifesaving pharmaceuticals, antidotes, other medical supplies, and equipment necessary to counter the effects of nerve agents, biological pathogens, and chemical agents. When state, local, tribal, and territorial public health and medical systems request federal assistance to support their response efforts, DSNS ensures the right medicines and supplies get to those who need them most during an emergency. When the vaccine becomes available the Government will have an immediate need to begin vaccinating the entire U.S. population. To administer the vaccine the Government will require needles and syringes to be available.

There is an insufficient domestic supply of safety needles and syringes to meet the projected needs to vaccinate the nation's entire population against COVID-19. Should vaccine programs be accelerated, demand could outpace available devices to administer a vaccine.

**3.0 OBJECTIVE:** The HHS currently has contracts in place with three (3) major manufacturers to provide needles and syringes supplies to support the initial preparedness needs at the onset of a pandemic outbreak. The objective of this acquisition is to supplement the current supply and establish contracts with additional manufacturers and suppliers to provide a quantity of up to 500 million safety needles and syringes supplies.

### **4.0 REQUIREMENTS:**

#### **4.1. General:**

**4.1.1.** The Contractor shall "host" a *Kick-Off Meeting* within one (1) calendar day after contract award via teleconference. The Contractor shall provide *Meeting Minutes* containing a detailed overview of the meeting discussions in accordance with (IAW) Contract Data Requirements List (CDRL) A001.

**4.1.1.1.** The Contractor shall provide a *Certificate of Analysis* with each shipment per the DD Form 1423, Contract Data Requirements List (CDRL) A002, confirming the supplies described below meet the Performance Specifications in paragraph 4.2 below.

**4.1.2.** The Contractor shall provide copies of *510(k) Approval Letters* for ALL supplies (dispensing syringes or needles) to demonstrate compliance with Section 510(k) of the *Food, Drug and Cosmetic Act* as part of their proposal. The Contractor shall provide, if necessary,

**510(k) Approval Letters Updates** if any information from the initial 510(k) Approval Letters is changed/needs to be updated.

**4.1.2.1.1.** The Contractor shall ensure all supplies have a “*Shelf-Life*” with expiration dates of no less than five (5) years from the date of sterilization, **and** must have at least four (4) years of remaining expiry from the time of shipment.

**4.1.2.1.2.** The Contractor shall only use *Current Good Manufacturing Practice (cGMP)* processes to manufacture the needles and syringes.

**4.1.2.1.3. Period of Performance/Delivery Dates.** See the “Delivery Schedule” section of this Contract and “Attachment 2-Shipping Information” for all delivery requirements and shipping locations.

#### **4.2. Technical Requirements:**

**4.2.1.** The Contractor shall provide sterile needle (with Luer hub connection) and syringe (with Luer lock connection) units approved by the Food and Drug Administration (FDA) and comply with *Occupational Safety and Health Administration (OSHA) Needlestick Safety and Prevention Act* requirements as a “*safety-engineered product.*” Safety-engineered supplies include needles preventing sharp injuries by either; being completely enclosed after use by an attached shield, or be fully retracted within the syringe. **The Contractor may provide individual syringes and individual needles as long as there is a one-to-one (1:1) ratio. In order to meet the specified quantities upon contract award and comply with the specifications in this SOW, the following may be provided: (1) individually wrapped sterile syringes with individually wrapped sterile needles in a one-to-one (1:1) ratio, (2) sterile needle/syringe combination unit, or (3) a mixture of sterile combination units and individually wrapped sterile syringes with equal number of individually wrapped sterile needles.**

1.1.1. **4.2.2. The Contractor shall only provide acceptable product sizes as described below:**

##### Individual Syringe:

<u>Syringe</u>
1mL
3mL

##### Individual Needle:

<u>Needle Gauge</u>	<u>Needle Length</u>
23G	1”
23G	1.5”
25G	1”

##### Combination Unit:

<u>Syringe</u>	<u>Needle Gauge</u>	<u>Needle Length</u>
1mL	23G	1”
1mL	23G	1.5”
1mL	25G	1”
3mL	23G	1”
3mL	23G	1.5”
3mL	25G	1”

#### 4.2.3. Dispensing Syringe:

*Description:* A dispensing syringe allows for the controlled and precise flow of liquid. The dispensing syringe is used to inject medications or other liquids into body tissues. Manual syringes consist of a barrel, stopper, and plunger.

**4.2.3.1.** The Contractor shall ensure dispensing syringes comply with Title 21 Code of Federal Regulations (CFR) 880.5860 and follow International Standards Organization (ISO) 7886-1:2017 and the following material specifications:

**4.2.3.1.1.** A device intended for medical purposes that consists of a calibrated hollow barrel and a movable plunger. At one end of the barrel there is a male connector (nozzle) for fitting the female connector (hub) of a hypodermic single lumen needle;

**4.2.3.1.2.** Heavy duty barrel - The barrel has a scale showing the capacity of the syringe.

**4.2.3.1.3.** Stopper - The stopper maintains the fluid in the barrel between the syringe nozzle and the plunger;

**4.2.3.1.4.** Plunger - The plunger is used to aspirate and inject fluids into and out of the syringe;

**4.2.3.1.5.** Disposable;

**4.2.3.1.6.** Luer lock to accept luer hub applicator (e.g. needle);

**4.2.3.1.7.** Sizes as specified in Section 4.2.2 above; and

**4.2.3.1.8.** Sterile individually wrapped packaging.

#### 4.2.4. Hypodermic Needle:

*Description:* A Hypodermic needle is a slender, hollow instrument for introducing material into the body parenterally.

**4.2.4.1.** The Contractor shall ensure hypodermic needles comply with 21 CFR 880.5570, OSHA Needlestick Safety and Prevention Act, and follow International Standards Organization (ISO) 7864, and the following specifications:

**4.2.4.1.1.** Disposable;

**4.2.4.1.2.** Luer hub to attach to luer lock syringe;

**4.2.4.1.3.** See Tables in Sections 4.2.2 above for acceptable needle length and gauges;

**4.2.4.1.4.** Sterile individually wrapped packaging; and

**4.2.4.1.5.** Safety-engineered.

**4.3. Delivery Location and Shipping Requirements:** See Attachment 2-“Shipping Information” for all delivery locations and shipping requirements.

**4.3.1.** The Contractor shall provide **Packing Slips** with all shipments per CDRL A003. The Packing Slips shall include the following: (1) Contract number, (2) Item description, (3) Part number, (4) Lot numbers; and (5) Quantities. The Packing Slips shall include **BOTH**: (1) a **Packing Slip Paper Copy** with the shipment; and (2) a **Packing Slip Paper Emailed Copy** to the Designated Government Representative.

**4.3.2.** No Partial Case or Packages quantities will be accepted unless approved by the Contracting Officer prior to shipping.

**4.3.3.** The Contractor shall **NOT** Mixed Lot #'s per Case or per Packages. The Contractor shall only provide full case quantities **only, unless** approved by the Designated Government Representative in advance via email.

**4.3.4.** The Contractor shall ensure all pallets have the identical TyHi stack pattern, except for the final pallet; which would be a partial pallet or individual boxes.

**4.3.5.** All supplies shall be delivered on a standard 48" by 40" pallet, not to exceed 60" in height, stretch wrapped, clear-wrapped is preferred, and secured to the pallet for safe transport.

**4.3.6.** The Contractor shall contact the Designated Government Representative to schedule delivery appointments. The Government will provide the Designated Government Representative(s)' information at the Kick-Off Meeting.

**4.3.7.** Contractor shall contact the Designated Government Representative to schedule delivery appointments.

**4.3.8.** The Contractor shall ship ALL deliverables via AIR FREIGHT from 03 August 2021 until 31 August 2021 (extension of the previous Air Freight requirement that ended 03 August 2021), and all other CLINs (0008, 0009 and 0015) extended to 30 September 2021.

The Contractor shall charge the Delta in costs between Air Freight costs and Sea Freight costs as updated under 'other direct costs' in the FAR Clause 52.212-4 Alt I. The Contractor shall NOT submit any costs (e.g. labor, overhead, and profit) other than "other direct costs" per FAR Clause 52.214-4 Alternative one (1) as those cost are already included in the contract. The Contractor shall only be reimbursed for **actual REASONABLE costs** and shall provide documented proof (e.g. receipts and paid invoices). The Government's pallet dimension limitations (stated in Section 4.3.5) is how the pallets will be delivered, it does NOT restrict pallet heights or other packing dimensions of HOW the items are to be shipped (either by air or sea). The Contractor shall follow commercial best practices and to maximize/optimize Air Cargo Load, palletization or re-palletization (if needed), and drayage. The Government reserves the right to stop this Air Freight requirement prior to 31 August 2021 via email notification from the Contracting Officer due to urgency, followed by a bi-lateral modification. The Government also reserves the right to provide transportation (e.g. planes) or other logistical services (e.g. palletization) and will notify the Contractor via an email from the Contracting Officer. For purposes of this modification through 31 August 2021, the Contractor shall continue to use Government-provided-aircraft under TRANSCOM contract award number **HTC71119DW002, task order number HTC71121FW013**; to provide the approximate weight allowances and restrictions stated therein through 31 August 2021. In the event, the Contractor completes/uses all the provided planes under the TRANSCOM's task order, **HTC71121FW013, prior to 31 August 2021**, the Contractor shall notify the Contracting Officer under this award PRIOR to making or incurring any future air freight costs.

**4.3.9.** Based on mutual agreement at the Post-Award Meeting for delivery schedules, the Contractor shall provide an **Initial Updated Syringe-Needle Delivery Schedule**. The template for the Initial Updated Syringe-Needle Delivery Schedule will be provided by the COR. The Initial Updated Delivery Schedule shall be provided to the COR within three (3) business days after the "Sea to Air Freight Modification." Thereafter, the Contractor shall, at a minimum, provide **Weekly Delivery Schedule Updates** to the COR by Tuesday, 1400 Eastern Time.

## **5.0 Operation Warp Speed (OWS) Contract Language:**

### **5.1. Disclosure of Information:**

**5.1.1.** Performance under this contract may require the Contractor to access non-public data and information proprietary to a Government agency, another Government Contractor or of such nature that its dissemination or use other than as specified in the work statement would be adverse to the interests of the Government or others. Neither the Contractor, nor Contractor personnel, shall divulge nor release data nor information developed or obtained under

performance of this contract, except authorized by Government personnel or upon written approval of the CO in accordance with OWS or other Government policies and/or guidance. The Contractor shall not use, disclose, or reproduce proprietary data that bears a restrictive legend, other than as specified in this contract, or any information at all regarding this agency.

**5.1.2.** The Contractor shall comply with all Government requirements for protection of nonpublic information. Unauthorized disclosure of nonpublic information is prohibited by the Government's rules. Unauthorized disclosure may result in termination of the contract, replacement of a Contractor employee, or other appropriate redress. Neither the Contractor nor the Contractor's employees shall disclose or cause to be disseminated, any information concerning the operations of the activity, which could result in, or increase the likelihood of, the possibility of a breach of the activity's security or interrupt the continuity of its operations.

**5.1.3.** No information related to data obtained under this contract shall be released or publicized without the prior written consent of the COR, whose approval shall not be unreasonably withheld, conditioned, or delayed, provided that no such consent is required to comply with any law, rule, regulation, court ruling or similar order; for submission to any government entity' for submission to any securities exchange on which the Contractor's (or its parent corporation's) securities may be listed for trading; or to third parties relating to securing, seeking, establishing or maintaining regulatory or other legal approvals or compliance, financing and capital raising activities, or mergers, acquisitions, or other business transactions.

## **5.2. Publications and Publicity:**

**5.2.1.** The contractor shall not release any reports, manuscripts, press releases, or abstracts about the work being performed under this contract without written notice in advance to the Government:

(a) Unless otherwise specified in this contract, the contractor may publish the results of its work under this contract. The contractor shall promptly send a copy of each submission to the COR for security review prior to submission. The contractor shall also inform the COR when the abstract article or other publication is published, and furnish a copy of it as finally published;

(b) Unless authorized in writing by the CO, the contractor shall not display Government logos including Operating Division or Staff Division logos on any publications;

(c) The contractor shall not reference the products(s) or services(s) awarded under this contract in commercial advertising, as defined in FAR 31.205-1, in any manner which states or implies Government approval or endorsement of the product(s) or service(s) provided;

(d) The contractor shall include this clause, including this section (d) in all subcontracts where the subcontractor may propose publishing the results of its work under the subcontract. The contractor shall acknowledge the support of the Government whenever publicizing the work under this contract in any media by including an acknowledgement substantially as follows: "This project has been funded in whole or in part by the U.S. Government under Contract No. XXXX. The US Government is authorized to reproduce and distribute reprints for Governmental purposes notwithstanding any copyright notation thereon."

## **5.3. Confidentiality of Information:**

**5.3.1.** Confidential information, as used in this article, means information or data of a personal nature about an individual, or proprietary information or data submitted by or pertaining to an institution or organization.

**5.3.2.** The Contracting Officer and the Contractor may, by mutual consent, identify elsewhere in this contract specific information and/or categories of information which the Government will furnish to the Contractor or that the Contractor is expected to generate which is confidential.

Similarly, the Contracting Officer and the Contractor may, by mutual consent, identify such confidential information from time to time during the performance of the contract. Failure to agree will be settled pursuant to the "Disputes" clause.

**5.3.3.** If it is established elsewhere in this contract that information to be utilized under this contract, or a portion thereof, is subject to the Privacy Act, the Contractor will follow the rules and procedures of disclosure set forth in the Privacy Act of 1974, 5 U.S.C. 552a, and implementing regulations and policies, with respect to systems of records determined to be subject to the Privacy Act.

**5.3.4.** Confidential information, as defined in paragraph (a) of this article, shall not be disclosed without the prior written consent of the individual, institution, or organization. Whenever the Contractor is uncertain with regard to the proper handling of material under the contract, or if the material in question is subject to the Privacy Act or is confidential information subject to the provisions of this article, the Contractor shall obtain a written determination from the Contracting Officer prior to any release, disclosure, dissemination, or publication.

**5.3.5.** Contracting Officer Determinations will reflect the result of internal coordination with appropriate program and legal officials.

**5.3.6.** The provisions of paragraph (d) of this article shall not apply to conflicting or overlapping provisions in other Federal, State or local laws.

**5.3.7.** All above requirements MUST be passed to all Sub-contractors.

#### **5.4. Organizational Conflicts of Interest:**

**5.4.1.** Performance under this contract may create an actual or potential organizational conflict of interest such as are contemplated by FAR Part 9.505-General Rules. The Contractor shall not engage in any other contractual or other activities which could create an organizational conflict of interest (OCI). This provision shall apply to the prime Contractor and all sub-Contractors. This provision shall have effect throughout the period of performance of this contract, any extensions thereto by change order or supplemental agreement, and for two (2) years thereafter. The Government may pursue such remedies as may be permitted by law or this contract, upon determination that an OCI has occurred.

**5.4.2.** The work performed under this contract may create a significant potential for certain conflicts of interest, as set forth in FAR Parts 9.505-1, 9.505-2, 9.505-3, and 9.505-4. It is the intention of the parties hereto to prevent both the potential for bias in connection with the Contractor's performance of this contract, as well as the creation of any unfair competitive advantage as a result of knowledge gained through access to any non-public data or third party proprietary information.

**5.4.3.** The Contractor shall notify the Contracting Officer immediately whenever it becomes aware that such access or participation may result in any actual or potential OCI. Furthermore, the Contractor shall promptly submit a plan to the Contracting Officer to either avoid or mitigate any such OCI. The Contracting Officer will have sole discretion in accepting the Contractor's mitigation plan. In the event the Contracting Officer unilaterally determines that any such OCI cannot be satisfactorily avoided or mitigated, other remedies may be taken to prohibit the Contractor from participating in contract requirements related to OCI.

**5.4.4.** Whenever performance of this contract provides access to another Contractor's proprietary information, the Contractor shall enter into a written agreement with the other entities involved, as appropriate, in order to protect such proprietary information from unauthorized use or disclosure for as long as it remains proprietary; and refrain from using such proprietary

information other than as agreed to, for example to provide assistance during technical evaluation of other Contractors' offers or products under this contract. An executed copy of all proprietary information agreements by individual personnel or on a corporate basis shall be furnished to the CO within fifteen (15) calendar days of execution.

**Additional Reporting Requirements.**

**WAREHOUSED ITEMS** - Contract Items stored/staged at interim locations prior to air shipment at contractor warehouses and/or warehouses utilized by contractor subcontractors and/or transportation agents. The contractor is required to provide a daily report not later than 1700 US Eastern Standard Time (EST) including the following information:

Location of Warehouse(s):

Complete physical address of warehouse(s):

Warehouse POC:

Warehouse POC telephone number and email address:

For each warehouse location, detailed descriptions and quantities/count by individual item warehoused and ready for shipment.

**ADDITIONAL NOTES:**

1. Concurrently, all information required under this contract modification shall be provided by email to the following individuals:

a) ACC-APG Email Address – (b) (6)

b) ACC HQs POC, (b) (6)

The following have been modified:

**This section has been modified. Changes are shown below in red font text.**

52.212-4 CONTRACT TERMS AND CONDITIONS -- COMMERCIAL ITEMS (OCT 2018) ALTERNATE I (JAN 2017)

When a time-and-materials or labor-hour contract is contemplated, substitute the following paragraphs (a), (e), (i), (l), and (m) for those in the basic clause.

(a) Inspection/Acceptance.

(1) The Government has the right to inspect and test all materials furnished and services performed under this contract, to the extent practicable at all places and times, including the period of performance, and in any event before acceptance. The Government may also inspect the plant or plants of the Contractor or any subcontractor engaged in contract performance. The Government will perform inspections and tests in a manner that will not unduly delay the work.

(2) If the Government performs inspection or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish and shall require subcontractors to furnish all reasonable facilities and assistance for the safe and convenient performance of these duties.

(3) Unless otherwise specified in the contract, the Government will accept or reject services and materials at the place of delivery as promptly as practicable after delivery, and they will be presumed accepted 60 days after the date of delivery, unless accepted earlier.

(4) At any time during contract performance, but not later than 6 months (or such other time as may be specified in the contract) after acceptance of the services or materials last delivered under this contract, the Government may require the Contractor to replace or correct services or materials that at time of delivery failed to meet contract requirements. Except as otherwise specified in paragraph (a)(6) of this clause, the cost of replacement or correction shall be determined under paragraph (i) of this clause, but the "hourly rate" for labor hours incurred in the replacement or correction shall be reduced to exclude that portion of the rate attributable to profit. Unless otherwise specified below, the portion of the "hourly rate" attributable to profit shall be 10 percent. The Contractor shall not tender for acceptance materials and services required to be replaced or corrected without disclosing the former requirement for replacement or correction, and, when required, shall disclose the corrective action taken. 0% (Insert portion of labor rate attributable to profit.)

(5) If the Contractor fails to proceed with reasonable promptness to perform required replacement or correction, and if the replacement or correction can be performed within the ceiling price (or the ceiling price as increased by the Government), the Government may—

(A) By contract or otherwise, perform the replacement or correction, charge to the Contractor any increased cost, or deduct such increased cost from any amounts paid or due under this contract; or

(B) Terminate this contract for cause.

(ii) Failure to agree to the amount of increased cost to be charged to the Contractor shall be a dispute under the Disputes clause of the contract.

(6) Notwithstanding paragraphs (a)(4) and (5) above, the Government may at any time require the Contractor to remedy by correction or replacement, without cost to the Government, any failure by the Contractor to comply with the requirements of this contract, if the failure is due to—

(i) Fraud, lack of good faith, or willful misconduct on the part of the Contractor's managerial personnel; or

(ii) The conduct of one or more of the Contractor's employees selected or retained by the Contractor after any of the Contractor's managerial personnel has reasonable grounds to believe that the employee is habitually careless or unqualified.

(7) This clause applies in the same manner and to the same extent to corrected or replacement materials or services as to materials and services originally delivered under this contract.

(8) The Contractor has no obligation or liability under this contract to correct or replace materials and services that at time of delivery do not meet contract requirements, except as provided in this clause or as may be otherwise specified in the contract.

(9) Unless otherwise specified in the contract, the Contractor's obligation to correct or replace Government-furnished property shall be governed by the clause pertaining to Government property.

(b) Assignment. The Contractor or its assignee may assign its rights to receive payment due as a result of performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency in accordance with the Assignment of Claims Act (31 U.S.C. 3727). However, when a third party makes payment (e.g., use of the Governmentwide commercial purchase card), the Contractor may not assign its rights to receive payment under this contract.

(c) Changes. Changes in the terms and conditions of this contract may be made only by written agreement of the parties.

(d) Disputes. This contract is subject to 41 U.S.C. chapter 71, Contract Disputes, as amended (41 U.S.C. 601-613). Failure of the parties to this contract to reach agreement on any request for equitable adjustment, claim, appeal or action arising under or relating to this contract shall be a dispute to be resolved in accordance with the clause at FAR

52.233-1, Disputes, which is incorporated herein by reference. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any dispute arising under the contract.

(e) Definitions.

(1) The clause at FAR 52.202-1, Definitions, is incorporated herein by reference. As used in this clause—

(i) Direct materials means those materials that enter directly into the end product, or that are used or consumed directly in connection with the furnishing of the end product or service.

(ii) Hourly rate means the rate(s) prescribed in the contract for payment for labor that meets the labor category qualifications of a labor category specified in the contract that are—

(A) Performed by the contractor;

(B) Performed by the subcontractors; or

(C) Transferred between divisions, subsidiaries, or affiliates of the contractor under a common control.

(iii) Materials means—

(A) Direct materials, including supplies transferred between divisions, subsidiaries, or affiliates of the contractor under a common control;

(B) Subcontracts for supplies and incidental services for which there is not a labor category specified in the contract;

(C) Other direct costs (*e.g.*, incidental services for which there is not a labor category specified in the contract, travel, computer usage charges, etc.);

(D) The following subcontracts for services which are specifically excluded from the hourly rate: **Not Applicable** (Insert any subcontracts for services to be excluded from the hourly rates prescribed in the schedule); and

(E) Indirect costs specifically provided for in this clause.

(iv) Subcontract means any contract, as defined in FAR Subpart 2.1, entered into with a subcontractor to furnish supplies or services for performance of the prime contract or a subcontract including transfers between divisions, subsidiaries, or affiliates of a contractor or subcontractor. It includes, but is not limited to, purchase orders, and changes and modifications to purchase orders.

(f) Excusable delays. The Contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

(g) Invoice.

(1) The Contractor shall submit an original invoice and three copies (or electronic invoice, if authorized) to the address designated in the contract to receive invoices. An invoice must include—

(i) Name and address of the Contractor;

(ii) Invoice date and number;

- (iii) Contract number, line item number and, if applicable, the order number;
- (iv) Description, quantity, unit of measure, unit price and extended price of the items delivered;
- (v) Shipping number and date of shipment, including the bill of lading number and weight of shipment if shipped on Government bill of lading;
- (vi) Terms of any discount for prompt payment offered;
- (vii) Name and address of official to whom payment is to be sent;
- (viii) Name, title, and phone number of person to notify in event of defective invoice; and
- (ix) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.
- (x) Electronic funds transfer (EFT) banking information.
  - (A) The Contractor shall include EFT banking information on the invoice only if required elsewhere in this contract.
  - (B) If EFT banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the Contractor shall have submitted correct EFT banking information in accordance with the applicable solicitation provision, contract clause (*e.g.*, 52.232-33, Payment by Electronic Funds Transfer—System for Award Management, or 52.232-34, Payment by Electronic Funds Transfer—Other Than System for Award Management), or applicable agency procedures.
  - (C) EFT banking information is not required if the Government waived the requirement to pay by EFT.
- (2) Invoices will be handled in accordance with the Prompt Payment Act (31 U.S.C. 3903) and Office of Management and Budget (OMB) prompt payment regulations at 5 CFR Part 1315.
- (h) Patent indemnity. The Contractor shall indemnify the Government and its officers, employees and agents against liability, including costs, for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark or copyright, arising out of the performance of this contract, provided the Contractor is reasonably notified of such claims and proceedings.
- (i) Payments.
  - (1) Work performed. The Government will pay the Contractor as follows upon the submission of commercial invoices approved by the Contracting Officer:
    - (i) Hourly rate.
      - (A) The amounts shall be computed by multiplying the appropriate hourly rates prescribed in the contract by the number of direct labor hours performed. Fractional parts of an hour shall be payable on a prorated basis.
      - (B) The rates shall be paid for all labor performed on the contract that meets the labor qualifications specified in the contract. Labor hours incurred to perform tasks for which labor qualifications were specified in the contract will not be paid to the extent the work is performed by individuals that do not meet the qualifications specified in the contract, unless specifically authorized by the Contracting Officer.
      - (C) Invoices may be submitted once each month (or at more frequent intervals, if approved by the Contracting Officer) to the Contracting Officer or the authorized representative.

(D) When requested by the Contracting Officer or the authorized representative, the Contractor shall substantiate invoices (including any subcontractor hours reimbursed at the hourly rate in the schedule) by evidence of actual payment, individual daily job timecards, records that verify the employees meet the qualifications for the labor categories specified in the contract, or other substantiation specified in the contract.

(E) Unless the Schedule prescribes otherwise, the hourly rates in the Schedule shall not be varied by virtue of the Contractor having performed work on an overtime basis.

(1) If no overtime rates are provided in the Schedule and the Contracting Officer approves overtime work in advance, overtime rates shall be negotiated.

(2) Failure to agree upon these overtime rates shall be treated as a dispute under the Disputes clause of this contract.

(3) If the Schedule provides rates for overtime, the premium portion of those rates will be reimbursable only to the extent the overtime is approved by the Contracting Officer.

(ii) Materials.

(A) If the Contractor furnishes materials that meet the definition of a commercial item at 2.101, the price to be paid for such materials shall not exceed the Contractor's established catalog or market price, adjusted to reflect the--

(1) Quantities being acquired; and

(2) Any modifications necessary because of contract requirements.

(B) Except as provided for in paragraph (i)(1)(ii)(A) and (D)(2) of this clause, the Government will reimburse the Contractor the actual cost of materials (less any rebates, refunds, or discounts received by the contractor that are identifiable to the contract) provided the Contractor—

(1) Has made payments for materials in accordance with the terms and conditions of the agreement or invoice; or

(2) Makes these payments within 30 days of the submission of the Contractor's payment request to the Government and such payment is in accordance with the terms and conditions of the agreement or invoice.

(C) To the extent able, the Contractor shall—

(1) Obtain materials at the most advantageous prices available with due regard to securing prompt delivery of satisfactory materials; and

(2) Give credit to the Government for cash and trade discounts, rebates, scrap, commissions, and other amounts that are identifiable to the contract.

(D) Other Costs. Unless listed below, other direct and indirect costs will not be reimbursed.

(1) Other Direct Costs. The Government will reimburse the Contractor on the basis of actual cost for the following, provided such costs comply with the requirements in paragraph (i)(1)(ii)(B) of this clause and Section 4.3.8 of the Revised Statement of Work P00009: Any Delta in cost between the already included Sea Freight and Air Freight for shipments prior to 3 August 2021 and a quantity of approximately 12,270,000 units (1:1 syringe/needle) that are being delivered via air freight by Government provided aircraft under TRANCOM contract award number HTC71119DW002, task order number HTC71121FW009. The Contractor Other direct costs include only the following: (1) Cost of the mandatory Merchandise Processing Fee (MPF); (2) Costs to pick up supplies from the TRANSCOM contractor; (3) The actual re-palletization cost charged from the freight forwarder "Crane"; and (4) Shipping the supplies from Crane to the delivery to McKesson sites.

(2) Indirect Costs (Material Handling, Subcontract Administration, etc.. The Government will reimburse the Contractor for indirect costs on a pro-rata basis over the period of contract performance at the following fixed price: **\$0.**

(2) Total cost. It is estimated that the total cost to the Government for the performance of this contract shall not exceed the ceiling price set forth in the Schedule and the Contractor agrees to use its best efforts to perform the work specified in the Schedule and all obligations under this contract within such ceiling price. If at any time the Contractor has reason to believe that the hourly rate payments and material costs that will accrue in performing this contract in the next succeeding 30 days, if added to all other payments and costs previously accrued, will exceed 85 percent of the ceiling price in the Schedule, the Contractor shall notify the Contracting Officer giving a revised estimate of the total price to the Government for performing this contract with supporting reasons and documentation. If at any time during the performance of this contract, the Contractor has reason to believe that the total price to the Government for performing this contract will be substantially greater or less than the then stated ceiling price, the Contractor shall so notify the Contracting Officer, giving a revised estimate of the total price for performing this contract, with supporting reasons and documentation. If at any time during performance of this contract, the Government has reason to believe that the work to be required in performing this contract will be substantially greater or less than the stated ceiling price, the Contracting Officer will so advise the Contractor, giving the then revised estimate of the total amount of effort to be required under the contract.

(3) Ceiling price. The Government will not be obligated to pay the Contractor any amount in excess of the ceiling price in the Schedule, and the Contractor shall not be obligated to continue performance if to do so would exceed the ceiling price set forth in the Schedule, unless and until the Contracting Officer notifies the Contractor in writing that the ceiling price has been increased and specifies in the notice a revised ceiling that shall constitute the ceiling price for performance under this contract. When and to the extent that the ceiling price set forth in the Schedule has been increased, any hours expended and material costs incurred by the Contractor in excess of the ceiling price before the increase shall be allowable to the same extent as if the hours expended and material costs had been incurred after the increase in the ceiling price.

(4) Access to records. At any time before final payment under this contract, the Contracting Officer (or authorized representative) will have access to the following (access shall be limited to the listing below unless otherwise agreed to by the Contractor and the Contracting Officer):

(i) Records that verify that the employees whose time has been included in any invoice meet the qualifications for the labor categories specified in the contract;

(ii) For labor hours (including any subcontractor hours reimbursed at the hourly rate in the schedule), when timecards are required as substantiation for payment—

(A) The original timecards (paper-based or electronic);

(B) The Contractor's timekeeping procedures;

(C) Contractor records that show the distribution of labor between jobs or contracts; and

(D) Employees whose time has been included in any invoice for the purpose of verifying that these employees have worked the hours shown on the invoices.

(iii) For material and subcontract costs that are reimbursed on the basis of actual cost—

(A) Any invoices or subcontract agreements substantiating material costs; and

(B) Any documents supporting payment of those invoices.

(5) Overpayments/Underpayments. Each payment previously made shall be subject to reduction to the extent of amounts, on preceding invoices, that are found by the Contracting Officer not to have been properly payable and

shall also be subject to reduction for overpayments or to increase for underpayments. The Contractor shall promptly pay any such reduction within 30 days unless the parties agree otherwise. The Government within 30 days will pay any such increases, unless the parties agree otherwise. The Contractor's payment will be made by check. If the Contractor becomes aware of a duplicate invoice payment or that the Government has otherwise overpaid on an invoice payment, the Contractor shall--

(i) Remit the overpayment amount to the payment office cited in the contract along with a description of the overpayment including the--

(A) Circumstances of the overpayment (e.g., duplicate payment, erroneous payment, liquidation errors, date(s) of overpayment);

(B) Affected contract number and delivery order number, if applicable;

(C) Affected line item or subline item, if applicable; and

(D) Contractor point of contact.

(ii) Provide a copy of the remittance and supporting documentation to the Contracting Officer.

(6)(i) All amounts that become payable by the Contractor to the Government under this contract shall bear simple interest from the date due until paid unless paid within 30 days of becoming due. The interest rate shall be the interest rate established by the Secretary of the Treasury, as provided in 41 U.S.C. 7109, which is applicable to the period in which the amount becomes due, and then at the rate applicable for each six month period as established by the Secretary until the amount is paid.

(ii) The Government may issue a demand for payment to the Contractor upon finding a debt is due under the contract.

(iii) Final Decisions. The Contracting Officer will issue a final decision as required by 33.211 if--

(A) The Contracting Officer and the Contractor are unable to reach agreement on the existence or amount of a debt in a timely manner;

(B) The Contractor fails to liquidate a debt previously demanded by the Contracting Officer within the timeline specified in the demand for payment unless the amounts were not repaid because the Contractor has requested an installment payment agreement; or

(C) The Contractor requests a deferment of collection on a debt previously demanded by the Contracting Officer (see FAR 32.607-2).

(iv) If a demand for payment was previously issued for the debt, the demand for payment included in the final decision shall identify the same due date as the original demand for payment.

(v) Amounts shall be due at the earliest of the following dates:

(A) The date fixed under this contract.

(B) The date of the first written demand for payment, including any demand for payment resulting from a default termination.

(vi) The interest charge shall be computed for the actual number of calendar days involved beginning on the due date and ending on--

(A) The date on which the designated office receives payment from the Contractor;

(B) The date of issuance of a Government check to the Contractor from which an amount otherwise payable has been withheld as a credit against the contract debt; or

(C) The date on which an amount withheld and applied to the contract debt would otherwise have become payable to the Contractor.

(vii) The interest charge made under this clause may be reduced under the procedures prescribed in 32.608-2 of the Federal Acquisition Regulation in effect on the date of this contract.

(viii) Upon receipt and approval of the invoice designated by the Contractor as the "completion invoice" and supporting documentation, and upon compliance by the Contractor with all terms of this contract, any outstanding balances will be paid within 30 days unless the parties agree otherwise. The completion invoice, and supporting documentation, shall be submitted by the Contractor as promptly as practicable following completion of the work under this contract, but in no event later than 1 year (or such longer period as the Contracting Officer may approve in writing) from the date of completion.

(7) Release of claims. The Contractor, and each assignee under an assignment entered into under this contract and in effect at the time of final payment under this contract, shall execute and deliver, at the time of and as a condition precedent to final payment under this contract, a release discharging the Government, its officers, agents, and employees of and from all liabilities, obligations, and claims arising out of or under this contract, subject only to the following exceptions.

(i) Specified claims in stated amounts, or in estimated amounts if the amounts are not susceptible to exact statement by the Contractor.

(ii) Claims, together with reasonable incidental expenses, based upon the liabilities of the Contractor to third parties arising out of performing this contract, that are not known to the Contractor on the date of the execution of the release, and of which the Contractor gives notice in writing to the Contracting Officer not more than 6 years after the date of the release or the date of any notice to the Contractor that the Government is prepared to make final payment, whichever is earlier.

(iii) Claims for reimbursement of costs (other than expenses of the Contractor by reason of its indemnification of the Government against patent liability), including reasonable incidental expenses, incurred by the Contractor under the terms of this contract relating to patents.

(8) Prompt payment. The Government will make payment in accordance with the Prompt Payment Act (31 U.S.C. 3903) and prompt payment regulations at 5 CFR part 1315.

(9) Electronic Funds Transfer (EFT). If the Government makes payment by EFT, see 52.212-5(b) for the appropriate EFT clause.

(10) Discount. In connection with any discount offered for early payment, time shall be computed from the date of the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date that appears on the payment check or the specified payment date if an electronic funds transfer payment is made.

(j) Risk of loss. Unless the contract specifically provides otherwise, risk of loss or damage to the supplies provided under this contract shall remain with the Contractor until, and shall pass to the Government upon:

(1) Delivery of the supplies to a carrier, if transportation is f.o.b. origin; or

(2) Delivery of the supplies to the Government at the destination specified in the contract, if transportation is f.o.b. destination.

(k) Taxes. The contract price includes all applicable Federal, State, and local taxes and duties.

(l) Termination for the Government's convenience. The Government reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the Contractor shall be paid an amount for direct labor hours (as defined in the Schedule of the contract) determined by multiplying the number of direct labor hours expended before the effective date of termination by the hourly rate(s) in the contract, less any hourly rate payments already made to the Contractor plus reasonable charges the Contractor can demonstrate to the satisfaction of the Government using its standard record keeping system that have resulted from the termination. The Contractor shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. This paragraph does not give the Government any right to audit the Contractor's records. The Contractor shall not be paid for any work performed or costs incurred that reasonably could have been avoided.

(m) Termination for cause. The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Government, upon written request, with adequate assurances of future performance. Subject to the terms of this contract, the Contractor shall be paid an amount computed under paragraph (i) Payments of this clause, but the "hourly rate" for labor hours expended in furnishing work not delivered to or accepted by the Government shall be reduced to exclude that portion of the rate attributable to profit. Unless otherwise specified in paragraph (a)(4) of this clause, the portion of the "hourly rate" attributable to profit shall be 10 percent. In the event of termination for cause, the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

(n) Title. Unless specified elsewhere in this contract, title to items furnished under this contract shall pass to the Government upon acceptance, regardless of when or where the Government takes physical possession.

(o) Warranty. The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.

(p) Limitation of liability. Except as otherwise provided by an express warranty, the Contractor will not be liable to the Government for consequential damages resulting from any defect or deficiencies in accepted items.

(q) Other compliances. The Contractor shall comply with all applicable Federal, State and local laws, executive orders, rules and regulations applicable to its performance under this contract.

(r) Compliance with laws unique to Government contracts. The Contractor agrees to comply with 31 U.S.C. 1352 relating to limitations on the use of appropriated funds to influence certain Federal contracts; 18 U.S.C. 431 relating to officials not to benefit; 40 U.S.C. chapter 37, Contract Work Hours and Safety Standards; 41 U.S.C. chapter 87, Kickbacks; 41 U.S.C. 4712 and 10 U.S.C. 2409 relating to whistleblower protections; 49 U.S.C. 40118, Fly American; and 41 U.S.C. chapter 21 relating to procurement integrity.

(s) Order of precedence. Any inconsistencies in this solicitation or contract shall be resolved by giving precedence in the following order:

(1) The schedule of supplies/services.

(2) The Assignments, Disputes, Payments, Invoice, Other Compliances, Compliance with Laws Unique to Government Contracts, and Unauthorized Obligations paragraphs of this clause;

(3) The clause at [52.212-5](#).

(4) Addenda to this solicitation or contract, including any license agreements for computer software.

(5) Solicitation provisions if this is a solicitation.

(6) Other paragraphs of this clause.

(7) The [Standard Form 1449](#).

(8) Other documents, exhibits, and attachments.

(9) The specification.

(t) Reserved.

(u) Unauthorized Obligations.

(1) Except as stated in paragraph (u)(2) of this clause, when any supply or service acquired under this contract is subject to any End User License Agreement (EULA), Terms of Service (TOS), or similar legal instrument or agreement, that includes any clause requiring the Government to indemnify the Contractor or any person or entity for damages, costs, fees, or any other loss or liability that would create an Anti-Deficiency Act violation (31 U.S.C. 1341), the following shall govern:

(i) Any such clause is unenforceable against the Government.

(ii) Neither the Government nor any Government authorized end user shall be deemed to have agreed to such clause by virtue of it appearing in the EULA, TOS, or similar legal instrument or agreement. If the EULA, TOS, or similar legal instrument or agreement is invoked through an "I agree" click box or other comparable mechanism (e.g., "click-wrap" or "browse-wrap" agreements), execution does not bind the Government or any Government authorized end user to such clause.

(iii) Any such clause is deemed to be stricken from the EULA, TOS, or similar legal instrument or agreement.

(2) Paragraph (u)(1) of this clause does not apply to indemnification by the Government that is expressly authorized by statute and specifically authorized under applicable agency regulations and procedures.

(v) Incorporation by reference. The Contractor's representations and certifications, including those completed electronically via the System for Award Management (SAM), are incorporated by reference into the contract.

(End of Clause)

**This clause has been modified. Changes are shown below in red font text.**

252.232-7006 WIDE AREA WORKFLOW PAYMENT INSTRUCTIONS (DEC 2018)

(a) Definitions. As used in this clause—

“Department of Defense Activity Address Code (DoDAAC)” is a six position code that uniquely identifies a unit, activity, or organization.

“Document type” means the type of payment request or receiving report available for creation in Wide Area WorkFlow (WAWF).

“Local processing office (LPO)” is the office responsible for payment certification when payment certification is done external to the entitlement system.

“Payment request” and “receiving report” are defined in the clause at 252.232-7003, Electronic Submission of Payment Requests and Receiving Reports.

(b) Electronic invoicing. The WAWF system provides the method to electronically process vendor payment requests and receiving reports, as authorized by Defense Federal Acquisition Regulation Supplement (DFARS) 252.232-7003, Electronic Submission of Payment Requests and Receiving Reports.

(c) WAWF access. To access WAWF, the Contractor shall—

(1) Have a designated electronic business point of contact in the System for Award Management at <https://www.sam.gov>; and

(2) Be registered to use WAWF at <https://picc.cb.mil/> following the step-by-step procedures for self-registration available at this web site.

(d) WAWF training. The Contractor should follow the training instructions of the WAWF Web-Based Training Course and use the Practice Training Site before submitting payment requests through WAWF. Both can be accessed by selecting the “Web Based Training” link on the WAWF home page at <https://picc.cb.mil/>.

(e) WAWF methods of document submission. Document submissions may be via web entry, Electronic Data Interchange, or File Transfer Protocol.

(f) WAWF payment instructions. The Contractor shall use the following information when submitting payment requests and receiving reports in WAWF for this contract or task or delivery order:

(1) Document type. The Contractor shall submit payment requests using the following document type(s):

(i) For cost-type line items, including labor-hour or time-and-materials, submit a cost voucher.

(ii) For fixed price line items—

(A) That require shipment of a deliverable, submit the invoice and receiving report specified by the Contracting Officer.

**Invoice 2in1**

(B) For services that do not require shipment of a deliverable, submit either the Invoice 2in1, which meets the requirements for the invoice and receiving report, or the applicable invoice and receiving report, as specified by the Contracting Officer.

**Invoice 2in1**

(iii) For customary progress payments based on costs incurred, submit a progress payment request.

(iv) For performance based payments, submit a performance based payment request.

(v) For commercial item financing, submit a commercial item financing request.

(2) Fast Pay requests are only permitted when Federal Acquisition Regulation (FAR) 52.213-1 is included in the contract.

[Note: The Contractor may use a WAWF “combo” document type to create some combinations of invoice and receiving report in one step.]

(3) Document routing. The Contractor shall use the information in the Routing Data Table below only to fill in applicable fields in WAWF when creating payment requests and receiving reports in the system.

Routing Data Table\*

<i>Field Name in WAWF</i>	<i>Data to be entered in WAWF</i>
Pay Official DoDAAC	HQ0490
Issue By DoDAAC	W911SR
Admin DoDAAC**	W58P05
Inspect By DoDAAC	W56XNH
Ship To Code	TBD at post award meeting.
Ship From Code	8LK11
Mark For Code	N/A
Service Approver (DoDAAC)	W56XNH
Service Acceptor (DoDAAC)	W56XNH
Accept at Other DoDAAC	N/A
LPO DoDAAC	N/A
DCAA Auditor DoDAAC	N/A
Other DoDAAC(s)	N/A

(\*Contracting Officer: Insert applicable DoDAAC information. If multiple ship to/acceptance locations apply, insert “See Schedule” or “Not applicable.”)

(\*\*Contracting Officer: If the contract provides for progress payments or performance-based payments, insert the DoDAAC for the contract administration office assigned the functions under FAR 42.302(a)(13).)

(4) Payment request. The Contractor shall ensure a payment request includes documentation appropriate to the type of payment request in accordance with the payment clause, contract financing clause, or Federal Acquisition Regulation 52.216-7, Allowable Cost and Payment, as applicable.

(5) Receiving report. The Contractor shall ensure a receiving report meets the requirements of DFARS Appendix F.

(g) WAWF point of contact.

(1) The Contractor may obtain clarification regarding invoicing in WAWF from the following contracting activity’s WAWF point of contact.

(b) (6)

[Redacted]

**(2) Contact the WAWF helpdesk at 866-618-5988, if assistance is needed.**

(End of clause)

The following have been deleted:

P00006 STATEMENT OF WORK

REVISED STATEMENT OF WORK

(End of Summary of Changes)