



Proprietary & Confidential

Spartan Motors USA, Inc. Additional Terms and Conditions – Defense Products Purchases

FAR/DFARS Clause Flow-Down for Commercial Items in Fulfillment of a
US Government Contract

For order(s) under a U.S. Government prime contract or subcontract the following additional conditions apply:

1. Rated Order

If so identified, in the Purchase Order, this is a “rated order” certified for national defense use, and Seller shall follow all the requirements of the Defense Priorities and Allocation System Regulation (15 C.F.R. Part 700).

The DPAS policy requires that DX rated orders be given priority over non-rated orders to meet the scheduled delivery dates (Ref. 15 C.F.R. 700.14) There are two types of priority ratings: DO and DX. DX rated orders must be given priority over DO rated orders, and DO rated orders over unrated orders such as commercial purchase orders. Please reference your weekly report: “Supplier Requirement Schedule” to identify and split order quantities into the different ratings. Contact your Material Planner for any quantity clarifications.

2. Source Inspection

Buyer reserves the right to request Government inspection at the source. If this right is exercised, the Seller at its expense shall make all necessary arrangements with the proper U.S. Government agency to arrange for inspection and shall promptly furnish Buyer with the resulting inspection certificates.

3. Certification

The Seller certifies that the Seller and/or any of its Principals are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency and have not within a three-year period preceding this order been convicted of or had a civil judgment rendered against it for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, local or state) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws or receiving stolen property; and are not presently indicted for or otherwise criminally or civilly charged by a U.S. Government entity with commission of any of the foregoing.

4. International Traffic in Arms Regulations (ITAR)

Seller shall fully comply with U.S. Government export control laws and regulations, including the International Traffic in Arms Regulations (“ITAR”) at 22 CFR Parts 120-130, in connection with the performance of this order.

This provision incorporates, as though printed herein in full, the definitions set forth at 22 CFR Part 120. In particular, Seller should carefully note the definitions of the terms, “Technical Data” (22CFR 120.10), “Defense Article” (22 CFR 120.6), and “Defense Service” (22 CFR 120.9), all of which are incorporated into and made a part of this provision, as though fully set forth herein.

By accepting this order, Seller acknowledges notification that, in connection with the performance of this order,

- (1) Technical Data that Seller obtains,
- (2) Technical Data that Seller develops,
- (3) Defense Articles that Seller obtains or fabricates, and
- (4) Defense Services that Seller performs may only be disclosed to, handled by, or performed by or on behalf of one or more of the following classes or individuals:
 - (1) Citizens of the United States,
 - (2) Lawful Permanent Residents as defined by 8 USC 1101(A)(20), i. e. “Green Card Holders”,
 - (3) Protected individuals as defined by 8 USC 1324B(A)(3), or
 - (4) Foreign Nationals for whom a current and directly relevant license or approval has been obtained from the U.S. Department of State, which license or approval is directly relevant to the work to be performed under this order.

Seller shall ensure that all the licenses or approvals required by the ITAR are obtained before handling or disclosing any Technical Data or Defense Articles, or providing or receiving any Defense Service in connection with the performance of this order.

Seller represents and warrants that it is and will, for the duration of this order, remain in full compliance with the ITAR. Seller further warrants and represents that it has advised its employees and consultants who are performing work in connection with this order or who have access to Technical Data or Defense Articles relating to this order of their obligations regarding compliance with the ITAR.

Seller shall be responsible for ensuring that the requirements of this provision are flowed down to any of its suppliers or subcontractors that will receive from Seller or provide to Seller Technical Data, Defense Articles or Defense Services in connection with the performance of this order.

5. Hazardous Materials

The Seller agrees to notify Buyer if Asbestos, radioactive materials, hexavalent chromium (electroplating and coatings), cadmium (electroplating), or other highly toxic or carcinogenic materials (as defined in 29 CFR 1910.1200) are used in the manufacture or assembly of components and accessories. The components and accessories shall not be made from, leach, or otherwise develop toxins, hazardous materials, or Class I or Class II ozone depleting chemicals. Materials shall not have an adverse effect on the health of personnel, when used for their intended purposes.

6. FAR/DFARS Clauses

Where applicable, the following clauses from the Federal Acquisition Regulations (<http://www.acquisition.gov/FAR>) and Defense Federal Acquisition Regulations Supplement (<http://www.acq.osd.mil/dpap/dars/dfarspgi/current/index.html>) (collectively “Regulations”) are hereby incorporated into this subcontract by reference with the same force and effect as though set forth in full text. Unless specified otherwise, the terms as used in the Regulations shall be defined as follows:



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“Contractor” shall mean Seller, “Contract” shall mean this Subcontract, “Subcontractor” shall mean Seller’s subcontractors and “Government” or “Contracting Officer” means Spartan, unless it is clear from the language of the clause that Government means U.S. Government. The subcontractor shall also incorporate and include the provisions of these clauses into each lower tier subcontract it issues, as applicable.

7. Counterfeit Parts

Where applicable, Seller shall maintain a documented system (policy, procedure, or other documented approach) that provides for prior notification and Buyer approval before parts/components are procured from sources other than OEMs/OCMs or the OEM's/OCM's authorized dealers.

8. Equal Employment Opportunity

Buyer and Seller shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability. Seller shall include this paragraph in each lower-tier subcontract it issues.

FAR Clauses

- (i) 52.203-13, Contractor Code of Business Ethics and Conduct
- (ii) 52.203-15, Whistleblower Protections under the American Recovery and Reinvestment Act of 2009. Applies to subcontracts funded under the Act
- (iii) 52.219-8, Utilization of Small Business Concerns
- (iv) 52.222-26, Equal Opportunity
- (v) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans
- (vi) 52.222-36, Affirmative Action for Workers with Disabilities
- (vii) 52.222-39, Notification of Employee Rights Concerning Payment of Union Dues or Fees
- (viii) 52.222-40, Notification of Employee Right Under the National Labor Relations Act – This applies to any Purchase Order issued by the Buyer to the Seller that is \$10,000 or greater.
- (ix) 52.222-41 Service Contract Act of 1965
- (x) 52.222-50, Combating Trafficking in Persons, Alternate I of 52.222-50
- (xi) 52.222-51, Exemption from Application of the Service Contract Act to Contracts for maintenance, Calibration, or Repair of Certain Equipment – Requirements
- (xii) 52.222-53, Exemption from Application of the Service Contract Act to Contracts for Certain Services - Requirements
- (xiii) 52.223.18, Contractor Policy to Ban Text Messaging While Driving – this applies to any Purchase Order issued by Buyer to Seller that is above the micro-purchase threshold.
- (xiv) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels, Flow down required in accordance with paragraph (d) of FAR clause 52.247-64
- (xv) 52.219-8, Utilization of Small Business Concerns
- (xvi) 52.222-17, Nondisplacement of Qualified Workers
- (xvii) 52.222-54, Employment Eligibility Verification

DFARS Clauses

- (i) 252.225-7007, Prohibition on Acquisition of United States Munitions List Items from Communist Chinese Military Companies,
- (ii) 252.225-7009, Restriction on Acquisition of Certain Articles Containing Specialty Metals,
- (iii) 252.236-7013, Requirement for Competition Opportunity for American Steel Producers, Fabricators, and Manufacturers,
- (iv) 252.237-7019, Training for Contractor Personnel Interacting with Detainees
- (v) 252.246-7003, Notification of Potential Safety Issues
- (vi) 252.247-7023, Transportation of Supplies by Sea
- (vii) 252.247-7024, Notification of Transportation of Supplies by Sea