

**Lord Corporation FAR / DFARS Flowdowns for Commercial Items  
Form 0602-04, 11/06**

**LORD CORPORATION FAR AND DFARS FLOWDOWN PROVISIONS FOR  
PURCHASE ORDERS FOR COMMERCIAL ITEMS UNDER A U.S.  
GOVERNMENT PRIME CONTRACT**

The terms and conditions contained herein supplement the *Lord Corporation Standard Terms and Conditions* and apply to Lord Corporation Purchase Orders—under a U.S. Government Prime Contract—for Commercial Items as defined at FAR 2.101. To the extent that the Commercial Item definition does not apply to Work under the Purchase Order, then SELLER agrees that *Lord Corporation FAR/DFARS Flowdowns for Non-Commercial Items* shall be applicable, in lieu of these terms and conditions, effective as of the date of the Purchase Order.

**SECTION I: GENERAL PROVISIONS**

**1. DEFINITIONS**

The following terms shall have the meanings set forth below:

- (a) “Contract” means the instrument of contracting, such as “PO,” “Purchase Order,” or other such type designation, including all referenced documents, exhibits and attachments.
- (b) “FAR” means the Federal Acquisition Regulation, issued as Chapter 1 of Title 48, Code of Federal Regulations. The regulation and its supplements can be found at Website <http://farsite.hill.af.mil/>
- (c) “LORD CORPORATION” means Lord Corporation, acting through its business units as identified on the face of this Contract.
- (d) “LORD CORPORATION Procurement Representative” means a person authorized by LORD CORPORATION’s cognizant procurement organization to administer and/or execute this Contract.
- (e) “PO” or “Purchase Order” means this Contract.
- (f) “SELLER” means the party identified on the face of this Contract with whom LORD CORPORATION is contracting.
- (g) “Work” means all required labor, articles, materials, supplies, goods, and services constituting the subject matter of this Contract.

**2. DISPUTES**

All disputes under this Contract which are not disposed of by mutual agreement may be decided by recourse to an action at law or in equity. Until final resolution of any dispute hereunder, SELLER shall diligently proceed with the performance of this Contract as directed by LORD CORPORATION.

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**3. EXPORT CONTROL**

(a) SELLER agrees to comply with all applicable U.S. export control laws and regulations, specifically including, but not limited to, the requirements of the Arms Export Control Act, 22 U.S.C.2751-2794, including the International Traffic in Arms Regulation (ITAR), 22 C.F.R. 120 et seq.; and the Export Administration Act, 50 U.S.C. app. 2401-2420, including the Export Administration Regulations, 15 C.F.R. 730-774; including the requirement for obtaining any export license or agreement, if applicable. Without limiting the foregoing, SELLER agrees that it will not transfer any export controlled item, data, or services, to include transfer to foreign persons employed by or associated with, or under contract to SELLER or SELLER's lower-tier suppliers, without the authority of an export license, agreement, or applicable exemption or exception.

(b) SELLER agrees to notify LORD CORPORATION if any deliverable under this Contract is restricted by export control laws or regulations.

(c) SELLER shall immediately notify the LORD CORPORATION Procurement Representative if SELLER is, or becomes, listed in any Denied Parties List or if SELLER's export privileges are otherwise denied, suspended or revoked in whole or in part by any U.S. Government entity or agency.

(d) If SELLER is engaged in the business of either exporting or manufacturing (whether exporting or not) defense articles or furnishing defense services, SELLER represents that it is registered with the Office of Defense Trade Controls, as required by the ITAR, and it maintains an effective export/import compliance program in accordance with the ITAR.

(e) Where SELLER is a signatory under a LORD CORPORATION export license or export agreement (e.g., TAA, MLA), SELLER shall provide prompt notification to the LORD CORPORATION Procurement Representative in the event of changed circumstances including, but not limited to, ineligibility, a violation or potential violation of the ITAR, and the initiation or existence of a U.S. Government investigation, that could affect the SELLER's performance under this Contract.

**(f) SELLER shall be responsible for all losses, costs, claims, causes of action, damages, liabilities and expense, including attorneys' fees, all expense of litigation and/or settlement, and court costs, arising from any act or omission of SELLER, its officers, employees, agents, suppliers, or subcontractors at any tier, in the performance of any of its obligations under this clause.**

**4. GRATUITIES/KICKBACKS**

(a) No gratuities (in the form of entertainment, gifts, or otherwise) or kickbacks shall be offered or given by SELLER, to any employee of LORD CORPORATION for the purpose of obtaining or rewarding favorable treatment as a supplier.

**(b) By accepting this Contract, SELLER certifies and represents that it has not made or solicited and will not make or solicit kickbacks in violation of FAR 52.203-7**

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**or the Anti-Kickback Act of 1986 (41 USC 51-58), both of which are incorporated herein by this specific reference, except that paragraph (c)(1) of FAR 52.203-7 shall not apply.**

**5. INSPECTION AND ACCEPTANCE**

(a) LORD CORPORATION and its customer may inspect all Work at reasonable times and places, including, when practicable, during manufacture and before shipment. SELLER shall provide all information, facilities, and assistance necessary for safe and convenient inspection without additional charge.

(b) No such inspection shall relieve SELLER of its obligations to furnish all Work in accordance with the requirements of this Contract. LORD CORPORATION's final inspection and acceptance shall be at destination.

(c) If SELLER delivers non-conforming Work, LORD CORPORATION may, in addition to any other remedies available at law or at equity: (i) accept all or part of such Work at an equitable price reduction; or (ii) reject such Work.

(d) SELLER shall not re-tender rejected Work without disclosing the corrective action taken.

**6. NEW MATERIALS**

The Work to be delivered hereunder shall consist of new materials, as defined in FAR 52.211-5, not used, or reconditioned, remanufactured, or of such age as to impair its usefulness or safety.

**7. PRIORITY RATING**

If so identified, this Contract is a "rated order" certified for national defense use, and the SELLER shall follow all the requirements of the Defense Priorities and Allocation System Regulation (15 C.F.R. Part 700).

**8. RELEASE OF INFORMATION**

Except as required by law, no public release of any information, or confirmation or denial of same, with respect to this Contract or the subject matter hereof, will be made by SELLER without the prior written approval of LORD CORPORATION.

**9. STOP WORK**

(a) SELLER shall stop Work for up to ninety (90) days in accordance with any written notice received from LORD CORPORATION, or for such longer period of time as the parties may agree and shall take all reasonable steps to minimize the incurrence of costs allocable to the Work during the period of Work stoppage.

(b) Within such period, LORD CORPORATION shall either terminate in accordance with the provisions of this Contract or continue the Work by written notice to SELLER. In the event of a continuation, an equitable adjustment in accordance with the principles of the "Changes" clause shall be made to the price, delivery schedule, or other

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provision(s) affected by the Work stoppage, if applicable, provided that the claim for equitable adjustment is made within thirty (30) days after date of notice to continue.

**SECTION II: FAR / DFARS FLOWDOWN PROVISIONS**

**A. INCORPORATION OF FAR / DFARS CLAUSES**

The Federal Acquisition Regulation (FAR) and Defense Federal Acquisition Regulation Supplement (DFARS) clauses referenced below are incorporated herein by reference, with the same force and effect as if they were given in full text, and are applicable, including any notes following the clause citation, to this Contract. If the date or substance of any of the clauses listed below is different from the date or substance of the clause actually incorporated in the Prime Contract referenced by number herein, the date or substance of the clause incorporated by said Prime Contract shall apply instead. The Contracts Disputes Act shall have no application to this Contract. Any reference to a "Disputes" clause shall mean the "Disputes" Clause of this Contract.

**B. GOVERNMENT SUBCONTRACT**

This Contract is entered into by the parties in support of a U.S. Government contract. As used in the FAR / DFARS clauses referenced below and otherwise in this Contract:

1. "Commercial Item" means a commercial item as defined in FAR 2.101.
2. "Contract" means the LORD CORPORATION Purchase Order and its referenced and incorporated terms and conditions.
3. "Contracting Officer" shall mean the U.S. Government Contracting Officer for LORD CORPORATION's government prime contract under which this Contract is entered.
4. "Contractor" and "OFFEROR" means the SELLER, as defined in the LORD CORPORATION Purchase Order incorporating the terms and conditions herein, acting as the immediate (first tier) subcontractor to LORD CORPORATION.
5. "Prime Contract" means the contract between LORD CORPORATION and the U.S. Government or between LORD CORPORATION and its higher-tier contractor who has a contract with the U.S. Government.
6. "Subcontract" means any contract placed by the contractor or lower-tier subcontractors under this Contract.

**C. NOTES**

1. Substitute "LORD CORPORATION" for "Government" or "United States" throughout this clause.
2. Substitute "LORD CORPORATION Procurement Representative" for "Contracting Officer," "Administrative Contracting Officer," and "ACO" throughout this clause.

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3. Insert “and LORD CORPORATION” after “Government” throughout this clause.
4. Insert “or LORD CORPORATION” after “Government” throughout this clause.
5. Communication/notification required under this clause from/to the Contractor to/from the Contracting Officer shall be through LORD CORPORATION.
6. Insert “and LORD CORPORATION” after “Contracting Officer,” throughout the clause.
7. Insert “or LORD CORPORATION PROCUREMENT REPRESENTATIVE” after “Contracting Officer,” throughout the clause.

**D. AMENDMENTS REQUIRED BY PRIME CONTRACT**

Contractor agrees that upon the request of LORD CORPORATION it will negotiate in good faith with LORD CORPORATION relative to amendments to this Contract to incorporate additional provisions herein or to change provisions hereof, as LORD CORPORATION may reasonably deem necessary in order to comply with the provisions of the applicable Prime Contract or with the provisions of amendments to such Prime Contract. If any such amendment to this Contract causes an increase or decrease in the cost of, or the time required for, performance of any part of the Work under this Contract, an equitable adjustment shall be made pursuant to the “Changes” clause of this Contract.

**E. PRESERVATION OF THE GOVERNMENT’S RIGHTS**

If LORD CORPORATION furnishes designs, drawings, special tooling, equipment, engineering data, or other technical or proprietary information (Furnished Items) which the U. S. Government owns or has the right to authorize the use of, nothing herein shall be construed to mean that LORD CORPORATION, acting on its own behalf, may modify or limit any rights the Government may have to authorize the Contractor’s use of such Furnished Items in support of other U. S. Government prime contracts.

**F. FAR / DFARS FLOWDOWN CLAUSES**

**REFERENCE      TITLE**

**1. The following FAR clauses apply to this Contract:**

(a) 52.215-20 REQUIREMENTS FOR COST OR PRICING DATA OR INFORMATION OTHER THAN COST OR PRICING DATA (OCT 1997) ( Note 2 applies.)

(b) 52.215-21 REQUIREMENTS FOR COST OR PRICING DATA OR INFORMATION OTHER THAN COST OR PRICING DATA - MODIFICATIONS (OCT 1997) (Note 2 applies.)

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- (c) 52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS (MAY 2004)
- (d) 52.222-19 CHILD LABOR—COOPERATION WITH AUTHORITIES AND REMEDIES (JUN 2004)
- (e) 52.222-21 PROHIBITION OF SEGREGATED FACILITIES (FEB 1999)
- (f) 52.222-26 EQUAL OPPORTUNITY (APR 2002) (Only paragraphs (b)(1)-(11) applies.)
- (g) 52.225-13 RESTRICTION ON CERTAIN FOREIGN PURCHASES (FEB 2006)
- (h) 52.227-1 AUTHORIZATION AND CONSENT (JUL 1995) (Applicable only if the Prime Contract contains this clause.)
- (i) 52.227-9 REFUND OF ROYALTIES (APR 1984) (Applicable when reported royalty exceeds \$250. Note 1 applies except for the first two times “Government” appears in paragraph (d). Note 2 applies.)
- (j) 52.227-11 PATENT RIGHTS-RETENTION BY THE CONTRACTOR (SHORT FORM) (JUN 1997) (Applicable if this Contract includes, at any tier, experimental, developmental, or research Work and contractor is a small business concern or domestic nonprofit organization. Reports required by this clause shall be filed with the Government agency identified in this Contract. If no Government agency is identified, contact the LORD CORPORATION Procurement Representative identified on the face of this Contract.)
- (k) 52.227-12 PATENT RIGHTS-RETENTION BY THE CONTRACTOR (LONG FORM) (JAN 1997) (Applicable if this Contract includes, at any tier, experimental, developmental, or research Work and contractor is a large business concern. Reports required by this clause shall be filed with the Government agency identified in this Contract. If no Government agency is identified, contact the LORD CORPORATION Procurement Representative identified on the face of this Contract.)
- (l) 52.234-1 INDUSTRIAL RESOURCES DEVELOPED UNDER DEFENSE PRODUCTION ACT TITLE III (DEC 1994) (Notes 1 and 2 apply.)
- (m) 52.244-6 SUBCONTRACTS FOR COMMERCIAL ITEMS (FEB 2006)
- (n) 52.245-17 SPECIAL TOOLING (MAY 2004) (Applicable if this Contract involves the use of Special Tooling. Note 2 applies, except paragraph (b). Note 1 applies to paragraph (d)(1) and (d)(3) and (m) where “Government” appears the last time and in paragraph (f)(1). In paragraph (j) change “180 days” to “240 days” and “90 days” to “150 days”. In (j)(2) remove “prime” before “Contractor” in the last sentence.)

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(o) 52.245-18 SPECIAL TEST EQUIPMENT (FEB 1993) (Applicable if this Contract involves the acquisition or fabrication of Special Test Equipment. Note 2 applies to paragraphs (b) and (d). Note 5 applies. In paragraphs (b) and (c), change “30 days” to “60 days.”)

(p) 52.247-63 PREFERENCE FOR U.S.-FLAG AIR CARRIERS (JUN 2003)  
(Applicable if this Contract involves international air transportation.)

(q) 52.247-64 PREFERENCE FOR PRIVATELY OWNED U.S. FLAG COMMERCIAL VESSELS (FEB 2006)

**2. The following FAR clauses apply to this Contract if the value of this Contract exceeds \$10,000:**

(a) 52.222-36 AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES (JUNE 1998)

**3. The following FAR clauses apply to this Contract if the value of this Contract exceeds \$25,000:**

(a) 52.222-35 EQUAL OPPORTUNITY FOR SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS (DEC 2001)

(b) 52.222-37 EMPLOYMENT REPORTS ON SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS (DEC 2001)

**4. The following FAR clauses apply to this Contract if the value of this Contract exceeds \$100,000:**

(a) 52.203-6 RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (JUL 1995) W/ALT 1 (OCT 1995)

(b) 52.203-12 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (SEP 2005)

(c) 52.222-4 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT - OVERTIME COMPENSATION (JUL 2005) (Applicable if the Contract may require or involve the employment of laborers and mechanics.)

(d) 52.222-39 NOTIFICATION OF EMPLOYEE RIGHTS CONCERNING PAYMENT OF UNION DUES OR FEES (DEC 2004)

(e) 52.223-14 TOXIC CHEMICAL RELEASE REPORTING (AUG 2003) (Note 2 applies. Delete paragraph (e).)

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(f) 52.227-2 NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (AUG 1996) (Notes 2 and 4 apply.)

**5. The following FAR clauses apply to this Contract if the value of this Contract exceeds \$500,000:**

(a) 52.219-9 SMALL BUSINESS SUBCONTRACTING PLAN (JUL 2005) (Applicable if the Contractor is not a small business. Note 2 is applicable to paragraph (c) only; the Contractors subcontracting plan is incorporated herein by reference.)

**6. The following FAR clauses apply to this Contract as indicated:**

(a) 52.204-2 SECURITY REQUIREMENTS (AUG 1996) (Applicable if the Work requires access to classified information.)

(b) 52.204-9 PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL (JAN 2006) (Applicable where the Contractor will have physical access to a federally-controlled facility or access to a Federal information system.)

(c) 52.223-11 OZONE-DEPLETING SUBSTANCES (MAY 2001) (Applicable if the Work was manufactured with or contains ozone-depleting substances.)

(d) 52.225-1 BUY AMERICAN ACT—SUPPLIES (JUN 2003) (Applicable if the Work contains other than domestic components. Note 2 applies to the first time “Contracting Officer” is mentioned in paragraph (c).)

(e) 52.225-5 TRADE AGREEMENTS (JUN 2006) (Applicable if the Work contains other than U.S. made, designated country, Caribbean or NAFTA country end products.)

(f) 52.225-8 DUTY FREE ENTRY (FEB 2000) (Applicable if supplies will be imported into the Customs Territory of the United States. Note 2 applies.)

(g) 52.227-19 COMMERCIAL COMPUTER SOFTWARE-RESTRICTED RIGHTS (JUN 1987) (Applicable only if existing computer software is to be delivered under this Contract.)

(h) 52.228-5 INSURANCE – WORK ON A GOVERNMENT INSTALLATION (JAN 1997) (Applicable if this Contract involves Work on a Government installation. Note 2 applies. Note 4 applies to paragraph (b). Unless otherwise specified by this contract, the minimum kinds and amount of insurance shall be as described in FAR 28.307-2.)

(i) 52.245-2 GOVERNMENT PROPERTY (FIXED PRICE CONTRACTS) (MAY 2004) (Applicable if Government property is furnished in the performance of this Contract. Note 1 applies except in the phrases "Government property", "Government-furnished property", and in references to title to property. The second time “Government

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appears in paragraph (b) (ii) "Government" stays "Government." Note 2 applies. The following is added as paragraph (m): "Contractor shall provide to LORD CORPORATION immediate notice of any disapproval, withdrawal of approval, or non-acceptance by the Government of its property control system.")

(j) 52.245-2 GOVERNMENT PROPERTY (FIXED PRICE CONTRACTS) (APR 1984) (DEV)—ALTERNATE 1 DOD DEVIATION (Applicable if Government property is furnished in the performance of this Contract. Note 1 applies except in the phrases "Government property", "Government-furnished property", and in references to title to property. The second time "Government appears in paragraph (b) (ii) "Government" stays "Government." Note 2 applies. The following is added as paragraph (j): "Contractor shall provide to LORD CORPORATION immediate notice of any disapproval, withdrawal of approval, or non-acceptance by the Government of its property control system.")

**7. The following DFARS clauses apply to this Contract as indicated:**

(a) 252.204-7000 DISCLOSURE OF INFORMATION (DEC 1991) (Applicable if the Prime Contract contains this clause.)

(b) 252.211-7003 ITEM IDENTIFICATION AND VALUATION (JUN 2005) (Applicable if this Contract requires the Work to contain a unique item identification. In (c)(3)(i), (c)(4)(i), (d), (e), and (f) "Contractor" shall mean "Subcontractor"; all reports required to be submitted under this clause shall be submitted to LORD CORPORATION at a location to be provided; delete paragraph (g) and insert the following in lieu thereof: "(g) Lower-Tier Subcontracts. SELLER shall include this clause, including this paragraph (g), in all lower-tier subcontracts issued under this Subcontract for the acquisition of components identified herein as requiring UID.")

(c) 252.219-7003 SMALL, SMALL DISADVANTAGED AND WOMEN-OWNED SMALL BUSINESS SUBCONTRACTING PLAN (DoD CONTRACTS) (APR 1996) (Applicable if FAR 52.219-9 applies to this Contract. Delete paragraph (g).)

(d) 252.223-7001 HAZARD WARNING LABELS (DEC 1991) (Applicable if this Contract requires the delivery of hazardous materials.)

(e) 252.223-7006 PROHIBITION ON STORAGE AND DISPOSAL OF TOXIC AND HAZARDOUS MATERIALS (APR 1993) W/ALT 1 (NOV 1995) (Applicable if Contract requires performance on a DoD installation.)

(f) 252.225-7001 BUY AMERICAN ACT AND BALANCE OF PAYMENTS PROGRAM (JUN 2005) (Applicable if the Work contains other than domestic components. Applicable in lieu of FAR 52.225-1 and FAR 52.225-5.)

(g) 252.225-7013 DUTY FREE ENTRY (JUN 2006) (Notes 1 and 2 apply in subparagraph (c). Replaces 52.225-8.)

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(h) 252.225-7014 PREFERENCE FOR DOMESTIC SPECIALTY METALS (JUN 2005) and ALT I (APR 2003) (Applicable if the Work to be furnished contains Specialty Metals.)

(i) 252.225-7021 TRADE AGREEMENTS (JUN 2006) (Applicable if the Work contains other than domestic components. Applicable in lieu of FAR 52.225-1 and FAR 52.225-5.)

(j) 252.227-7015 TECHNICAL DATA - COMMERCIAL ITEMS (NOV 1995) (Applicable if technical data is to be delivered under this Contract.)

(k) 252.244-7000 SUBCONTRACTS FOR COMMERCIAL ITEMS AND COMMERCIAL COMPONENTS (DOD CONTRACTS) (MAR 2000)

(l) 252.245-7001 REPORTS OF GOVERNMENT PROPERTY (MAY 1994) (Applicable if Government Property is provided or acquired under this Contract. Contractor shall submit its required reports to LORD CORPORATION. In paragraph (a)(3), change October 31 to October 10.)

(m) 252.247-7023 TRANSPORTATION OF SUPPLIES BY SEA (MAY 2002) (Applicable if this Contract meets the criteria set forth in paragraph (b) (2) of the clause. Applicable in lieu of FAR 52.247-64 in all Contracts for ocean transportation of supplies. In the first sentence of paragraph (g), insert a period after "Contractor" and delete the balance of the sentence. Paragraphs (f) and (g) shall not apply if this Contract is at or below \$100,000. Notes 1 and 2 apply to paragraph (g).)

(n) 252.247-7024 NOTIFICATION OF TRANSPORTATION OF SUPPLIES BY SEA (MAR 2000) (Applicable if this Contract meets the criteria set forth in paragraph (b) (2) (ii) of the clause. Notes 1 and 2 apply.)

(o) 252.249-7002 NOTIFICATION OF ANTICIPATED CONTRACT TERMINATION OR REDUCTION (DEC 1996) (Applicable if this Contract exceeds \$500,000. Note 2 applies. Delete paragraph (d) (1) and the first five words of paragraph (d) (2).)

## **G. CERTIFICATIONS AND REPRESENTATIONS**

**1. This clause contains certifications and representations that are material representations of fact upon which LORD CORPORATION will rely in making awards to Contractor. By submitting its written offer, or providing oral offers/quotations at the request of LORD CORPORATION, or accepting any Contract, Contractor certifies to the representations and certifications as set forth below in this clause. These certifications shall apply whenever these terms and conditions are incorporated by reference in any Contract, agreement, other contractual document, or any quotation, request for quotation (oral or written), request for proposal or solicitation (oral or written), issued by LORD**

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**CORPORATION. Contractor shall immediately notify LORD CORPORATION of any change of status with regard to these certifications and representations.**

**(a) FAR 52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions** (Applicable to solicitations and contracts exceeding \$100,000)

(1) The definitions and prohibitions contained in the clause at FAR 52.203-12, Limitation on Payments to Influence Certain Federal Transactions are hereby incorporated by reference in paragraph (b) of this certification.

(2) Contractor certifies that to the best of its knowledge and belief that on and after December 23, 1989--

a) No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement;

b) If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with a solicitation or order, the offeror shall complete and submit, with its offer, OMB standard form LLL, Disclosure of Lobbying Activities, in accordance with its instructions, and

c) Contractor will include the language of this certification in all subcontracts at any tier and require that all recipients of subcontract awards in excess of \$100,000 shall certify and disclose accordingly.

(3) Submission of this certification and disclosure is a prerequisite for making or entering into a contract as imposed by section 1352, title 31, United States Code. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

**(b) FAR 52.209-5 Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters.**

(1) Contractor certifies that, to the best of its knowledge and belief, that Contractor and/or any of its Principals, (as defined in FAR 52.209-5,) are not presently debarred,

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suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency.

(2) Contractor shall provide immediate written notice to LORD CORPORATION if, any time prior to award of any contract, it learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(c) **FAR 52.222-22 Previous Contracts and Compliance Reports.** Contractor represents that if Contractor has participated in a previous contract or subcontract subject to Equal Opportunity clause (FAR 52.222-26): (i) Contractor has filed all required compliance reports, and (ii) that representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards.

(d) **FAR 52.222-25 Affirmative Action Compliance.** Contractor represents: (i) that Contractor has developed and has on file at each establishment, Affirmative Action programs required by the rules and regulations of the Secretary of Labor (41 CFR 60-1 and 60-2), or (ii) that in the event such a program does not presently exist, Contractor will develop and place in operation such a written Affirmative Action Compliance Program within one-hundred twenty (120) days from the award of this Contract.

(e) **FAR 52.223-13 Certification Of Toxic Chemical Release Reporting** (Applicable to competitive solicitations/contracts which exceed \$100,000)

(1) Submission of this certification is a prerequisite for making or entering into this contract imposed by Executive Order 12969, August 8, 1995.

(2) Contractor certifies that—

a) As the owner or operator of facilities that will be used in the performance of this contract that are subject to the filing and reporting requirements described in section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11023) and section 6607 of the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13106), Contractor will file and continue to file for such facilities for the life of the contract the Toxic Chemical Release Inventory Form (Form R) as described in sections 313(a) and (g) of EPCRA and section 6607 of PPA; or

b) None of its owned or operated facilities to be used in the performance of this contract is subject to the Form R filing and reporting requirements because each such facility is exempt for at least one of the following reasons:

(i) The facility does not manufacture, process or otherwise use any toxic chemicals listed in 40 CFR 372.65;

(ii) The facility does not have 10 or more full-time employees as specified in section 313(b)(1)(A) of EPCRA, 42 U.S.C. 11023(b)(1)(A);

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(iii) The facility does not meet the reporting thresholds of toxic chemicals established under section 313(f) of EPCRA, 42 U.S.C. 11023(f) (including the alternate thresholds at 40 CFR 372.27, provided an appropriate certification form has been filed with EPA);

(iv) The facility does not fall within Standard Industrial Classification Code (SIC) codes or their corresponding North American Industry Classification System (NAICS) :

(A) Major group code 10 (except 1011, 1081, and 1094).

(B) Major group code 12 (except 1241).

(C) Major group codes 20 through 39.

(D) Industry code 4911, 4931, or 4939 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce).

(E) Industry code 4953 (limited to facilities regulated under the Resource Conservation and Recovery Act, Subtitle C (42 U.S.C. 6921, et seq.), 5169, 5171, or 7389 (limited to facilities primarily engaged in solvent recovery services on a contract or fee basis); or

(v) The facility is not located in the United States or its outlying areas.