

2. AMENDMENT/MODIFICATION NO. P00001	3. EFFECTIVE DATE See Block 16C	4. REQUISITION/PURCHASE REQ. NO.	5. PROJECT NO. (If applicable) covid-19
6. ISSUED BY ASPR/SNS ASPR/SNS 2945 FLOWERS ROAD ATLANTA, GA 30341	CODE ASPR/SNS	7. ADMINISTERED BY (If other than Item 6)	CODE

8. NAME AND ADDRESS OF CONTRACTOR (No., street, county, State and ZIP Code) VYAIRE MEDICAL, INC. 1516817 Attn: (b)(6) VYAIRE MEDICAL, INC. 26125 N R 26125 N RIVERWOODS BLVD METTAWA IL 600453401	(x)	9A. AMENDMENT OF SOLICITATION NO.
		9B. DATED (SEE ITEM 11)
	x	10A. MODIFICATION OF CONTRACT/ORDER NO. 75A50120C00049
		10B. DATED (SEE ITEM 13) 03/31/2020
CODE 1516817	FACILITY CODE	

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers is extended, is not extended. Offers 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 electronic communication which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGEMENT 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 letter or electronic communication, provided each letter or electronic communication makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.

12. ACCOUNTING AND APPROPRIATION DATA (If required)
See Schedule

13. THIS ITEM ONLY APPLIES TO MODIFICATION OF CONTRACTS/ORDERS. IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.

CHECK ONE	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.
X	B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation data, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b).
	C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:
	D. OTHER (Specify type of modification and authority)

E. IMPORTANT: Contractor is not is required to sign this document and return _____ copies to the issuing office.

14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)
(b)(4)

The purpose of this administrative modification to contract 75A50120C00049 is to identify applicable Government points of contact (POC) by (1) adding an additional Contracting Officer's Representative (COR) and (2) adding a DSNS Logistics Specialist.

Accordingly, the contract is modified as follows:

- Incorporate the following administrative change to Section F Deliveries and Performance F.1. Deliveries by revising the identified Government POC. F.1. Deliveries is hereby revised and replaced in its entirety as follows:

Continued ...

Except as provided herein, all terms and conditions of the document referenced in Item 9 A or 10A, as heretofore changed, remains unchanged and in full force and effect.

15A. NAME AND TITLE OF SIGNER (Type or print)	16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print) ANNETTE R. WRIGHT
15B. CONTRACTOR/OFFEROR (Signature of person authorized to sign)	15C. DATE SIGNED
	16B. UNITED STATES OF AMERICA Annette Wright -S Digitally signed by Annette Wright -S Date: 2020.05.14 11:46:51 -04'00' (Signature of Contracting Officer)
	16C. DATE SIGNED

NAME OF OFFEROR OR CONTRACTOR

VYAIRE MEDICAL, INC. 1516817

ITEM NO.	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
(A)	(B)	(C)	(D)	(E)	(F)

Deliveries locations will be coordinated with the DSNS Logistics Specialist.

2. Insert the following additional Government contract administration personnel under Section G Contract Administration Data. G.1 is hereby revised and replaced in its entirety as follows:

G.1 This contract will be administered by the following ASPR/DSNS personnel.

Contracting Officer
Annette Wright
Team Lead Contracting Officer
Office of Resource Management (ORM)
Assistant Secretary for Preparedness and Response (ASPR)
U.S. Department of Health and Human Services (HHS)
Email: owf8@cdc.gov
Office: 404-498-0949

Contract Administrator
Akela Long
Contracting Officer
Office of Resource Management (ORM)
Assistant Secretary of Preparedness and Response (ASPR)
U.S. Department of Health and Human Services (HHS)
Email: ogal@cdc.gov
Office: 404-498-5635

Contracting Officers Representative
Brian Lind
Contracting Officers Representative
Email: brian.lind@nih.gov

DSNS Logistics Specialist
Jerrod Jackson
Email: hjj9@cdc.gov

Chief Contracting Officers Representative
Anthony Nanes
Chief Contracting Officers Representative
Division of Strategic National Stockpile (DSNS)
Assistant Secretary of Preparedness and Response (ASPR)
U.S. Department of Health and Human Services (HHS)
Email: afn6@cdc.gov
Office: 678-662-7963

3. Incorporate the following administrative change to Section G Contract
Continued ...

CONTINUATION SHEET

REFERENCE NO. OF DOCUMENT BEING CONTINUED

75A50120C00049/P00001

PAGE OF
3 3

NAME OF OFFEROR OR CONTRACTOR

VYAIR MEDICAL, INC. 1516817

ITEM NO.	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
(A)	(B)	(C)	(D)	(E)	(F)

Administration Data - G.2. Payment Terms by revising the identified Government POC. Paragraph (a) (2) (i) of G.2. Payment Terms is hereby revised and replaced in its entirety as follows:

(2) A proper invoice, with all required back-up documentation shall be sent electronically, via email, to the COR mailbox:

(i) Contracting Officer's Representative (COR): Brian Lind; brian.lind@nih.gov

4. End of Modification P00001

Period of Performance: 03/31/2020 to 07/20/2020

SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS		1. REQUISITION NUMBER OS256722	PAGE OF 1 23
<i>OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, & 30</i>			

2. CONTRACT NO. 75A50120C00049	3. AWARD/EFFECTIVE DATE 3/31/2020	4. ORDER NUMBER	5. SOLICITATION NUMBER	6. SOLICITATION ISSUE DATE
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7. FOR SOLICITATION INFORMATION CALL:	a. NAME ANNETTE WRIGHT	b. TELEPHONE NUMBER <i>(No collect calls)</i>	8. OFFER DUE DATE/LOCAL TIME
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9. ISSUED BY ASPR/SNS ASPR/SNS 2945 FLOWERS ROAD ATLANTA, GA 30341	CODE ASPR/SNS	10. THIS ACQUISITION IS <input checked="" type="checkbox"/> UNRESTRICTED OR <input type="checkbox"/> SET ASIDE: % FOR: <input type="checkbox"/> SMALL BUSINESS <input type="checkbox"/> HUBZONE SMALL BUSINESS <input type="checkbox"/> SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS <input type="checkbox"/> WOMEN-OWNED SMALL BUSINESS (WOSB) ELIGIBLE UNDER THE WOMEN-OWNED SMALL BUSINESS PROGRAM <input type="checkbox"/> EDWOSB <input type="checkbox"/> 8(A) NAICS: 423450 SIZE STANDARD: 200
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11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED <input type="checkbox"/> <input checked="" type="checkbox"/> SEE SCHEDULE	12. DISCOUNT TERMS	<input type="checkbox"/> X 13a. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700)	13b. RATING DO
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15. DELIVER TO Office of the Secretary Office of the Secretary 200 Independence Ave. S.W. Washington DC 20201	CODE OS	16. ADMINISTERED BY ASPR/SNS ASPR/SNS 2945 FLOWERS ROAD ATLANTA, GA 30341	14. METHOD OF SOLICITATION <input type="checkbox"/> RFQ <input type="checkbox"/> IFB <input type="checkbox"/> RFP CODE ASPR/SNS
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17a. CONTRACTOR/OFFEROR VYAIRE MEDICAL, INC. 1516817 Attn: (b)(6) VYAIRE MEDICAL, INC. 26125 N R 26125 N RIVERWOODS BLVD METTAWA IL 600453401 TELEPHONE NO. 872-7570114	CODE 516817	FACILITY CODE	18a. PAYMENT WILL BE MADE BY PSC Program Support Center 7700 Wisconsin Ave Bethesda MD 20814	CODE PSC
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<input type="checkbox"/> 17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER	18b. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a UNLESS BLOCK BELOW IS CHECKED <input type="checkbox"/> SEE ADDENDUM
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19. ITEM NO.	20. SCHEDULE OF SUPPLIES/SERVICES	21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT
1	<div style="border: 1px solid black; padding: 2px;">(b)(4)</div> <p>Appr. Yr.: 2020 CAN: 199C005 Object Class: 26088 Period of Performance: 03/31/2020 to 07/20/2020</p> <p>Ventilators Obligated Amount: \$407,904,453.00</p> <p>Continued ... <i>(Use Reverse and/or Attach Additional Sheets as Necessary)</i></p>				\$407,904,453.00

25. ACCOUNTING AND APPROPRIATION DATA 2020.199C005.26088	26. TOTAL AWARD AMOUNT (For Govt. Use Only) \$407,904,453.00
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<input type="checkbox"/> 27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1, 52.212-4, FAR 52.212-3 AND 52.212-5 ARE ATTACHED. ADDENDA ARE <input type="checkbox"/> ARE NOT ATTACHED.	<input type="checkbox"/> 27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4. FAR 52.212-5 IS ATTACHED. ADDENDA <input type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED.
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28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN COPIES TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED.	29. AWARD OF CONTRACT: <input type="checkbox"/> DATED _____ YOUR OFFER ON SOLICITATION (BLOCK 5), INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS ACCEPTED AS TO ITEMS: <input type="checkbox"/> OFFER
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30a. SIGNATURE OF OFFEROR/CONTRACTOR (b)(6)	31a. UNITED STATES OF AMERICA (SIGNATURE OF CONTRACTING OFFICER) Annette Wright - S Digitally signed by Annette Wright - S Date: 2020.04.10 17:13:37 -0400
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30b. NAME AND TITLE OF SIGNER (Type or print) GAURAV AGARWAL, PRESIDENT AND CHIEF EXECUTIVE OFFICER	30c. DATE SIGNED APRIL 10, 2020	31b. NAME OF CONTRACTING OFFICER (Type or print) ANNETTE R. WRIGHT	31c. DATE SIGNED
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19. ITEM NO.	20. SCHEDULE OF SUPPLIES/SERVICES	21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT

32a. QUANTITY IN COLUMN 21 HAS BEEN

RECEIVED INSPECTED ACCEPTED, AND CONFORMS TO THE CONTRACT, EXCEPT AS NOTED: _____

32b. SIGNATURE OF AUTHORIZED GOVERNMENT REPRESENTATIVE	32c. DATE	32d. PRINTED NAME AND TITLE OF AUTHORIZED GOVERNMENT REPRESENTATIVE
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32e. MAILING ADDRESS OF AUTHORIZED GOVERNMENT REPRESENTATIVE	32f. TELEPHONE NUMBER OF AUTHORIZED GOVERNMENT REPRESENTATIVE
	32g. E-MAIL OF AUTHORIZED GOVERNMENT REPRESENTATIVE

33. SHIP NUMBER <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL	34. VOUCHER NUMBER	35. AMOUNT VERIFIED CORRECT FOR	36. PAYMENT <input type="checkbox"/> COMPLETE <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL	37. CHECK NUMBER
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38. S/R ACCOUNT NUMBER	39. S/R VOUCHER NUMBER	40. PAID BY
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41a. I CERTIFY THIS ACCOUNT IS CORRECT AND PROPER FOR PAYMENT		42a. RECEIVED BY (<i>Print</i>)	
41b. SIGNATURE AND TITLE OF CERTIFYING OFFICER		41c. DATE	
		42b. RECEIVED AT (<i>Location</i>)	
		42c. DATE REC'D (<i>YY/MM/DD</i>)	42d. TOTAL CONTAINERS

SECTION B-CONTINUATION OF SF 1449**B.1 Product Description**

LTV® 2200, Ventilator Dust Cover, Protective Boot, to include: AC Adapter/Power Cord, Operator's Manual and the LTV 2200 System to include AC Adapter/Power Cord Operator's Manual and accessories.

B.2 Line Item Detail

Item No	Description	Quantity	Unit Price	Total Price
1	22690-001-LTV 2200 System, AC Adapter/Power Cord, Operator's Manual, and accessories This is a Firm-Fixed Price Line Item Period of Performance: 3-31-2020-July 20, 2020	22,000	(b)(4)	
2	Respiratory Consumable (based on 10 set up per ventilator). Billing entity for consumables is Vyair Medical Inc.	Lot	(b)(4)	
3	Additional consumables can be purchased in addition to the total prices stated. Optional CLIN This is a Firm-Fixed Price Line Item Period of Performance: 3-31-2020-July 20, 2020	Lot	(b)(4)	
4	(F.O.B. Destination) Freight-Pre-pay and added to Invoice- Optional CLIN This is a Time and Materials Line Item Period of Performance: 3-31-2020-July 20, 2020	Lot	\$15,000,000.00 est.	\$15,000,000.00 est.
5	Kitting to include ventilator, ancillary and consumable kits into one corrugated box- Optional CLIN This is a Time and Material Line Item Period of Performance: 3-31-2020-July 20, 2020,	Lot	\$9,000,000.00	\$9,000,000.00 est.
Total				\$407,904,453.00

B.3 Type of Contract

This is a firm-fixed price contract, with a Time and Materials Optional CLINS for the following line items:

1. CLIN 0003- Additional Consumables
2. Freight and Transportation
3. Kitting to include ventilators, ancillary and consumable kits into one corrugated box.

B.4 Period of Performance

The period of performance is from 3-31-2020- 7-20- 2020

B.5 Production Schedule

Product	Production Schedule	Quantity
Revised RFI schedule allowing Vyair to select mix and quantity of LTV 2200	6-Apr	0
	13-Apr	100
	20-Apr	100
	27-Apr	200
	4-May	800
	11-May	1,100
	18-May	1,900
	25-May	2,200
	1-Jun	2,700
	8-Jun	2,800
	15-Jun	2,900
	22-Jun	3,300
	29-Jun	3,900
Total		22,000

SECTION C- STATEMENT OF WORK**C.1 Product Description:**

The CareFusion 203 LTV® 1200 System and LTV 2200, Ventilator Dust Cover, Protective Boot, to include: AC Adapter/Power Cord, Operator's Manual and the LTV 2200 System to include AC Adapter/Power Cord Operator's Manual and accessories. Respiratory consumables include: ventilator circuit, filtered HME, filter, suction catheter and adapter. CareFusion reserves the right to substitute a similar respiratory consumable product, if necessary.

SECTION D- PACKAGING AND MARKING**D.1 Payment of Postage Fees.**

All postage and fees related to submission of information, including forms, and reports, etc., to the Contracting Officer or Contracting Officer's Representative (COR) or other persons designated to receive, shall be paid by the Contractor.

D.2 Markings.

All deliveries submitted to the CO or the COR or other DSNS personnel designated to receive deliverables shall clearly indicate the following information:

- (1) Agency/Requiring LOC Service Unit and MAIL STOP/Room Number
- (2) Description of information/data being submitted
- (3) Contract Number
- (4) Contract Name and Address

D.3 Packaging.

Ventilators will be packaged to include two (2) sets of consumables and ancillary into one corrugated box beginning May 4, 2020. The remaining consumables will ship in bulk to the designated warehouse. Prior to May 4, 2020, all consumables will ship in bulk to the designated warehouse.

Section E- INSPECTION AND ACCEPTANCE

E.1 Inspection will be in accordance with FAR 52.246-2 Inspection of Supplies-Fixed Price (Aug 1996)

SECTION F- DELIVERIES AND PERFORMANCE

52.252-2 Clauses Incorporated by Reference (Feb 1998)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

<http://www.acquisition.gov>

(End of Clause)

FAR SOURCE	TITLE AND DATE
52.242-15	Stop-Work Order (Aug 1989)
52.242-17	Government Delay of Work (April 1984)
52.246-2	Inspection of Supplies-Fixed Price (Aug 1996)
52.246-16	Responsibility for Supplies (April 1984)
52.247-34	F.O.B. Destination (Nov 1991)

F.1 Deliveries

Deliveries locations will be coordinated with the Anthony Nanes, the Contracting Officer Representative.

SECTION G- CONTRACT ADMINISTRATION DATA**G.1 This contract will be administered by the following ASPR/DSNS Personnel****Contracting Officer**

Annette Wright
Team Lead Contracting Officer
Office of Resource Management (ORM)
Assistant Secretary for Preparedness and Response (ASPR)
U.S. Department of Health and Human
Services (HHS) Email: owf8@cdc.gov
404-498-0949 office

Contract Administrator

Akela Long Contracting Officer
Office of Resource Management (ORM)
Assistant Secretary of Preparedness and Response (ASPR)
U.S. Department of Health and Human
Services (HHS) Email: ogal@cdc.gov
404-498-5635 office

Contracting Officer Representative

Anthony Nanes
Contracting Officer Representative
Division of Strategic National Stockpile (DSNS) Assistant
U.S. Department of Health and Human Services
(HHS) Email: Email: | afn6@cdc.gov
Office| 678-662-7963

G.2 PAYMENT TERMS**INVOICES****(a) Invoice Submission.**

(1) The Contractor shall submit invoices once per month.

(2) A proper invoice, with all required back-up documentation shall be sent electronically, via email, to the COR mailbox:

(i) Contracting Officer's Representative (COR): Tony Nanes; afn6@cdc.gov

(3) A proper invoice, not including non-invoice related documents (i.e. deliverables, reports, balance statements) shall be sent electronically, via email, to:

(i) Contract Officer via mailbox: Akela Long; oga1@cdc.gov

(ii) Financial Management Service (FMS) via mailbox: psc_invoices@psc.hhs.gov

(4) The subject line of your email invoice submission shall contain the contract number, order number (if applicable), and the number of invoices. The Contractor shall send one email per contract per month. The email may have multiple invoices for the contract. Invoices must be in the following formats: PDF, TIFF, or Word. No Excel formats will be accepted. The electronic file cannot contain multiple invoices; example, 10 invoices requires 10 separate files (PDF or TIFF or Word).

(5) Invoices shall be submitted in accordance with the contract terms, i.e. payment schedule, progress payments, partial payments, deliverables, etc.

(6) All calls concerning contract payment shall be directed to the COR.

(7) 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.

(b) Invoice Elements.

(1) In accordance with FAR 52.212-4, Contract Terms and Conditions-Commercial Items, the Contractor shall submit an electronic invoice to the email addresses designated in the contract to receive invoices. A proper invoice must include the following items:

(i) Name and address of the Contractor;

(ii) Invoice date and number;

(iii) Contract number, contract 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 persons 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.

(B) In accordance with the requirements of the Debt Collection Improvement Act of 1996, all payments under this order will be made by electronic funds transfer (EFT). The Contractor shall provide financial institution information to the Finance Office designated above in accordance with FAR 52.232-33 Payment by Electronic Funds Transfer - System for Award Management.

(2) Additionally, the Program Support Center (PSC) requires:

(i) the invoice to break-out price/cost by contract line item number (CLIN) as specified in the pricing section of the contract

(ii) the invoice to include the Dun & Bradstreet Number (DUNS) of the Contractor.

(End Clause)

SECTION H-SPECIAL CONTRACT REQUIREMENTS

H.1 CONTRACTOR PUBLICITY

The Contractor, or any entity or representative acting on behalf of the Contractor, may not refer to the equipment or services furnished pursuant to the provisions of this contract in any news release or commercial advertising, or in connection with any news release or commercial advertising, without first obtaining explicit written consent to do so from the Contracting Officer. Should any reference to such equipment or services appear in any news release or commercial advertising issued by or on behalf of the Contractor without the required consent, the Government will consider institution of all remedies available under applicable law.

H.2 CONTRACTING OFFICER'S REPRESENTATIVE (COR) APPOINTMENT AND AUTHORITY

Performance of work under this contract is subject to the technical direction of the COR identified in Section G, or a representative designated by the contracting officer in writing. The term "technical direction" includes, without limitation, direction to the contractor that directs or redirects the labor effort, shifts the work between work areas or locations, and/or fills in details and otherwise serves to ensure that tasks outlined in the contract are accomplished satisfactorily. Technical direction must be within the scope of the contract specification(s)/work statement. The COR does not have authority to issue technical direction that:

- Constitutes additional work outside the contract specification(s)/work statement;

1. Constitutes a change as defined in the "Changes" clause of this contract;
2. Causes an increase or decrease in the contract price, or the time required for contract performance
3. Changes any of the terms, conditions, or specification(s)/work statement of the contract
4. Interferes with the contractor's right to perform under the terms and conditions of the contract
5. Directs, supervises or otherwise controls the actions of the contractor's employees
6. Technical direction may be oral or in writing. The COR must confirm oral direction in writing within five (5) workdays, with a copy to the Contracting Officer
7. The contractor shall proceed promptly with performance resulting from the technical direction issued by the COR, if the opinion of the contractor, any direction of the COR or the designated representative falls within the limitation of (c) above, the Contractor shall immediately notify the Contracting Officer no later than the beginning of the next Government workday. Failure of the Contractor and the Contracting Officer to agree that technical direction is within the scope of the contract shall be subjected the terms of the "Disputes" clause of this contract.

H.3 PROTECTION AGAINST CLAIMS

The parties agree that Title 1 of the Defense Production Act (50 U.S.C. § 4511 et. seq. as implemented in 15 CFR part 700, and specifically 50 U.S.C. § 4557 and 15 CFR § 700.90) applies to this rated contract.

H.4 Excusable Delays

- The clause at FAR 52.212-4(f), *Excusable Delays*, is replaced in its entirety with the following:

This COVID-19 Excusable Delays Clause replaces the clause found at FAR 52.212-4(f), *Excusable delays*, in its entirety.

- (1) The Contractor shall be liable for default for any change in the delivery schedule under this contract unless the Contractor follows COVID-19 Excusable Delay procedures.
- (2) COVID-19 Excusable Delay procedures: The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible if the Contractor becomes aware of a circumstance beyond its control that may result or has resulted in nonperformance, partial performance, or delay in performance (collectively “the delay”). The notice shall set forth (a) the identified cause of the delay, (b) the known particulars of the delay, (c) the actions being taken by the Contractor to immediately address and mitigate the delay, (d) the anticipated duration of the delay, (e) the projected and actual impact of the delay on the Contractor’s delivery schedule, and (f) any specific actions or authorities the Contractor has identified as available to the Government that the Government may be able to use, at its sole discretion, to help mitigate or resolve the delay.
- (3) The Contractor shall not be liable for default if the actual delay on the Contractor’s delivery schedule is caused by an occurrence beyond the reasonable control of the Contractor and without the fault or negligence of the Contractor.

H.5 Advanced Payments

In accordance with Strategic National Stockpile and Security Countermeasure Procurements statute (“SNS Statute”), 42 U.S.C. § 247d-6b(c)(7)(B)(ii)(I), the Secretary of Health and Human Services has determined that an advance payment of up to 10% is authorized to increase manufacturing capacity for ventilators. The Contractor is permitted to submit an advance payment invoice of up to 10% of the contract amount after contract award and before the first delivery of ventilators. If the Contractor elects to request an advance payment, the Contractor is directed to reference in the Contractor’s first invoice, the contract section for this Advance Payment clause, the requested advance payment amount (not to exceed 10% of the contract amount), and an affirmative statement that the advance payment is being used to increase manufacturing capacity for ventilators. As required by the SNS statute, the advance payment is subject to repayment if there is a failure to perform by the Contractor under this contract. See 42 U.S.C. § 247d-6b(c)(7)(B)(ii)(I).

H.6 Liability Immunity

In accordance with the Public Readiness and Emergency Preparedness Act (“PREP Act”), Pub. L. No. 109–148, Division C, Section 2, as amended (codified at 42 U.S.C. § 247d-6d and 42 U.S.C. 247d–6e), as well as the Secretary of HHS’s Declaration Under the Public Readiness and Emergency Preparedness Act for Medical Countermeasures Against COVID–19 (the “PREP Act Declaration”), 85 Fed. Reg. 15198 (Mar. 17, 2020, effective Feb. 4, 2020), (i) this Agreement is being entered into for purposes of facilitating the manufacture, testing, development, distribution, administration, and use of “Covered Countermeasures” for responding to the COVID-19

public health emergency, in accordance with Section VI of the PREP Act Declaration; (ii) Contractor's performance of this Agreement falls within the scope of the "Recommended Activities" for responding to the COVID-19 public health emergency, to the extent it is in accordance with Section III of the PREP Act Declaration; and (iii) Contractor is a "Covered Person" to the extent it is a person defined in Section V of the PREP Act Declaration. Therefore, in accordance with Sections IV and VII of the PREP Act Declaration as well as the PREP Act (42 U.S.C. § 247d-6d), HHS expressly acknowledges and agrees that Contractor shall be immune from suit and liability to the extent and as long as Contractor's activities fall within the terms and conditions of the PREP Act and the PREP Act Declaration.

H.7 Special Contract Requirements Rated Order

On April 2, 2020, the President determined, under the authority provided under 50 U.S.C. § 4511, that ventilators are needed to respond to the Novel Coronavirus Disease ("COVID-19") Outbreak. Pursuant to this authority, on April 5, 2020, the Secretary of the Department of Health and Human Services (the "Secretary"), in consultation with the Secretary of Homeland Security, directed the Assistant Secretary for Preparedness and Response to issue a "DO" priority rated contract to CareFusion 203 under the Health Resources Priorities and Allocations System, 45 CFR part 101. The HHS Secretary's Defense Production Act Authorization and Directive to the Assistant Secretary for Preparedness and Response is attached to this contract and is incorporated into this contract by reference.

Vyair Medical Inc., shall supply ventilators in accordance with the terms of this priority rated order. DO priority rated orders for health and medical resources take precedence over all other unrated orders for health and medical resources, regardless of the date of receipt of such orders, subject to the limitations in the Secretary's Defense Production Act Authorization and Directive to the Assistant Secretary for Preparedness and Response attached to this contract.

This priority rated order is placed for the purpose of emergency preparedness. Acceptance is mandatory. If **Vyair Medical Inc.**, is unable to comply fully with the terms of this order, **Vyair Medical Inc.**, must immediately notify the Assistant Secretary for Preparedness and Response. Vyair must explain the extent to which compliance is possible and provide reasons why full compliance is not possible.

H.8 Health Resources Priorities and Allocations System (HRPAS)

Vyair Medical Inc., agrees the Government's right to exercise priorities and allocations authority with respect to this contract, to include the use of directives in accordance with 45CFR Part 101, Subpart A-Health Resources and Allocation system, constitutes a no-cost change to this contract.

SECTION I –CLAUSES CONTRACTS

SECTION I-1 - Incorporated by Reference

52.211-14 Notice of Priority Rating for National Defense, Emergency Preparedness, and Energy Program Use.
As prescribed in 52.211-14 (a), insert the following provision:

Notice of Priority Rating for National Defense, Emergency Preparedness, and Energy Program Use
Any contract awarded as a result of this solicitation will be DX rated order; ~~X-DO~~ rated order certified for national defense, emergency preparedness, and energy program use under the Defense Priorities and Allocations System (DPAS) (15 CFR700), and the Contractor will be required to follow all of the requirements of this regulation.

(End of provision)

52.252-2 Clauses Incorporated by Reference (Feb 1998)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

<http://www.acquisition.gov>

(End of Clause)

FAR SOURCE	TITLE AND DATE
52.204-13	System for Award Management Maintenance (Oct 2018)
52.204-16	Commercial and Government Entity Code Reporting (Jul 2016)
52.204-17	Ownership or Control of Offeror (Jul 2016)
52.204-20	Predecessor of Offeror (Jul 2016)
52.204-21	Basic Safeguarding of Covered Contractor Information Systems (June 2016)
52.204-24	Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment (Dec 2019)
52.209-7	Information Regarding Responsibility Matters (Oct 2018)
52.209-12	Certification Regarding Tax Matters (Feb 2016)
52.211-14	Notice of Priority Rating for National Defense, Emergency Preparedness, and Energy Program Use (Apr 2008)
52.211-15	Defense Priority and Allocation Requirements (Apr 2008)
52.212-4	Contract Terms and Conditions-Commercial Items (Oct 2018)
52.212-4	Contract Terms and Conditions-Commercial Items <i>Alternate I</i> (Jan 2017).
52.222-56	Certification Regarding Trafficking in Person Compliance Plan (March 2015)

HHSAR SOURCE	
352.203-70	Anti-Lobbying (Dec 2015)
352.222-70	Contractor Cooperation in Equal Employment Opportunity Investigations (Dec 2015)
352.227-70	Publications and Publicity (Dec 2015)

353.208-70	Printing and Duplication (Dec 2015)
352.224-70	Privacy Act (Dec 2015)
352.233-71	Litigation and Claims (Dec 2015)
352.237-74	Non-Discrimination in Service Delivery (Dec 2015)
352.239-74	Electronic and Information Technology Accessibility (Dec 2015)
352.242-70	Key Personnel (JAN 2006)
352.222-70	Contractor Cooperation in Equal Employment Opportunity Investigations (JAN 2010)
352.227-70	Publications and Publicity (JAN 2006)
352.231-70	Salary Rate Limitation (Aug 2012)
352.223-70	Safety and Health (JAN 2006)

Section I-2 - Clauses Incorporated in Full Text

52.211-14 Notice of Priority Rating for National Defense, Emergency Preparedness, and Energy Program Use.

As prescribed in 52.211-14 (a), insert the following provision:

Notice of Priority Rating for National Defense, Emergency Preparedness, and Energy Program Use (Apr 2008)

Any contract awarded as a result of this solicitation will be DX rated order; **X-DO** rated order certified for national defense, emergency preparedness, and energy program use under the Defense Priorities and Allocations System (DPAS) (15 CFR700), and the Contractor will be required to follow all of the requirements of this regulation.

(End of provision)

52.212-5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items (March 2020)

(6) The Contractor shall comply with the following Federal Acquisition Regulation (FAR) clauses, which are incorporated in this contract by reference, to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

(i) 52.203-19, Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (Jan 2017) (section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions)).

(ii) 52.204-23, Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (*Jul 2018*) (Section 1634 of Pub.L.115-91).

(iii) 52.209-10, Prohibition on Contracting with Inverted Domestic Corporations (*Nov 2015*).

(4) 52.233-3, Protest After Award (*Aug 1996*) (31U.S.C.3553).

(5) 52.233-4, Applicable Law for Breach of Contract Claim (*Oct 2004*) (Public Laws 108-77 and 108-78 (19 U.S.C. 3805 note)).

(8) The Contractor shall comply with the FAR clauses in this paragraph (b) that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

[Contracting Officer check as appropriate.]

X(1) 52.203-6, Restrictions on Subcontractor Sales to the Government (*Sept 2006*), with Alternate I (*Oct 1995*) (41 U.S.C.4704 and 10 U.S.C.2402).

x (2) 52.203-13, Contractor Code of Business Ethics and Conduct (*Oct 2015*) (41 U.S.C. 3509)).

— (3) 52.203-15, Whistleblower Protections under the American Recovery and Reinvestment Act of 2009 (*June 2010*) (Section 1553 of Pub. L. 111-5). (Applies to contracts funded by the American Recovery and Reinvestment Act of 2009.)

X(4) 52.204-10, Reporting Executive Compensation and First-Tier Subcontract Awards (*Oct 2018*) (Pub. L. 109-282) (31 U.S.C. 6101 note).

— (5) [Reserved].

— (6) 52.204-14, Service Contract Reporting Requirements (*Oct 2016*) (Pub. L. 111-117, section 743 of Div. C).

— (7) 52.204-15, Service Contract Reporting Requirements for Indefinite-Delivery Contracts (*Oct 2016*) (Pub. L. 111- 117, section 743 of Div. C).

X(8) 52.209-6, Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment. (*Oct 2015*) (31 U.S.C. 6101 note).

— (9) 52.209-9, Updates of Publicly Available Information Regarding Responsibility Matters (*Oct 2018*) (41 U.S.C. 2313).

— (10) [Reserved].

— (11) (i) 52.219-3, Notice of HUBZone Set-Aside or Sole-Source Award (*Nov 2011*) (15 U.S.C. 657a).

- __ (ii) Alternate I (*Nov 2011*) of 52.219-3.
- __ (12) (i) 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (*Oct 2014*) (if the offeror elects to waive the preference, it shall so indicate in its offer) (15 U.S.C. 657a).
- __ (ii) Alternate I (*Jan 2011*) of 52.219-4.
- __ (13) [Reserved]
- __ (14) (i) 52.219-6, Notice of Total Small Business Set-Aside (*Nov 2011*) (15 U.S.C. 644).
- __ (ii) Alternate I (*Nov 2011*).
- __ (iii) Alternate II (*Nov 2011*).
- __ (15) (i) 52.219-7, Notice of Partial Small Business Set-Aside (*June 2003*) (15 U.S.C. 644).
- __ (ii) Alternate I (*Oct 1995*) of 52.219-7.
- __ (iii) Alternate II (*Mar 2004*) of 52.219-7.
- __ (16) 52.219-8, Utilization of Small Business Concerns (*Oct 2018*) (15 U.S.C. 637(d)(2) and (3)).
- __ (17) (i) 52.219-9, Small Business Subcontracting Plan (*Aug 2018*) (15 U.S.C. 637(d)(4))
- __ (ii) Alternate I (*Jan 2017*) of 52.219-9.
- __ (iii) Alternate II (*Nov 2016*) of 52.219-9.
- __ (iv) Alternate III (*Nov 2016*) of 52.219-9.
- __ (v) Alternate IV (*Aug 2018*) of 52.219-9
- __ (18) 52.219-13, Notice of Set-Aside of Orders (*Nov 2011*) (15 U.S.C. 644(r)).
- X (19) 52.219-14, Limitations on Subcontracting (*Jan 2017*) (15 U.S.C. 637(a)(14)).
- __ (20) 52.219-16, Liquidated Damages-Subcontracting Plan (*Jan 1999*) (15 U.S.C. 637(d)(4)(F)(i)).
- __ (21) 52.219-27, Notice of Service-Disabled Veteran-Owned Small Business Set-Aside (*Nov 2011*) (15 U.S.C. 657f).
- X (22) 52.219-28, Post Award Small Business Program Representation (*Jul 2013*) (15 U.S.C. 632(a)(2)).
- __ (23) 52.219-29, Notice of Set-Aside for, or Sole Source Award to, Economically Disadvantaged Women-Owned Small Business Concerns (*Dec 2015*) (15 U.S.C. 637(m)).
- __ (24) 52.219-30, Notice of Set-Aside for, or Sole Source Award to, Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program (*Dec 2015*) (15 U.S.C. 637(m)). X (25) 52.222-3, Convict Labor (*June 2003*) (E.O.11755).
- X (26) 52.222-19, Child Labor-Cooperation with Authorities and Remedies (*Jan 2018*) (E.O.13126). X
 - (27) 52.222- 21, Prohibition of Segregated Facilities (*Apr 2015*). X (28) (i) 52.222-26, Equal Opportunity (*Sept 2016*)(E.O.11246).
- __ (ii) Alternate I (*Feb 1999*) of 52.222-26.
- X (29) (i) 52.222-35, Equal Opportunity for Veterans (*Oct 2015*) (38 U.S.C. 4212).
- __ (ii) Alternate I (*July 2014*) of 52.222-35.
- X (30) (i) 52.222-36, Equal Opportunity for Workers with Disabilities (*Jul 2014*) (29 U.S.C. 793).
- __ (ii) Alternate I (*July 2014*) of 52.222-36.
- X (31) 52.222-37, Employment Reports on Veterans (*Feb 2016*) (38 U.S.C. 4212).
- X (32) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (*Dec 2010*) (E.O. 13496).
- __ (33) (i) 52.222-50, Combating Trafficking in Persons (*Jan 2019*) (22 U.S.C. chapter 78 and E.O. 13627).
- __ (ii) Alternate I (*Mar 2015*) of 52.222-50 (22 U.S.C. chapter 78 and E.O. 13627).
- __ (34) 52.222-54, Employment Eligibility Verification (*Oct 2015*). (Executive Order 12989). (Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial items as prescribed in 22.1803.)
- __ (35) (i) 52.223-9, Estimate of Percentage of Recovered Material Content for EPA–Designated Items (*May 2008*) (42 U.S.C. 6962(c)(3)(A)(ii)). (Not applicable to the acquisition of commercially available off- the-shelf items.)
- __ (ii) Alternate I (*May 2008*) of 52.223-9 (42 U.S.C. 6962(i)(2)(C)). (Not applicable to the acquisition of commercially available off-the-shelf items.)
- __ (36) 52.223-11, Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons (*Jun 2016*) (E.O. 13693).

- ___ (37) 52.223-12, Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners (*Jun 2016*) (E.O. 13693).
 - ___ (38) (i) 52.223-13, Acquisition of EPEAT®-Registered Imaging Equipment (*Jun 2014*) (E.O.s 13423 and 13514).
 - ___ (ii) Alternate I (*Oct 2015*) of 52.223-13.
 - ___ (39) (i) 52.223-14, Acquisition of EPEAT®-Registered Televisions (*Jun 2014*) (E.O.s 13423 and 13514).
 - ___ (ii) Alternate I (*Jun 2014*) of 52.223-14.
 - ___ (40) 52.223-15, Energy Efficiency in Energy-Consuming Products (*Dec 2007*) (42 U.S.C. 8259b).
 - ___ (41) (i) 52.223-16, Acquisition of EPEAT®-Registered Personal Computer Products (*Oct 2015*) (E.O.s 13423 and 13514).
 - ___ (ii) Alternate I (*Jun 2014*) of 52.223-16.
 - X (42) 52.223-18, Encouraging Contractor Policies to Ban Text Messaging While Driving (*Aug 2011*) (E.O. 13513).
 - ___ (43) 52.223-20, Aerosols (*Jun 2016*) (E.O. 13693).
 - ___ (44) 52.223-21, Foams (*Jun 2016*) (E.O. 13693).
 - ___ (45) (i) 52.224-3 Privacy Training (*Jan 2017*) (5 U.S.C. 552 a).
 - ___ (ii) Alternate I (*Jan 2017*) of 52.224-3.
 - X (46) 52.225-1, Buy American-Supplies (*May 2014*) (41 U.S.C. chapter 83).
 - ___ (47) (i) 52.225-3, Buy American-Free Trade Agreements-Israeli Trade Act (*May 2014*) (41 U.S.C. chapter 83, 19 U.S.C. 3301 note, 19 U.S.C. 2112 note, 19 U.S.C. 3805 note, 19 U.S.C. 4001 note, Pub. L. 103-182, 108-77, 108-78, 108-286, 108-302, 109-53, 109-169, 109-283, 110-138, 112-41, 112-42, and 112-43).
 - ___ (ii) Alternate I (*May 2014*) of 52.225-3.
 - ___ (iii) Alternate II (*May 2014*) of 52.225-3.
 - ___ (iv) Alternate III (*May 2014*) of 52.225-3.
 - ___ (48) 52.225-5, Trade Agreements (*Aug 2018*) (19 U.S.C.2501, *et seq.*, 19 U.S.C. 3301 note).
 - X (49) 52.225-13, Restrictions on Certain Foreign Purchases (*June 2008*) (E.O.'s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).
 - ___ (50) 52.225-26, Contractors Performing Private Security Functions Outside the United States (*Oct 2016*) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. 2302 Note).
 - ___ (51) 52.226-4, Notice of Disaster or Emergency Area Set-Aside (*Nov 2007*) (42 U.S.C. 5150).
 - ___ (52) 52.226-5, Restrictions on Subcontracting Outside Disaster or Emergency Area (*Nov 2007*) (42 U.S.C. 5150).
 - ___ (53) 52.232-29, Terms for Financing of Purchases of Commercial Items (*Feb 2002*) (41 U.S.C.4505, 10 U.S.C.2307(f)).
 - ___ (54) 52.232-30, Installment Payments for Commercial Items (*Jan 2017*) (41 U.S.C.4505, 10 U.S.C.2307(f)). X (55) 52.232-33, Payment by Electronic Funds Transfer-System for Award Management (*Oct 2018*) (31 U.S.C. 3332).
 - ___ (56) 52.232-34, Payment by Electronic Funds Transfer-Other than System for Award Management (*Jul 2013*) (31 U.S.C.3332).
 - ___ (57) 52.232-36, Payment by Third Party (*May 2014*) (31 U.S.C.3332).
 - ___ (58) 52.239-1, Privacy or Security Safeguards (*Aug 1996*) (5 U.S.C. 552a).
 - ___ (59) 52.242-5, Payments to Small Business Subcontractors (*Jan 2017*) (15 U.S.C. 637(d)(12)).
 - ___ (60) (i) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (*Feb 2006*) (46 U.S.C. Appx.1241(b) and 10 U.S.C. 2631).
 - ___ (ii) Alternate I (*Apr 2003*) of 52.247-64.
 - ___ (iii) Alternate II (*Feb 2006*) of 52.247-64.
- (9) The Contractor shall comply with the FAR clauses in this paragraph (c), applicable to

commercial services, that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

[Contracting Officer check as appropriate.]

- ___ (1) 52.222-17, Nondisplacement of Qualified Workers (*May 2014*)(E.O. 13495).
- ___ (2) 52.222-41, Service Contract Labor Standards (*Aug 2018*) (41 U.S.C. chapter 67).
- ___ (3) 52.222-42, Statement of Equivalent Rates for Federal Hires (*May 2014*) (29 U.S.C. 206 and 41 U.S.C. chapter 67).
- ___ (4) 52.222-43, Fair Labor Standards Act and Service Contract Labor Standards-Price Adjustment

(Multiple Year and Option Contracts) (*Aug 2018*) (29 U.S.C. 206 and 41 U.S.C. chapter 67).

__ (5) 52.222-44, Fair Labor Standards Act and Service Contract Labor Standards-Price Adjustment (*May 2014*) (29

U.S.C.206 and 41 U.S.C. chapter 67).

__ (6) 52.222-51, Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment-Requirements (*May 2014*) (41 U.S.C. chapter 67).

__ (7) 52.222-53, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services- Requirements (*May 2014*) (41 U.S.C. chapter 67).

__ (8) 52.222-55, Minimum Wages Under Executive Order 13658 (*Dec 2015*).

__ (9) 52.222-62, Paid Sick Leave Under Executive Order 13706 (*Jan 2017*) (E.O. 13706).

__ (10) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations (*May 2014*) (42 U.S.C. 1792).

(10) *Comptroller General Examination of Record*. The Contractor shall comply with the provisions of this paragraph

(a) if this contract was awarded using other than sealed bid, is in excess of the simplified acquisition threshold, and does not contain the clause at 52.215-2, Audit and Records-Negotiation.

(1) The Comptroller General of the United States, or an authorized representative of the Comptroller General, shall have access to and right to examine any of the Contractor's directly pertinent records involving transactions related to this contract.

(2) The Contractor shall make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR subpart 4.7, Contractor Records Retention, of the other clauses of this contract. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement. Records relating to appeals under the dispute's clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.

(3) As used in this clause, records include books, documents, accounting procedures and practices, and other data, regardless of type and regardless of form. This does not require the Contractor to create or maintain any record that the Contractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(i) (1) Notwithstanding the requirements of the clauses in paragraphs (a), (b), (c), and (d) of this clause, the Contractor is not required to flow down any FAR clause, other than those in this paragraph (e)(1) in a subcontract for commercial items. Unless otherwise indicated below, the extent of the flow down shall be as required by the clause-

(E)52.203-13, Contractor Code of Business Ethics and Conduct (*Oct 2015*) (41 U.S.C.3509).

I 52.203-19, Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (*Jan 2017*) (section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions)).

J 52.204-23, Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (*Jul 2018*) (Section 1634 of Pub.L.115-91).

K 52.219-8, Utilization of Small Business Concerns (*Oct 2018*) (15 U.S.C.637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns)exceeds

\$700,000 (\$1.5 million for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

L 52.222-17, Nondisplacement of Qualified Workers (*May 2014*) (E.O. 13495). Flow down required in accordance with paragraph (l) of FARclause52.222-17.

M 52.222-21, Prohibition of Segregated Facilities (*Apr2015*). (K) 52.222-26, Equal Opportunity (*Sept 2015*)(E.O.11246).

(L) 52.222-35, Equal Opportunity for Veterans (*Oct 2015*) (38 U.S.C.4212).

(M) 52.222-36, Equal Opportunity for Workers with Disabilities (*Jul 2014*) (29 U.S.C.793).

(N) 52.222-37, Employment Reports on Veterans (*Feb 2016*) (38 U.S.C.4212)

(O) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (*Dec 2010*) (E.O. 13496). Flow down required in accordance with paragraph (f) of FAR clause52.222-40.

- (P) 52.222-41, Service Contract Labor Standards (*Aug 2018*) (41 U.S.C. chapter67).
 - (Q) (A) 52.222-50, Combating Trafficking in Persons (*Jan 2019*) (22 U.S.C. chapter 78 and E.O 13627).
 - (B) Alternate I (*Mar 2015*) of 52.222-50(22 U.S.C. chapter 78 and E.O 13627).
 - (R) 52.222-51, Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment-Requirements (*May 2014*) (41 U.S.C. chapter67).
 - (S) 52.222-53, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services- Requirements (*May 2014*) (41 U.S.C.chapter67).
 - (T) 52.222-54, Employment Eligibility Verification (*Oct 2015*) (E.O.12989).
 - (U) 52.222-55, Minimum Wages Under Executive Order 13658 (*Dec2015*).
 - (V) 52.222-62, Paid Sick Leave Under Executive Order 13706 (*Jan 2017*) (E.O.13706).
 - (W) (A) 52.224-3, Privacy Training (*Jan 2017*) (5 U.S.C. 552a).
 - (B) Alternate I (*Jan 2017*) of 52.224-3.
 - (X) 52.225-26, Contractors Performing Private Security Functions Outside the United States (*Oct 2016*) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. 2302 Note).
 - (Y) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations (*May 2014*) (42 U.S.C. 1792). Flow down required in accordance with paragraph (e) of FAR clause52.226-6.
 - (Z) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (*Feb 2006*) (46 U.S.C. Appx.1241(b) and 10 U.S.C. 2631). Flow down required in accordance with paragraph (d) of FAR clause 52.247-64.
 - (2) While not required, the Contractor may include in its subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.
- (End of clause)

SECTION J- LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACHMENTS

Leave This Section Blank

SECTION K-REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENT OF OFFERORS

K.1 52.252-1 Solicitation Provisions Incorporated by Reference (Feb 1998)

This solicitation incorporates one or more solicitation provisions by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. The offeror is cautioned that the listed provisions may include blocks that must be completed by the offeror and submitted with its quotation or offer. In lieu of submitting the full text of those provisions, the offeror may identify the provision by paragraph identifier and provide the appropriate information with its quotation or offer. Also, the full text of a solicitation provision may be accessed electronically at this/these address(es):

<http://www.acquisition.gov>

(End of Provision)

FAR SOURCE	TITLE AND DATE
52.212-3	Offeror Representations and Certifications – Commercial Items (Oct 2018)