



**COST REIMBURSEMENT GENERAL PROVISIONS AND FAR FLOWDOWN PROVISIONS FOR
SUBCONTRACTS/PURCHASE ORDERS (ALL AGENCIES) FOR NON-COMMERCIAL ITEMS UNDER A U.S.
GOVERNMENT PRIME CONTRACT**

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SECTION I: GENERAL PROVISIONS**1. ACCEPTANCE OF CONTRACT/TERMS AND CONDITIONS**

- (a) This Contract integrates, merges, and supersedes any prior offers, negotiations, and agreements concerning the subject matter hereof and constitutes the entire agreement between the parties.
- (b) SELLER's acknowledgment, acceptance of payment, or commencement of performance, shall constitute SELLER's unqualified acceptance of this Contract.
- (c) **Additional or differing terms or conditions proposed by SELLER or included in SELLER's acknowledgment hereof are hereby objected to by Sierracin/Sylmar Corp. and have no effect unless accepted in writing by Sierracin/Sylmar Corp..**

2. ALLOWABLE COST AND PAYMENT.

- (a) **Invoicing.** Sierracin/Sylmar Corp. shall make payments to the SELLER when requested as work progresses, but not more often than once every 2 weeks, in amounts determined to be allowable by Sierracin/Sylmar Corp. in accordance with the terms of this Contract and Subpart 31.2 of the FAR; and agency supplements as appropriate, in effect on the date of this Contract. If the Contract is with an educational institution, FAR Subpart 31.3 shall apply; and if with a non-profit organization other than an educational institution, FAR Subpart 31.7 shall apply. The SELLER may submit to the Sierracin/Sylmar Corp. Purchasing Representative, in such form and reasonable detail as the representative may require an invoice or voucher supported by a statement of the claimed allowable cost for performing this Contract.
- (b) **Reimbursing costs.**

- (1) For the purpose of reimbursing allowable costs (except as provided in subparagraph (2) below, with respect to pension, deferred profit sharing, and employee stock ownership plan contributions), the term "costs" includes only:
 - (a) Those recorded costs that, at the time of the request for reimbursement, the SELLER has paid by cash, check, or other form of actual payment for items or services purchased directly for the Contract.
 - (b) When the SELLER is not delinquent in paying costs of contract performance in the ordinary course of business, costs incurred, but not necessarily paid, for:
 - (i) Materials issued from the SELLER's inventory and placed in the production process for use on the Contract;
 - (ii) Direct labor;
 - (iii) Direct travel;
 - (iv) Other direct in-house costs; and
 - (v) Properly allocable and allowable indirect costs, as shown in the records maintained by the SELLER for purposes of obtaining reimbursement under Government contracts.
 - (c) The amount of progress payments that have been paid to the SELLER's subcontractors under similar cost standards.
- (2) SELLER contributions to any pension, profit sharing, or employee stock ownership plan funds that are paid quarterly or more often may be included in indirect costs for payment purposes; provided, that the SELLER pays the contribution to the fund within thirty (30) calendar days after the close of the period covered.

Payments made 30 days or more after the close of a period shall not be included until the SELLER actually makes the payment. Accrued costs for such contributions that are paid less often than quarterly shall be excluded from indirect costs for payment purposes until the SELLER actually makes the payment.

- (3) Notwithstanding the audit and adjustment of invoices or vouchers under paragraph (g) below, allowable indirect costs under this Contract shall be obtained by applying indirect cost rates established in accordance with paragraph (d) below.
 - (4) Except as otherwise expressly provided to the contrary in these General Provisions or in the Schedule of this Contract, any statements in specifications or other documents incorporated in this Contract by reference designating performance of services or furnishing of materials at the SELLER's expense or at no cost to Sierracin/Sylmar Corp. shall be disregarded for purposes of cost reimbursement under this clause.
- (c) **Small business concerns.** A small business concern may be paid as often as every 2 weeks and may invoice and be paid for recorded costs for items or services purchased directly for the Contract, even though the concern has not yet paid for those items or services.
- (d) **Final indirect cost rates.** Sierracin/Sylmar Corp. shall reimburse SELLER on the basis of final annual indirect cost rates and the appropriate bases established by SELLER and the Government in effect for the period covered by the indirect cost rate proposal. Such rates and bases shall not change any monetary ceiling, contract obligation, or specific cost allowance or disallowance provided for in this Contract. The rates and bases shall be deemed incorporated into this Contract upon execution.
- (e) **Billing Rates.** There shall be included as allowable indirect costs such overhead rates as may be established by SELLER and the cognizant Government Agency in accordance with the principles of the Federal Acquisition Regulation and applicable FAR Supplement. Pending establishment of final overhead rates for any period, SELLER shall be reimbursed at billing rates approved by the cognizant Government Agency, which billing rates may be revised from time to time subject to such approval and subject to appropriate adjustment when the final rates for that period are established.
- (f) **Quick closeout procedures.** When the SELLER and Sierracin/Sylmar Corp. agree, the quick closeout procedures of Subpart 42.7 of the FAR may be used.
- (g) **Audit.** At any time or times before final payment, Sierracin/Sylmar Corp. or the Government may audit the SELLER's invoices or vouchers and statements of cost. Any payment may be (1) reduced by amounts found by Sierracin/Sylmar Corp. or the Government not to constitute allowable costs or (2) adjusted for prior overpayments or underpayments.
- (h) **Final payment.**
- (1) The SELLER shall submit a completion invoice or voucher, designated as such, promptly upon completion of the Work, but no later than one year (or longer, as Sierracin/Sylmar Corp. may approve in writing) from the completion date. Upon approval of that invoice or voucher, and upon the SELLER's compliance with all terms of this Contract, Sierracin/Sylmar Corp. shall promptly pay any balance of allowable costs and that part of the fee (if any) not previously paid.
 - (2) The SELLER shall pay to Sierracin/Sylmar Corp. any refunds, rebates, credits, or other amounts (including interest, if any) accruing to or received by the SELLER or any assignee under this Contract, to the extent that those amounts are properly allocable to costs for which the SELLER has been reimbursed by Sierracin/Sylmar Corp.. Reasonable expenses incurred by the SELLER for securing refunds, rebates, credits, or other amounts shall be allowable

costs if approved by Sierracin/Sylmar Corp.. Before final payment under this Contract, the SELLER and each assignee whose assignment is in effect at the time of final payment shall execute and deliver:

- (a) An assignment to Sierracin/Sylmar Corp., in form and substance satisfactory to Sierracin/Sylmar Corp., of refunds, rebates, credits, or other amounts (including interest, if any) properly allocable to costs for which the SELLER has been reimbursed by Sierracin/Sylmar Corp. under this Contract; and
 - (b) A release discharging Sierracin/Sylmar Corp., its officers, agents, and employees from all liabilities, obligations, and claims arising out of or under this Contract, except for specified claims stated in exact amounts, or in estimated amounts when the exact amounts are not known.
- (i) **Subcontracts.** No subcontract placed under this Contract shall provide for payment on a cost-plus-a-percentage-of-cost basis, and any fee payable under cost-reimbursement type subcontracts shall not exceed the fee limitations in paragraph 15.404-4(c)(4)(i) of the Federal Acquisition Regulation (FAR).

3. APPLICABLE LAWS

- (a) This Contract shall be governed by and construed in accordance with the laws of the State from which this Contract was issued, excluding its choice of laws rules, except that any provision in this Contract that is (i) incorporated in full text or by reference from the Federal Acquisition Regulations (FAR) or (ii) incorporated in full text or by reference from any agency regulation that implements or supplements the FAR or (iii) that is substantially based on any such agency regulation or FAR provision, shall be construed and interpreted according to the federal common law of Government contracts as enunciated and applied by federal judicial bodies, boards of contracts appeals, and quasi-judicial agencies of the federal Government.
- (b) (1) SELLER agrees to comply with all applicable laws, orders, rules, regulations, and ordinances.
- (2) If: (i) Sierracin/Sylmar Corp.' contract cost or fee is reduced; (ii) Sierracin/Sylmar Corp.' costs are determined to be unallowable; (iii) any fines, penalties or interest are assessed on Sierracin/Sylmar Corp.; or (iv) Sierracin/Sylmar Corp. incurs any other costs or damages; as a result of any violation of applicable laws, orders, rules, regulations, or ordinances by SELLER, its officers, employees, agents, suppliers, or subcontractors at any tier, Sierracin/Sylmar Corp. may proceed as provided for in (4) below.
- (3) Where submission of cost or pricing data is required or requested at any time prior to or during performance of this Contract, if SELLER or its lower-tier subcontractors: (i) submit and/or certify cost or pricing data that are defective; (ii) with notice of applicable cutoff dates and upon Sierracin/Sylmar Corp.' request to provide cost or pricing data, submit cost or pricing data, whether certified or not certified at the time of submission, as a prospective subcontractor, and any such data are defective as of the applicable cutoff date on Sierracin/Sylmar Corp.' Certificate of Current Cost or Pricing Data; (iii) claim an exception to a requirement to submit cost or pricing data and such exception is invalid; or (iv) furnish data of any description that is inaccurate or, if the U.S. Government alleges any of the foregoing, and, as a result, (1) Sierracin/Sylmar Corp.' contract price or fee is reduced; (2) Sierracin/Sylmar Corp.' costs are determined to be unallowable; (3) any fines, penalties or interest are assessed on Sierracin/Sylmar Corp.; or (4) Sierracin/Sylmar Corp. incurs any other costs or damages; Sierracin/Sylmar Corp. may proceed as provided for in (4) below.
- (4) Upon the occurrence of any of the circumstances identified in (2) and (3) above, Sierracin/Sylmar Corp. may make a reduction of corresponding amounts (in whole or in part) in the price, or in the costs and fee, of this Contract or any other

contract with SELLER, and/or may demand payment (in whole or in part) of the corresponding amounts. SELLER shall promptly pay amounts so demanded.

- (c) SELLER represents that each chemical substance constituting or contained in Work sold or otherwise transferred to Sierrracin/Sylmar Corp. hereunder is on the list of chemical substances compiled and published by the Administrator of the Environmental Protection Administration pursuant to the Toxic Substances Control Act (15 U.S.C. Sec. 2601 et seq.) as amended.
- (d) SELLER shall provide to Sierrracin/Sylmar Corp. with each delivery any Material Safety Data Sheet applicable to the Work in conformance with and containing such information as required by the Occupational Safety and Health Act of 1970 and regulations promulgated thereunder, or its state approved counterpart.

4. ASSIGNMENT

Any assignment of SELLER's contract rights or delegation of duties shall be void, unless prior written consent is given by Sierrracin/Sylmar Corp.. However, SELLER may assign rights to be paid amounts due, or to become due, to a financing institution if Sierrracin/Sylmar Corp. is promptly furnished a signed copy of such assignment reasonably in advance of the due date for payment of any such amounts. Amounts assigned to an assignee shall be subject to setoffs or recoupment for any present or future claims of Sierrracin/Sylmar Corp. against SELLER. Sierrracin/Sylmar Corp. shall have the right to make settlements and/or adjustments in the estimated cost and fee without notice to the assignee.

5. COMMUNICATION WITH Sierrracin/Sylmar Corp. CUSTOMER

Sierrracin/Sylmar Corp. shall be solely responsible for all liaison and coordination with the Sierrracin/Sylmar Corp. customer, including the U.S. Government, as it affects the applicable Prime Contract, this Contract, and any related contract.

6. CONTRACT DIRECTION

- (a) Only the Sierrracin/Sylmar Corp. Procurement Representative has authority to make changes in or amendments to this Contract. Such amendments must be in writing.
- (b) Sierrracin/Sylmar Corp. engineering and technical personnel may from time to time render assistance or give technical advice or discuss or effect an exchange of information with SELLER's personnel concerning the Work hereunder. Such actions shall not be deemed to be a change under the "Changes" clause of this Contract and shall not be the basis for equitable adjustment.
- (c) Except as otherwise provided herein, all notices to be furnished by the SELLER shall be sent to the Sierrracin/Sylmar Corp. Procurement Representative.

7. 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. If these terms and conditions are incorporated into a "master" agreement that provides for releases, (in the form of a purchase order or other such document) the term "Contract" shall also mean the release document for the Work to be performed.
- (b) "FAR" means the Federal Acquisition Regulation, issued as Chapter 1 of Title 48, Code of Federal Regulations.
- (c) "Sierrracin/Sylmar Corp.", means Sierrracin/Sylmar Corp. CORPORATION, acting through its companies or business sites as identified on the face of the Contract. If a subsidiary or affiliate of Sierrracin/Sylmar Corp. CORPORATION is identified on the face of this Contract then "Sierrracin/Sylmar Corp." means that subsidiary or affiliate.

(d) "Sierrracin/Sylmar Corp. Procurement Representative" means the person authorized by Sierrracin/Sylmar Corp.' cognizant procurement organization to administer and/or execute this Contract.

(e) "PO" or "Purchase Order" as used in any document constituting a part of this Contract shall mean this "Contract."

(f) "SELLER" means the party identified on the face of the Contract with whom Sierrracin/Sylmar Corp. is contracting.

(g) "Work" means all required articles, materials, supplies, goods and services constituting the subject matter of this Contract.

8. 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 Sierrracin/Sylmar Corp..

9. EXPORT CONTROL

- (a) SELLER agrees to comply with all applicable U.S. export control laws and regulations. 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 or applicable license exception.
- (b) SELLER agrees to notify Sierrracin/Sylmar Corp. if any deliverable under this Contract is restricted by export control laws or regulations.
- (c) SELLER shall immediately notify the Sierrracin/Sylmar Corp. Procurement Representative if SELLER is 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.

10. EXTRAS

Work shall not be supplied in excess of quantities specified in the Contract. SELLER shall be liable for handling charges and return shipment costs for any excess quantities.

11. FEE (Applicable only if this Contract includes a fee.)

Sierrracin/Sylmar Corp. shall pay the SELLER for performing this Contract the fee as specified in the Schedule.

12. FURNISHED PROPERTY

- (a) Sierrracin/Sylmar Corp. may provide to SELLER property owned by either Sierrracin/Sylmar Corp. or its customer (Furnished Property). Furnished Property shall be used only for the performance of this Contract.
- (b) Title to Furnished Property shall remain in Sierrracin/Sylmar Corp. or its customer. SELLER shall clearly mark (if not so marked) all Furnished Property to show its ownership.
- (c) Except for reasonable wear and tear, SELLER shall be responsible for, and shall promptly notify Sierrracin/Sylmar Corp. of, any loss or damage. SELLER shall manage, maintain, and preserve Furnished Property in accordance with good commercial practice.
- (d) At Sierrracin/Sylmar Corp.' request, and/or upon completion of this Contract the SELLER shall submit, in an acceptable form, inventory lists of Furnished Property and shall deliver or make such other disposal as may be directed by Sierrracin/Sylmar Corp..
- (e) The Government Property Clause contained in Section II shall apply in lieu of paragraphs (a) through (d) above with respect to Government-furnished property, or property to which the Government may take title under this Contract.

13. **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 Sierracin/Sylmar Corp. with a view toward securing 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 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.**

14. **INDEPENDENT SELLER RELATIONSHIP**

- (a) SELLER is an independent contractor in all its operations and activities hereunder. The employees used by SELLER to perform Work under this Contract shall be SELLER's employees exclusively without any relation whatsoever to Sierracin/Sylmar Corp..
- (b) SELLER shall be responsible for all losses, costs, claims, causes of action, damages, liabilities, and expenses, including attorneys' fees, all expenses 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 Contract.

15. **INFORMATION OF Sierracin/Sylmar Corp.**

Information provided by Sierracin/Sylmar Corp. to SELLER remains the property of Sierracin/Sylmar Corp.. SELLER agrees to comply with the terms of any Proprietary Information Agreement with Sierracin/Sylmar Corp. and to comply with all proprietary information markings and restrictive legends applied by Sierracin/Sylmar Corp. to anything provided hereunder to SELLER. **SELLER agrees not to use any Sierracin/Sylmar Corp. provided information for any purpose except to perform this Contract and agrees not to disclose such information to third parties without the prior written consent of Sierracin/Sylmar Corp..**

16. **INFORMATION OF SELLER**

SELLER shall not provide any proprietary information to Sierracin/Sylmar Corp. without prior execution by Sierracin/Sylmar Corp. of a Proprietary Information Agreement.

17. **INSURANCE/ENTRY ON Sierracin/Sylmar Corp. PROPERTY**

In the event that SELLER, its employees, agents, or subcontractors enter the site(s) of Sierracin/Sylmar Corp. or its customers for any reason in connection with this Contract, then SELLER and its subcontractors shall procure and maintain worker's compensation, comprehensive general liability, bodily injury and property damage insurance in reasonable amounts, and such other insurance as Sierracin/Sylmar Corp. may require. In addition, SELLER and its subcontractors shall comply with all site requirements. SELLER shall indemnify and hold harmless Sierracin/Sylmar Corp., its officers, employees, and agents from any losses, costs, claims, causes of action, damages, liabilities, and expenses, including attorneys' fees, all expenses of litigation and/or settlement, and court costs, by reason of property damage or loss or personal injury to any person caused in whole or in part by the actions or omissions of SELLER, its officers, employees, agents, suppliers, or subcontractors. SELLER shall provide Sierracin/Sylmar Corp. thirty (30) days advance written notice prior to the effective date of any cancellation or change in the term or coverage of any of SELLER's required insurance. If requested, SELLER shall send a "Certificate of Insurance" showing SELLER's compliance with these requirements. SELLER shall name Sierracin/Sylmar Corp. as an additional insured for the duration of this Contract. Insurance maintained pursuant to this clause shall be considered primary as respects the interest of Sierracin/Sylmar Corp. and is not contributory with any insurance which Sierracin/Sylmar Corp. may carry. "Subcontractor" as used in this clause shall include SELLER's subcontractors at any tier.

18. **INTELLECTUAL PROPERTY INFRINGEMENT**

SELLER warrants that the Work performed and delivered under this Contract will not infringe or otherwise violate the intellectual property rights of any third party in the United States or any foreign country. SELLER agrees to defend, indemnify and hold harmless Sierracin/Sylmar Corp. and its customers from and against any claims, damages, losses, costs and expenses, including reasonable attorneys fees, arising out of any action by a third party that is based upon a claim that the Work performed or delivered under this Contract infringes or otherwise violates the intellectual property rights of any person or entity. This indemnity and hold harmless shall not be considered an allowable cost under any provisions of this Contract except with regard to allowable insurance costs.

19. **OFFSET CREDIT/COOPERATION**

All offset or countertrade credit value resulting from this Contract shall accrue solely to the benefit of Sierracin/Sylmar Corp.. SELLER agrees to cooperate with Sierracin/Sylmar Corp. in the fulfillment of any foreign offset/countertrade obligations.

20. **PACKING AND SHIPMENT**

- (a) Unless otherwise specified, all Work is to be packed in accordance with good commercial practice.
- (b) A complete packing list shall be enclosed with all shipments. SELLER shall mark containers or packages with necessary lifting, loading, and shipping information, including the Sierracin/Sylmar Corp. Contract number, item number, dates of shipment, and the names and addresses of consignor and consignee. Bills of lading shall include this Contract number.
- (c) Unless otherwise specified, delivery shall be FOB Place of Shipment.

21. **PARTS OBSOLESCENCE**

Sierracin/Sylmar Corp. may desire to place additional orders for items purchased hereunder. SELLER shall provide Sierracin/Sylmar Corp. with a "Last Time Buy Notice" at least twelve (12) months prior to any action to discontinue any item purchased under this Contract.

22. **PAYMENTS, TAXES, AND DUTIES**

- (a) Unless otherwise provided, terms of payment shall be net 30 days from the latest of the following: (i) Sierracin/Sylmar Corp.' receipt of the SELLER's proper invoice; (ii) Scheduled delivery date of the Work; or (iii) Actual delivery of the Work. Sierracin/Sylmar Corp. shall have a right of setoff against payments due or at issue under this Contract or any other contract between the parties.
- (b) Payment shall be deemed to have been made as of the date of mailing Sierracin/Sylmar Corp.' payment or electronic funds transfer.
- (c) Unless otherwise specified, estimated costs include all applicable federal, state and local taxes, duties, tariffs, and similar fees imposed by any government, all of which shall be listed separately on the invoice.

23. **PRECEDENCE**

Any inconsistencies in this Contract shall be resolved in accordance with the following descending order of precedence: (1) Face of the Purchase Order, Release document or Schedule, (which shall include continuation sheets), as applicable, including any Special Provisions; (2) Any master-type agreement (such as corporate, sector or blanket agreements); (3) these General Provisions; (4) Statement of Work.

24. **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 CFR Part 700).

25. **QUALITY CONTROL SYSTEM**

- (a) SELLER shall provide and maintain a quality control system to an industry recognized Quality Standard and in compliance with any other specific quality requirements identified in this Contract.
- (b) Records of all quality control inspection work by SELLER shall be kept complete and available to Sierracin/Sylmar Corp. and its customers.

26. **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 Sierracin/Sylmar Corp..

27. **SEVERABILITY**

Each paragraph and provision of this Contract is severable, and if one or more paragraphs or provisions are declared invalid, the remaining provisions of this Contract will remain in full force and effect.

28. **SURVIVABILITY**

If this Contract expires, is completed or terminated, SELLER shall not be relieved of those obligations contained in the following provisions:

- (a) Allowable Cost and Payment
 - Applicable Laws
 - Export Control
 - Independent Contractor Relationship
 - Information of Sierracin/Sylmar Corp.
 - Insurance/Entry on Sierracin/Sylmar Corp. Property
 - Intellectual Property Infringement
 - Release of Information
- (b) Those U. S. Government flowdown provisions that by their nature should survive.

29. **TIMELY PERFORMANCE**

- (a) SELLER's timely performance is a critical element of this Contract.
- (b) Unless advance shipment has been authorized in writing by Sierracin/Sylmar Corp., Sierracin/Sylmar Corp. may store at SELLER's expense, or return, shipping charges collect, all Work received in advance of the scheduled delivery date.
- (c) If SELLER becomes aware of difficulty in performing the Work, SELLER shall timely notify Sierracin/Sylmar Corp., in writing, giving pertinent details. This notification shall not change any delivery schedule.
- (d) In the event of a termination or change, no claim will be allowed for any manufacture or procurement in advance of SELLER's normal flow time unless there has been prior written consent by Sierracin/Sylmar Corp..

30. **WAIVER, APPROVAL AND REMEDIES**

- (a) Failure by Sierracin/Sylmar Corp. to enforce any provision(s) of this Contract shall not be construed as a waiver of the requirement(s) of such provision(s), or as a waiver of the right of Sierracin/Sylmar Corp. thereafter to enforce each and every such provision(s).
- (b) Sierracin/Sylmar Corp.' approval of documents shall not relieve SELLER from complying with any requirements of this Contract.
- (c) The rights and remedies of Sierracin/Sylmar Corp. in this Contract are in addition to any other rights and remedies provided by law or in equity.

SECTION II: FAR FLOWDOWN PROVISIONS

A. **INCORPORATION OF FAR CLAUSES**

The Federal Acquisition Regulation (FAR) 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, during the performance of this Contract. If the date or substance of any of the clauses listed below is different than 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.

B. **GOVERNMENT SUBCONTRACT**

This Contract is entered into by the Parties in support of a U.S. Government Contract.

As used in the clauses referenced below and otherwise in this Contract:

1. "Commercial Item" means a commercial item as defined in FAR 2.101.
2. "Contract" means this Contract.
3. "CONTRACTOR" means the SELLER, as defined in this PURCHASE 4 , acting as the immediate (first-tier) subcontractor to Sierracin/Sylmar Corp..
4. "Prime Contract" means the contract between Sierracin/Sylmar Corp. and the U.S. Government or between Sierracin/Sylmar Corp. and its higher-tier contractor who has a contract with the U.S. Government.
5. "Subcontract" means any contract placed by the CONTRACTOR or lower-tier subcontractors under this Contract.

C. **NOTES**

1. Substitute "Sierracin/Sylmar Corp." for "Government" or "United States" as applicable throughout this clause.
2. Substitute "Sierracin/Sylmar Corp. Procurement Representative" for "Contracting Officer", "Administrative Contracting Officer", and "ACO" throughout this clause.
3. Insert "and Sierracin/Sylmar Corp." after "Government" or "Contracting Officer", as appropriate, throughout this clause.
4. Insert "or Sierracin/Sylmar Corp." after "Government" throughout this clause.
5. Communication/notification required under this clause from/to the SELLER to/from the Contracting Officer shall be through Sierracin/Sylmar Corp..
6. "Contracting Officer" shall mean the U.S. Government Contracting Officer for Sierracin/Sylmar Corp.' government prime contract under which this Contract is entered.

D. **AMENDMENTS REQUIRED BY PRIME CONTRACT**

CONTRACTOR agrees that upon the request of Sierracin/Sylmar Corp. it will negotiate in good faith with Sierracin/Sylmar Corp. relative to amendments to this Contract to incorporate additional provisions herein or to change provisions hereof, as Sierracin/Sylmar Corp. 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 estimated 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 Sierracin/Sylmar Corp. furnishes designs, drawings, special tooling, equipment, engineering data or other technical or proprietary information (Furnished Items) to which the U. S. Government owns or has the right to authorize the use of, nothing herein shall be construed to mean that Sierracin/Sylmar Corp., 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 FLOWDOWN CLAUSES**

REFERENCE TITLE

1. The following FAR clauses apply to this Contract:

- (a) 52.211-5 MATERIAL REQUIREMENTS (OCT 1997) (See Note 2).
- (b) 52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS (OCT 1999)
- (c) 52.222-2 PAYMENT FOR OVERTIME PREMIUMS (JUL 1990) (Insert ZERO in the Blank. See Notes 2 and 3)
- (d) 52.222-21 PROHIBITION OF SEGREGATED FACILITIES (FEB 1999)
- (e) 52.222-26 EQUAL OPPORTUNITY (FEB 1999) (Only subparagraphs (b)(1)-(11) applies.)
- (f) 52.223-11 OZONE-DEPLETING SUBSTANCES (JUN 1996) (Applicable if the Work was manufactured with or contains ozone-depleting substances.)
- (g) 52.225-11 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (AUG 1998) (In paragraph (a), see Notes 5 and 6.)
- (h) 52.227-14 RIGHTS IN DATA - GENERAL (JUN 1987)
- (i) 52.232-20 LIMITATION OF COST (APR 1984) (Applicable when this Contract becomes fully funded. See Notes 1 and 2)
- (j) 52.232-22 LIMITATION OF FUNDS (APR 1984) (Applicable if this Contract is incrementally funded. When the Contract becomes fully funded 52.232-20 shall apply in lieu of this clause. See Notes 1 and 2)
- (k) 52.234-1 INDUSTRIAL RESOURCES DEVELOPED UNDER DEFENSE PRODUCTION ACT TITLE III (DEC 1994) (See Note 2.)
- (l) 52.242-13 BANKRUPTCY (JUL 1995) (See Note 2.)
- (m) 52.242-15 STOP-WORK ORDER (AUG 1989) with ALT I (APR 1984) (See Notes 1 and 2.)
- (n) 52.243-2 CHANGES - COST REIMBURSEMENT (AUG 1987) (Delete the reference to the "disputes" clause in subparagraph (d). See Notes 1 and 2.)
- (o) 52.244-6 SUBCONTRACTS FOR COMMERCIAL ITEMS AND COMMERCIAL COMPONENTS (OCT 1998)
- (p) 52.246-3 INSPECTION OF SUPPLIES - COST REIMBURSEMENT (APR 1984) (See Note 1 except in paragraphs (b), (c) and (d) where Note 3 applies, and in paragraph (k) where the term is unchanged. In subparagraph (e), change "60 days" to "120 days", and in subparagraph (f) change "6 months" to "12 months".)
- (q) 52.246-5 INSPECTION OF SERVICES - COST REIMBURSEMENT (APR 1984) (See Note 3 in paragraphs (b) and (c). See Note 1 in paragraphs (d) and (e).)
- (r) 52.249-6 TERMINATION (COST-REIMBURSEMENT) (SEP 1996) (See Notes 1 and 2. Substitute "90 days" for "120 days" and "90-day" for "120-day" in paragraph (d). Substitute "180 days" for "1 year" in paragraph (f). Delete paragraph (j). Settlements and payments under this clause may be subject to the approval of the Contracting Officer.)

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

- (a) 52.222-35 AFFIRMATIVE ACTION FOR DISABLED VETERANS AND VIETNAM ERA VETERANS (APR 1998)
- (b) 52.222-36 AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES (JUNE 1998)
- (c) 52.222-37 EMPLOYMENT REPORTS ON DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA (JAN 1999)

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

- (a) 52.203-6 RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (JUL 1995)
- (b) 52.203-12 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (JUN 1997) (See Note 5.)
- (c) 52.215-2 AUDIT AND RECORDS-NEGOTIATION (JUN 1999) (Applicable if (1) CONTRACTOR was required to furnish cost or pricing data, or (2) the Contract requires CONTRACTOR to furnish cost, funding or performance reports. Insert "and the Sierracin/Sylmar Corp. Purchasing Representative" after "the Contracting Officer or representatives of the Contracting Officer" or after "... representatives of the Contracting Officer who are employees of the Government", where indicated throughout the clause. If this is a cost type contract with an educational institution or other non-profit organization, add ALT II (APR 1998).)
- (d) 52.215-14 INTEGRITY OF UNIT PRICES (OCT 1997) (Delete paragraph (b) of the clause.)
- (e) 52.222-4 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT - OVERTIME COMPENSATION (JUL 1995)
- (f) 52.223-2 CLEAN AIR AND WATER (APR 1984)
- (g) 52.223-14 TOXIC CHEMICAL RELEASE REPORTING (OCT 1996) (See Note 2. Delete subparagraph (e).)
- (h) 52.227-1 AUTHORIZATION AND CONSENT (JUL 1995) (Applicable only if the Prime Contract contains this clause. In subparagraph (a)(1) see Note 4; in subparagraph (a)(2)(ii) see Note 2.)
- (i) 52.227-2 NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (AUG 1996) (See Notes 2 and 4.)
- (j) 52.247-64 PREFERENCE FOR PRIVATELY OWNED U.S.-FLAG COMMERCIAL VESSELS (JUN 1997) (See Note 2.)
- (k) 52.248-1 VALUE ENGINEERING (NOV 1999) (See Note 1, except in subparagraphs (c)(5) and (m). See Note 3.)

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

- (a) 52.215-12 SUBCONTRACTOR COST OR PRICING DATA (OCT 1997) (Applicable if not otherwise exempt under FAR 15.403.)
- (b) 52.215-13 SUBCONTRACTOR COST OR PRICING DATA - MODIFICATIONS (OCT 1997) (Applicable for modifications if not otherwise exempt under FAR 15.403.)

(c) 52.219-9 SMALL BUSINESS SUBCONTRACTING PLAN (JAN 1999) (Applicable if the CONTRACTOR is not a small business. See Note 2, applicable to paragraph (c) only. The CONTRACTOR's subcontracting plan is incorporated herein by reference.)

5. The following clauses apply as indicated:

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

(b) 52.215-10 PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA (OCT 1997) (Applicable if submission of cost or pricing data is required. See Notes 2 and 4. Rights and obligations under this clause shall survive completion of the Work and final payment under this Contract.)

(c) 52.215-11 PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA - MODIFICATIONS (OCT 1997)(Applicable if submission of cost or pricing data is required for modifications. See Notes 2 and 4. Rights and obligations under this clause shall survive completion of the Work and final payment under this Contract.)

(d) 52.215-15 PENSION ADJUSTMENTS AND ASSET REVERSIONS (DEC 1998) (Applicable if this Contract meets the applicability requirements of FAR 15.408(g). See Note 5.)

(e) 52.215-16 FACILITIES CAPITAL COST OF MONEY (OCT 1997) (Applicable only if the Contract is subject to the Cost Principles at FAR Subpart 31.2 and the CONTRACTOR proposed facilities capital cost of money in its offer.)

(f) 52.215-17 WAIVER OF FACILITIES CAPITAL COST OF MONEY (OCT 1997) (Applicable only if the Contract is subject to the Cost Principles at FAR Subpart 31.2 and the CONTRACTOR did not propose facilities capital cost of money in its offer.)

(g) 52.215-18 REVERSION OR ADJUSTMENT OF PLANS FOR POST-RETIREMENT BENEFITS (PRB) OTHER THAN PENSIONS (OCT 1997) (Applicable if this Contract meets the applicability requirements of FAR 15.408(i). See Note 5.)

(h) 52.215-19 NOTIFICATION OF OWNERSHIP CHANGES (OCT 1997) (Applicable if this Contract meets the applicability requirements of FAR 15.408(k). See Note 2.)

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

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

(k) 52.223-3 HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA (JAN 1997) (Applicable if the Contract involves hazardous material. See Notes 2 and 3.)

(l) 52.223-7 NOTICE OF RADIOACTIVE MATERIALS (JAN 1997) (Applicable to Work containing covered radioactive material. In the blank insert "30". See Notes 1 and 2.)

(m) 52.225-9 BUY AMERICAN ACT-TRADE AGREEMENTS – BALANCE OF PAYMENTS PROGRAM (JAN 1996) (Applicable if the Work contains other than domestic components.)

(n) 52.225-10 DUTY FREE ENTRY (APR 1984) (Applicable if supplies will be imported into the Customs Territory of the United States. In subparagraph (b)(1) the notice provision shall be 20 days. See Notes 3, 5 and 6.)

(o) 52.227-9 REFUND OF ROYALTIES (APR 1984) (Applicable when reported royalty exceeds \$250. See Notes 1 and 2.)

(p) 52.227-10 FILING OF PATENT APPLICATIONS-CLASSIFIED SUBJECT MATTER (APR 1984) (Applicable if the Work or any patent application may cover classified subject matter.)

(q) 52.227-11 PATENT RIGHTS-RETENTION BY THE CONTRACTOR (SHORT FORM) (JUN 1997) (Applicable if this Contract is for 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 agency identified in this Contract. If no agency is identified, contact the SIERRACIN/SYLMAR CORP. Procurement Representative identified on the face of the Contract.)

(r) 52.227-12 PATENT RIGHTS-RETENTION BY THE CONTRACTOR (LONG FORM) (JAN 1997) (Applicable if this Contract is for experimental, developmental, or research Work and CONTRACTOR is a large business concern. Reports required by this clause shall be filed with the agency identified in this Contract. If no agency is identified, contact the Sierracin/Sylmar Corp. Procurement Representative identified on the face of the Contract.)

(s) 52.228-5 INSURANCE – WORK ON A GOVERNMENT INSTALLATION (JAN 1997) (Applicable if Work performed on Government installation. See Note 2.)

(t) 52.230-2 COST ACCOUNTING STANDARDS (APR 1998) (When referenced in the Contract, Full CAS Coverage applies. In subparagraph (a)(4)(ii) and (a)(5) see Note 1. Delete paragraph (b) of the clause.)

(u) 52.230-3 DISCLOSURE AND CONSISTENCY OF COST ACCOUNTING PRACTICES (APR 1998) (When referenced in the Contract, Modified CAS Coverage applies. In subparagraphs (a)(3)(ii) and (a)(4) see Note 1. Delete paragraph (b) of the clause.)

(v) 52.230-6 ADMINISTRATION OF COST ACCOUNTING STANDARDS (NOV 1999) (Applicable if FAR 52.230-2 or FAR 52.230-3 applies.)

(w) 52-233-3 PROTEST AFTER AWARD (AUG 1996) ALT I (JUN 1985) (In the event Sierracin/Sylmar Corp.' customer has directed Sierracin/Sylmar Corp. to stop performance of the work under the Prime Contract under which this Contract is issued pursuant to FAR 33.1, Sierracin/Sylmar Corp. may, by written order to CONTRACTOR, direct CONTRACTOR to stop performance of the work called for by this Contract. "30 days" means "20 days" in paragraph (b)(2). Note 1 applies except the first time it appears in paragraph (f). In paragraph (f) add after "33.104(h)(1)" "and recovers those costs from Sierracin/Sylmar Corp.". See Note 2.)

(x) 52.237-2 PROTECTION OF GOVERNMENT BUILDINGS, EQUIPMENT AND VEGETATION (APR 1984) (Applicable if Work is performed on Government installation. See Note 2.)

(y) 52.243-6 CHANGE ORDER ACCOUNTING (APR 1984) (Applicable only if Prime Contract requires Change Order Accounting. See Note 2. Delete reference to the "Disputes" clause in the last sentence.)

- (z) 52.245-5 GOVERNMENT PROPERTY (COST-REIMBURSEMENT, TIME-AND-MATERIAL, OR LABOR-HOUR CONTRACTS) (JAN 1986) (See Note 1 except in the phrases "Government property," "Government-furnished property," and in references to title to property. See Note 2. Paragraphs (g)(1), (g)(2) and (g)(3) are deleted and replaced with the following: "CONTRACTOR assumes the risk of, and shall be responsible for, any loss or destruction, or damage to, Government property covered by this clause. However, CONTRACTOR shall not be liable for reasonable wear and tear to Government property or for Government Property properly consumed in the performance of this Contract." The following is added as paragraph (m) "CONTRACTOR shall provide to Sierrracin/Sylmar Corp. immediate notice of any disapproval, withdrawal of approval, or nonacceptance by the Government of its property control system.")
- (aa) 52.245-18 SPECIAL TEST EQUIPMENT (FEB 1993) (Applicable if this Contract involves the acquisition or fabrication of Special Test Equipment. Notice to acquire shall be through Sierrracin/Sylmar Corp.. See Notes, 4, 5, and 6.)
- (bb) 52.247-63 PREFERENCE FOR U.S.-FLAG AIR CARRIERS (JAN 1997) (Applicable if this Contract involves international air transportation.)

G. CERTIFICATIONS AND REPRESENTATIONS

- (1) **This clause contains certifications and representations that are material representations of fact upon which Sierrracin/Sylmar Corp. will rely in making awards to CONTRACTOR. By submitting its written offer, or providing oral offers/quotations at the request of Sierrracin/Sylmar Corp., 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 Sierrracin/Sylmar Corp.. CONTRACTOR shall immediately notify Sierrracin/Sylmar Corp. of any change of status with regard to these certifications and representations.**
- (2) The following clauses of the Federal Acquisition Regulation (FAR) are incorporated herein by reference, with the same force and effect as if they were given in full text, and are applicable to any order, agreement, or subcontract. In each clause incorporated below, substitute "SIERRRACIN/SYLMAR CORP." for "Government" and "Contracting Agency" and "SIERRRACIN/SYLMAR CORP. Procurement Representative" for "Contracting Officer" throughout.
- (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 shall 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, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency.
- (2) CONTRACTOR shall provide immediate written notice to Sierrracin/Sylmar Corp. 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 the Equal Opportunity clause (FAR 52.222-26) and (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 (1) 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 (2) 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 120 days from the award of this Contract.

(e) **FAR 52.223-1 Clean Air and Water Certification** (Applicable to solicitations and Contracts exceeding \$100,000).

- (1) CONTRACTOR certifies that any facility to be used in the performance of a contract is not listed on the Environmental Protection Agency List of Violating Facilities.
- (2) CONTRACTOR shall immediately notify the Sierrracin/Sylmar Corp. Procurement Representative, before any contract award, or the receipt of any communication from the Administrator, or a designee, of the Environmental Protection Agency, indicating that any facility that the Offeror proposes to use for the performance

of any contract is under consideration to be listed on the EPA list of Violating Facilities.

- (3) CONTRACTOR will include a certification substantially the same as this certification, including this paragraph (3), in every non-exempt subcontract.
- (f) **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), SELLER 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 under section 313(c) of EPCRA, 42 U.S.C. 11023(c);
 - (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);
 - (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) designations 20 through 39 as set forth in FAR section 19.102 of the Federal Acquisition Regulation; or
 - (v) The facility is not located within any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Northern Mariana Islands, or any other territory or possession over which the United States has jurisdiction.