

**USG Annex A1**  
**Commercial Items****FAR/DFARS FLOW-DOWN SUPPLEMENT****A. GENERAL**

1. In accordance with Rafael's T&C's clause 25 reference ("U.S. Government Clauses"), this Annex shall be applicable to any Order, where the ultimate end user is the U.S. Government ("USG"). In such case, the Order shall also be governed by the applicable USG Clauses, which shall constitute an integral part thereof.
2. For the avoidance of doubt, the USG Clauses provisions and terms stated below do not establish privity between the Supplier (Seller) and Rafael's Prime Contractor or the USG. Notwithstanding any provision to the contrary, Supplier (Seller) will have no right to pursue a claim or any other relief directly against Rafael's Prime Contractor or the USG. Any communication or notification required under the USG Clauses to or from the Supplier (Seller) to Rafael's Prime Contractor or the USG will be made only through Rafael.

**B. DEFINITIONS**

In addition to any other definitions detailed elsewhere in this Annex, the following definitions shall apply to this Annex and, unless otherwise specifically provided, will also apply with respect to the USG Clauses listed below:

1. "Government" (or "Contracting Officer", "ACO" or similar terms) means Rafael or Rafael's representative.

"Commercial Item" means a commercial product or service as defined in FAR 2.101.

"Contract" means this Purchase Order / Order.

"Seller"/ "Contractor"/ / "Offeror" means Supplier or anyone on Supplier's behalf.

"DFARS" means the Defense Federal Acquisition Regulation Supplement.

"FAR" means the Federal Acquisition Regulation.

"Non-Commercial Items" means a product or a service other than a Commercial Item.

"USG Clauses" means the FAR and DFARS clauses applicable to this Contract.

"Prime Contract" means the contract between Rafael and the USG or between Rafael and its Prime Contractor in support of a program for the USG end use.

"Prime Contractor" means Rafael's higher-tier contractor in support of a USG end use contract.

"Subcontract" means any contract placed by the Seller or a lower tier subcontractor for the purpose of this Contract.

**C. INCORPORATION OF USG CLAUSES**

1. The FAR and DFARS clauses referenced under section D below are incorporated herein by reference, with the same force and effect as if they were given in full text, and are applicable, including any notes following the clause citation, to this Contract. If the date or substance of any of the clauses listed below is different from the date or substance of the clause actually incorporated in the Prime Contract, the date or substance of the clause Incorporated by the Prime Contract shall apply instead. The Contracts Disputes Act shall have no application to this Contract. Any reference to a "Disputes" shall refer solely to the Governing law & Jurisdiction clause in the Order's T&Cs.
2. The Flow-down terms as set forth in this supplement USG Annex shall bind the Seller in this Contract. In the event of any discrepancy between the Flow-down terms and the terms of this Contract and/or Rafael's General Terms and Conditions (as the case may be) that cannot be resolved by interpretation, the Flow-down terms shall prevail – subject to the applicable law.
3. If any of the below listed FAR/ DFARS Clauses do not apply to this Contract, due to a criteria applicable to the FAR/DFARS Clause (such as monetary threshold, place of performance or type of effort or contract), such FAR/ DFARS Clause will be considered to be self-deleting.

**The full text of a clause may be accessed electronically at the following address:  
[www.acquisition.gov](http://www.acquisition.gov) / <https://www.acquisition.gov/?q=/browse/far/52>**

#### **D. PROVISIONS OF THE FAR/ DFARS INCORPORATED BY REFERENCE**

##### **NOTES**

1. Substitute "Rafael" for "Government" or "United States" throughout this clause.
2. Substitute "Rafael Procurement Representative" for "Contracting Officer", "Administrative Contracting Officer", and "ACO" throughout this clause.
3. Insert "and/or Rafael" after "Government" throughout this clause.
4. Insert "or Rafael" after "Government" throughout this clause.
5. Communication/notification required under this clause from/to Seller to/from the Contracting Officer shall be through Rafael.
6. Insert "and/or Rafael" after "Contracting Officer", throughout the clause.
7. Insert "or Rafael Procurement Representative" after "Contracting Officer", throughout the clause.
8. If seller is an international contractor, this clause applies to this Contract only if work under the Contract will be performed in the United State or contractor is recruiting employees in the United States to work on the Contract.

#### **FLOW DOWN PROVISIONS FOR SUBCONTRACT/PURCHASE ORDERS FOR ITEMS UNDER A U.S. GOVERNMENT PRIME CONTRACT - DOMESTIC AND INTERNATIONAL COMMERCIAL ITEMS AND SERVICES**

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## A FAR FLOWDOWN CLAUSES

In accordance with FAR 52.252-1 and 52.252-2, the following clauses and provisions are incorporated by reference and apply to this Contract as defined by the respective FAR clause or provision:

### 1.1 The following clauses apply to this Contract as defined by the respective FAR clause (for Commercial and Non-Commercial Items):

- 52.203-15 WHISTLEBLOWER PROTECTIONS UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (JUN 2010)
- 52.203-19 PROHIBITION ON REQUIRING CERTAIN INTERNAL CONFIDENTIALITY AGREEMENTS OR STATEMENTS (JAN 2017)
- 52.204-2 SECURITY REQUIREMENTS (MAR 2021) (Applies if the work requires access to classified information)
- 52.204-7 SYSTEM FOR AWARD MANAGEMENT (OCT 2018)
- 52.204-9 PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL (JAN 2011)(Applies where seller will have physical access to a federally-controlled facility or access to a federal information system).
- 52.204-21 BASIC SAFEGUARDING OF COVERED CONTRACTOR INFORMATION SYSTEMS (NOV 2021) (Applies unless seller is furnishing commercially available off-the-shelf items).
- 52.204-23 PROHIBITION ON CONTRACTING FOR HARDWARE, SOFTWARE, AND SERVICES DEVELOPED OR PROVIDED BY KASPERSKY LAB AND OTHER COVERED ENTITIES (DEC 2023) (SELLER shall provide Rafael advanced defense systems Ltd. Copies of any reports provided under this clause which relate to the performance of this contract).
- 52.204-24 REPRESENTATION REGARDING CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT (NOV 2021)
- 52.204-25 PROHIBITION ON CONTRACTING FOR CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT (NOV 2021) (Note 4 applies in paragraph (b). Reports required by this clause will be made to Rafael Advanced Defense Systems Ltd.).

SELLER represents that its Work under the Contract will not provide any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system or as critical technology as part of any system. SELLER shall comply with this Article's reporting requirements only if such requirements become applicable under the conditions prescribed.

- (a) Definitions. As used in this Article—

Backhaul means intermediate links between the core network, or backbone network, and the small subnetworks at the edge of the network (e.g., connecting cell phones/towers to the core telephone network). Backhaul can be wireless (e.g., microwave) or wired (e.g., fiber optic, coaxial cable, Ethernet).

Covered foreign country means The People's Republic of China. Covered

telecommunications equipment or services means—

- (1) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities);
- (2) For the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);
- (3) Telecommunications or video surveillance services provided by such entities or using such equipment; or
- (4) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

Critical technology means—

- (1) Defense articles or defense services included on the United States Munitions List set forth in the International Traffic in Arms Regulations under subchapter M of chapter I of title 22, Code of Federal Regulations;
- (2) Items included on the Commerce Control List set forth in Supplement No. 1 to part 774 of the Export Administration Regulations under subchapter C of chapter VII of title 15, Code of Federal Regulations, and controlled-

- (i) Pursuant to multilateral regimes, including for reasons relating to national security, chemical and biological weapons proliferation, nuclear nonproliferation, or missile technology; or
- (ii) For reasons relating to regional stability or surreptitious listening;
- (3) Specially designed and prepared nuclear equipment, parts and components, materials, software, and technology covered by part 810 of title 10, Code of Federal Regulations (relating to assistance to foreign atomic energy activities);
- (4) Nuclear facilities, equipment, and material covered by part 110 of title 10, Code of Federal Regulations (relating to export and import of nuclear equipment and material);
- (5) Select agents and toxins covered by part 331 of title 7, Code of Federal Regulations, part 121 of title 9 of such Code, or part 73 of title 42 of such Code; or
- (6) Emerging and foundational technologies controlled pursuant to section 1758 of the Export Control Reform Act of 2018 (50 U.S.C. 4817).

Interconnection arrangements means arrangements governing the physical connection of two or more networks to allow the use of another's network to hand off traffic where it is ultimately delivered (e.g., connection of a customer of telephone provider A to a customer of telephone company B) or sharing data and other information resources.

Reasonable inquiry means an inquiry designed to uncover any information in the entity's possession about the identity of the producer or provider of covered telecommunications equipment or services used by the entity that excludes the need to include an internal or third-party audit.

Roaming means cellular communications services (e.g., voice, video, data) received from a visited network when unable to connect to the facilities of the home network either because signal coverage is too weak or because traffic is too high.

Substantial or essential component means any component necessary for the proper function or performance of a piece of equipment, system, or service.

- (b) Prohibition.
  - (1) Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2019, from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. The SELLER is prohibited from providing to the Government any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, unless an exception at paragraph (c) of this Article applies or the covered telecommunication equipment or services are covered by a waiver described in FAR 4.2104.
  - (2) Reserved
- (c) Exceptions. This Article does not prohibit SELLER from providing—
  - (1) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or
  - (2) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.
- (d) Reporting requirement.
  - (1) In the event the SELLER identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the SELLER is notified of such by a subcontractor at any tier or by any other source, the SELLER shall report the information in paragraph (d)(2) of this Article to Rafael Advanced Defense Systems Ltd. and to the U.S. Department of Defense at <https://dibnet.dod.mil>. For indefinite delivery contracts, the SELLER shall report to Rafael Advanced Defense Systems Ltd. for the indefinite delivery contract and for any affected order. SELLER shall also identify both the indefinite delivery contract and any affected orders in the report provided at <https://dibnet.dod.mil>.
  - (2) The SELLER shall report the following information pursuant to paragraph (d)(1) of this Article
    - (i) Within one business day from the date of such identification or notification: the contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.
    - (ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this Article: any further available information about mitigation actions undertaken or recommended. In addition, the SELLER shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.
- (e) Subcontracts. The SELLER shall insert the substance of this Article, including this paragraph (e) and excluding paragraph (b)(2), in all subcontracts and other contractual instruments, including subcontracts for the acquisition of commercial items.

52.204-26 COVERED TELECOMMUNICATIONS EQUIPMENT OR SERVICES – REPRESENTATION (OCT 2020)

52.204-27 PROHIBITION ON A BYTEDANCE COVERED APPLICATION (JUN 2023)

52.204-28 FEDERAL ACQUISITION SUPPLY CHAIN SECURITY ACT ORDERS – FEDERAL SUPPLY SCHEDULES, GOVERNMENTWIDE ACQUISITION CONTRACTS, AND MULTI-AGENCY CONTRACTS (DEC 2023)

52.204-29 FEDERAL ACQUISITION SUPPLY CHAIN SECURITY ACT ORDERS – REPRESENTATION AND DISCLOSURES (DEC 2023)

52.204-30 FEDERAL ACQUISITION SUPPLY CHAIN SECURITY ACT ORDERS – PROHIBITION (DEC 2023)

52.209-10 PROHIBITION ON CONTRACTING WITH INVERTED DOMESTIC CORPORATIONS (NOV 2015)

52.211-15 DEFENSE PRIORITY AND ALLOCATION REQUIREMENTS (APR 2008) (When called out on the face of this contract)

52.215-20 REQUIREMENTS FOR CERTIFIED COST OR PRICING DATA AND DATA OTHER THAN CERTIFIED COST OR PRICING DATA (NOV 2021) (Note 2 applies in paragraph (a)(1)).

52.215-21 REQUIREMENTS FOR CERTIFIED COST OR PRICING DATA AND DATA OTHER THAN CERTIFIED COST OR PRICING DATA - MODIFICATIONS (NOV 2021) (Note 2 applies in paragraph (a)(1) and (b)).

52.215-22 LIMITATIONS ON PASS-THROUGH CHARGES—IDENTIFICATION OF SUBCONTRACT EFFORT (OCT 2009)

52.215-23 LIMITATIONS ON PASS-THROUGH CHARGES (JUN 2020) Applies if this is a cost-reimbursement subcontract in excess of the simplified acquisition threshold, except if the prime contract to which this contract relates is with DoD, then the clause applies to both cost-reimbursement subcontracts and fixed-price subcontracts, except those identified in 15.408(n)(2)(i)(B)(2), that exceed the threshold for obtaining cost or pricing data in accordance with FAR 15.403-4. Notes 4 and 6 apply.)

52.216-7 ALLOWABLE COST AND PAYMENT (AUG 2018) (Only section (h) applies)

52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS (FEB 2024) (If this Contract, except contracts to small business concerns, exceeds \$250,000 the Contractor must include this clause in all lower tier subcontracts that offer subcontracting opportunities.) (Note 8 applies).

52.222-1 NOTICE TO THE GOVERNMENT OF LABOR DISPUTES (FEB 1997)

52.222-20 CONTRACTS FOR MATERIALS, SUPPLIES, ARTICLES, AND EQUIPMENT (JUN 2020)

52.222-21 PROHIBITION OF SEGREGATED FACILITIES (APR 2015) (Note 8 applies).

52.222-26 EQUAL OPPORTUNITY (SEP 2016) (Only subparagraphs (c) (1)-(11) applies.) (Note 8 applies.)

52.222-41 SERVICE CONTRACT LABOR STANDARDS (AUG 2018) (Applies if this Contract is for services subject to the Service Contract Act. The clause does not apply if this Contract has been administratively exempted by the Secretary of Labor or exempted by 41 U.S.C. 356, as interpreted in Subpart C of 29 CFR Part 4. Note 8 applies).

52.222-50 COMBATING TRAFFICKING IN PERSONS (NOV 2021) (A requirement for a compliance plan and certification appropriate to the size and complexity of the contract is required if any portion of the contract (i) is for supplies, other than COTS items, acquired outside the United States, or services to be performed outside the United States, and (ii) has an estimated value that exceeds \$550,000.) (Note 2 applies. In Paragraph (e) note 3 applies).

52.222-54 EMPLOYMENT ELIGIBILITY VERIFICATION (MAY 2022) (Applies if this Contract exceeds \$3,500 except for commercial services that are part of the purchase of a COTS item (or an item that would be a COTS item, but for minor modifications), performed by the COTS provider, and are normally provided for that COTS item. Note 8 applies.)

52.222-55 MINIMUM WAGES UNDER EXECUTIVE ORDER 14026 (JAN 2022) (Applies if this Contract is subject to the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute and is to be performed in whole or in part in the United States. "Contracting Officer" means "Rafael Advanced Defense Systems Ltd.")

52.222-62 PAID SICK LEAVE UNDER EXECUTIVE ORDER 13706 (JAN 2022) (Applies if this Contract is subject to the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute, and are to be performed in whole or in part in the United States.)

52.223-6 DRUG-FREE WORKPLACE (MAY 2001)

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

52.223-11 OZONE-DEPLETING SUBSTANCES AND HIGH GLOBAL WARMING POTENTIAL HYDROFLUOROCARBONS (JUN 2016) (Applies if the Work was manufactured with or contains ozone-depleting substances.)

52.223-18 ENCOURAGING CONTRACTOR POLICIES TO BAN TEXT MESSAGING WHILE DRIVING (JUN 2020) (Applies if this Contract exceed the micro-purchase threshold as defined in FAR 2-101 on the date of award of this Contract. Note 8 applies.)

52.223-99 ENSURING ADEQUATE COVID-19 SAFETY PROTOCOLS FOR FEDERAL CONTRACTORS (OCT 2021) (DEVIATION)

52.224-3 PRIVACY TRAINING (JAN 2017) (Applies if SELLER will (1) have access to a system of records; (2) create, collect, use, process, store, maintain, disseminate, disclose, dispose, or otherwise handle personally identifiable information; or (3) design, develop, maintain, or operate a system of records. In paragraph (d), Note 6 applies.)

52.225-1 BUY AMERICAN—SUPPLIES (OCT 2022) (Applies if the Work contains other than domestic components. Note 2 applies to the first time "Contracting Officer" is mentioned in paragraph (c).)

52.225-5 TRADE AGREEMENTS (NOV 2023) (Applies if the Work contains other than U.S. made or designated country end products as specified in the clause.)

52.225-8 DUTY-FREE ENTRY (OCT 2010) (Applies if Work will be imported into the Customs Territory of the United States. Note 2 applies.)

52.225-13 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (FEB 2021)

52.225-26 CONTRACTORS PERFORMING PRIVATE SECURITY FUNCTIONS OUTSIDE THE UNITED STATES (OCT 2016)

52.227-1 AUTHORIZATION AND CONSENT (JUN 2020) (Applies only if the Prime Contract contains this clause.)

52.227-19 COMMERCIAL COMPUTER SOFTWARE-RESTRICTED RIGHTS (DEC 2007)

52.232-16 PROGRESS PAYMENTS (NOV 2021)

52.232-32 PERFORMANCE-BASED PAYMENTS (APR 2012)

52.232-40 PROVIDING ACCELERATED PAYMENTS TO SMALL BUSINESS SUBCONTRACTORS (NOV 2021) (Applicable to small businesses only and only when Rafael Advanced Defense systems Ltd. is the Prime contractor. Note 1 applies. This clause does not apply if Rafael Advanced Defense systems Ltd. does not receive accelerated payments under the prime contract. Not all agencies provide accelerated payments.)

52.244-2 SUBCONTRACTS (JUN 2020) (Only sections (g) and (h) apply)

52.244-6 SUBCONTRACTS FOR COMMERCIAL ITEMS (FEB 2024)

52.245-1 GOVERNMENT PROPERTY (SEP 2021) (Applicable if Government property is furnished in the performance of this Contract. "Contracting Officer" means "RAFAEL ADVANCED DEFENSE SYSTEMS LTD." except in the definition of Property Administrator and in paragraphs (h) (1) (iii) and where it is unchanged, and in paragraphs (c) and (h) (4) where it includes RAFAEL ADVANCED DEFENSE SYSTEMS LTD.. "Government" is unchanged in the phrases "Government property" and "Government furnished property" and where elsewhere used except in paragraph (d) (1) where it means "RAFAEL ADVANCED DEFENSE SYSTEMS LTD." and except in paragraphs (d) (2) and (g) where the term includes RAFAEL ADVANCED DEFENSE SYSTEMS LTD.." The following is added as paragraph (n) "" SELLER" shall provide to RAFAEL ADVANCED DEFENSE SYSTEMS LTD. immediate notice if the Government or other customers (i) revokes its assumption of loss under any direct contracts with SELLER, or (ii) makes a determination that SELLER's property management practices are inadequate, and/or present an undue risk, or that SELLER has failed to take corrective action when required.")

52.245-9 USE AND CHARGES (APR 2012)

52.246-16 RESPONSIBILITY FOR SUPPLIES (APR 1984)

52.246-26 REPORTING NONCONFORMING ITEMS (NOV 2021) Applies if this Contract is for the items listed in paragraph (g) of the clause. Copies of reports provided under this clause shall be provided to RAFAEL ADVANCED DEFENSE SYSTEMS LTD as well as the Contracting Officer. SELLER shall notify RAFAEL ADVANCED DEFENSE SYSTEMS LTD when it issues a GIDEP report pursuant to this clause.

52.247-64 PREFERENCE FOR PRIVATELY OWNED U.S.-FLAG COMMERCIAL VESSELS (NOV 2021)

**1.1.1 The following additional clauses apply to this Contract as defined by the respective FAR clause if the value of this Contract equals or exceeds \$10,000 (for Commercial and Non-Commercial Items):**

52.222-40 NOTIFICATION OF EMPLOYEE RIGHTS UNDER THE NATIONAL LABOR RELATIONS ACT (DEC 2010) (Note 8 applies).

**1.1.2 The following additional clauses apply to this Contract as defined by the respective FAR clause if the value of this Contract equals or exceeds \$15,000 (for Commercial and Non-Commercial Items):**

52.222-36 EQUAL OPPORTUNITY FOR WORKERS WITH DISABILITIES (JUN 2020) (Note 8 applies).

**1.1.3 The following additional clauses apply to this Contract as defined by the respective FAR clause if the value of this Contract equals or exceeds \$30,000 (for Commercial and Non-Commercial Items):**

52.204-10 REPORTING EXECUTIVE COMPENSATION AND FIRST-TIER SUBCONTRACT AWARDS (JUN 2020) Note: RAFAEL ADVANCED DEFENSE SYSTEMS LTD. requires that all SELLERS register and annually update the System for Award Management (SAM). (Subparagraph (d)(2) does not apply. If SELLER meets the thresholds specified in paragraphs (d)(3) and (g)(2) of the clause, SELLER shall report required executive compensation by posting the information to the Government's System for Award Management (SAM) database. All information posted will be available to the general public.)

**1.1.4 The following additional clauses apply to this Contract as defined by the respective FAR clause if the value of this Contract equals or exceeds \$150,000 (for Commercial and Non-Commercial Items):**

52.203-12 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (JUN 2020) (Applies if this Contract exceeds the threshold specified in FAR 3.808 on the date of award of this Contract).

52.222-35 EQUAL OPPORTUNITY FOR VETERANS (JUN 2020) (Note 8 applies).

52.222-37 EMPLOYMENT REPORTS ON VETERANS (JUN 2020) (Note 8 applies).

**1.1.5 The following additional clauses apply to this Contract as defined by the respective FAR clause if the value of this Contract equals or exceeds \$250,000 (for Commercial and Non-Commercial Items):**

52.203-3 GRATUITIES (APR 1984)

52.203-17 CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENTS TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS (NOV 2023) (Applies if this Contract exceeds the simplified acquisition threshold in effect on the date of award of this Contract.)

52.229-3 FEDERAL, STATE, AND LOCAL TAXES (FEB 2013)

52.229-4 FEDERAL, STATE AND LOCAL TAXES (STATE AND LOCAL ADJUSTMENTS) (FEB 2013)

52.229-6 TAXES – FOREIGN FIXED-PRICE CONTRACTS (FEB 2013)

52.229-7 TAXES – FIXED-PRICE CONTRACTS WITH FOREIGN GOVERNMENTS (FEB 2013)

52.244-5 COMPETITION IN SUBCONTRACTING (DEC 1996)

**1.1.6 The following additional clauses apply to this Contract as defined by the respective FAR clause if the value of this Contract equals or exceeds \$750,000 (for Commercial and Non-Commercial Items):**

52.219-9 SMALL BUSINESS SUBCONTRACTING PLAN (SEP 2023). (The SELLER's subcontracting plan is incorporated herein by reference.) (Applies if this Contract exceeds the threshold at FAR 19.702(a) except the clause does not apply if SELLER is a small business concern. Note 2 is applicable to paragraph (c) only. Note 8 applies.)

52.219-16 LIQUIDATED DAMAGES – SUBCONTRACTING PLAN (SEP 2021) (Delete subparagraphs (d) and (e).)

**1.1.7 The following additional clauses apply to this Contract as defined by the respective FAR clause if the value of this Contract equals or exceeds \$5,500,000 (for Commercial and Non-Commercial Items):**

52.209-11 REPRESENTATION BY CORPORATIONS REGARDING DELINQUENT TAX LIABILITY OR A FELONY CONVICTION UNDER ANY FEDERAL LAW (FEB 2016)

52.209-12 CERTIFICATION REGARDING TAX MATTERS (OCT 2020)

**1.1.8 The following additional clauses apply to this Contract as defined by the respective FAR clause if the value of this Contract equals or exceeds \$6,000,000 and the period of performance exceeds 120 days (for Commercial and Non-Commercial Items):**

52.203-13 CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT (NOV 2021) (Applies if this Contract exceeds the threshold specified in FAR 3.1004(b)(1) on the date of this Contract and has a period of performance of more than 120 days. Disclosure Made under this clause shall be made directly to the government entities identified in the clause).

52.203-14 DISPLAY OF HOTLINE POSTER(S) (NOV 2021) (Contact RAFAEL ADVANCED DEFENSE SYSTEMS LTD. Procurement Representative if assistance is required obtaining any required posters.) (Applies if this Contract exceeds threshold specified in FAR 3.1004(b)(1) on the date of award of this Contract. Contact the

RAFAEL ADVANCED DEFENSE SYSTEMS LTD Procurement Representative for the location where posters may be contained if not indicated elsewhere in the Contract. Note 8 applies.)

## **1.2 The following additional clauses apply to this Contract as defined by the respective FAR clause if the Contract is for a Commercial Item:**

52.212-5 CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT (NOV 2021) (Applies if this Contract exceeds the threshold specified in FAR 3.1004(b)(1) on the date of this Contract and has a period of performance of more than 120 days. Disclosure Made under this clause shall be made directly to the government entities identified in the clause).

52.223-3 HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA (FEB 2021) (Applies if this Contract involves hazardous material. Notes 2 and 3 apply, except for paragraph (f) where Note 4 applies.)

### **1.2.1 The following additional clauses apply to this Contract as defined by the respective FAR clause if the Contract equals or exceeds \$10,000,000:**

52.222-24 REAWARD ON-SITE EQUAL OPPORTUNITY COMPLIANCE EVALUATION (FEB 1999)

## **B DFARS FLOWDOWN CLAUSES**

Note: If the respective PO or Subcontract identifies this as non-Department of Defense, then the following clauses do not apply:

### **2.1 The following additional clauses apply to this Contract as defined by the respective DFARS clause (for Commercial and Non-Commercial Items):**

252.203-7002 REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS (DEC 2022)

252.203-7003 AGENCY OFFICE OF THE INSPECTOR GENERAL (AUG 2019) (Applies when FAR 52.203-13 applies to this Contract.)

252.204-7000 DISCLOSURE OF INFORMATION (OCT 2016)

252.204-7008 COMPLIANCE WITH SAFEGUARDING COVERED DEFENSE INFORMATION CONTROLS (OCT 2016)

252.204-7009 LIMITATIONS ON THE USE AND DISCLOSURE OF THIRD-PARTY CONTRACTOR REPORTED CYBER INCIDENT INFORMATION (JAN 2023) (Applies if this Contract involves services that include support for the Government's activities related to safeguarding covered defense information and cyber incident reporting.)

252.204-7010 REQUIREMENT FOR CONTRACTOR TO NOTIFY DOD IF THE CONTRACTOR'S ACTIVITIES ARE SUBJECT TO REPORTING UNDER THE U.S.-INTERNATIONAL ATOMIC ENERGY AGENCY ADDITIONAL PROTOCOL (JAN 2009)

252.204-7012 SAFEGUARDING COVERED DEFENSE INFORMATION AND CYBER INCIDENT REPORTING (JAN 2023) (Applies if this Contract is for operationally critical support or for which performance will involve covered defense information. SELLER shall furnish Rafael Advanced Defense Systems Ltd. copies of notices provided to the Contracting Officer at the time such notices are sent. SELLER shall also furnish Rafael Advanced Defense Systems Ltd. copies of any reports SELLER receives from its lower tier subcontractors.)

252.204-7015 NOTICE OF AUTHORIZED DISCLOSURE OF INFORMATION FOR LITIGATION SUPPORT (JAN 2023)

252.204-7018 PROHIBITION ON THE ACQUISITION OF COVERED DEFENSE TELECOMMUNICATIONS EQUIPMENT OR SERVICES (JAN 2023) (Copies of reports provided by SELLER under this clause will be provided to Rafael Advanced Defense Systems Ltd.)

252.204-7019 NOTICE OF NIST SP 800-171 DOD ASSESSMENT REQUIREMENTS (MAR 2022)

252.204-7020 NIST SP 800-171 DOD ASSESSMENT REQUIREMENTS (JAN 2023) (Applies except if this Contract is for commercially available off-the-shelf (COTS) items.)

252.204-7021 CYBERSECURITY MATURITY MODEL CERTIFICATION REQUIREMENTS (JAN 2023)

252.204-7024 NOTICE ON THE USE OF THE VENDOR PERFORMANCE RISK SYSTEM (MAR 2023)

252.208-7000 INTENT TO FURNISH PRECIOUS METALS AS GOVERNMENT-FURNISHED MATERIAL (DEC 1991)

252.209-7999 REPRESENTATION BY CORPORATIONS REGARDING AN UNPAID DELINQUENT TAX LIABILITY OR A FELONY CONVICTION UNDER ANY FEDERAL LAW

252.211-7003 ITEM UNIQUE IDENTIFICATION AND VALUATION (JAN 2023) (Applies if this Contract requires the Work to contain unique item identification." Items subject to unique item identification are identified elsewhere in this Contract. All reports required to be submitted under this clause shall be submitted to Rafael Advanced Defense Systems Ltd.). "Government" means "Rafael Advanced Defense Systems Ltd." except in the definition of "issuing agency" in paragraph (a).

252.215-7008 ONLY ONE OFFER (DEC 2022) (Applies if this subcontract exceeds the simplified acquisition threshold.)

252.219-7003 SMALL BUSINESS SUBCONTRACTING PLAN (DoD Contracts) (DEC 2019) (Applies if FAR 52.219-9 applies to this contract).

252.219-7004 SMALL BUSINESS SUBCONTRACTING PLAN (TEST PROGRAM) (DEC 2022)

252.223-7001 HAZARD WARNING LABELS (DEC 1991) (Applies if this contract requires the delivery of hazardous materials).

252.223-7002 SAFETY PRECAUTIONS FOR AMMUNITION AND EXPLOSIVES (NOV 2023) (Applies only if the articles furnished under this Contract contain ammunition or explosives, including liquid and solid propellants. Notes 2, 3, and 5 apply to paragraphs (g)(1)(i) and (e)(1)(ii). Note 3 applies. Delete "prime" in (g)(1)(ii) and add "and Rafael Advanced Defense Systems Ltd Procurement Representative." Delete in (g)(1)(ii) "substituting its name for references to the Government.")

252.223-7003 CHANGE IN PLACE OF PERFORMANCE -AMMUNITION AND EXPLOSIVES (DEC 1991) (Applies if DFARS 252.223-7002 applies to this Contract. Notes 2 and 4 apply.)

252.223-7006 PROHIBITION ON STORAGE, TREATMENT, AND DISPOSAL OF TOXIC OR HAZARDOUS MATERIALS (SEP 2014)

252.223-7007 SAFEGUARDING SENSITIVE CONVENTIONAL ARMS, AMMUNITION, AND EXPLOSIVES (SEP 1999) (Applies if this Contract is for the development, production, manufacture, or purchase of arms, ammunition, and explosives or when arms, ammunition, and explosives will be provided to SELLER as Government Furnished Property.)

252.223-7008 PROHIBITION OF HEXAVALENT CHROMIUM (JAN 2023) (Note 2 applies).

252.225-7001 BUY AMERICAN AND BALANCE OF PAYMENTS PROGRAM (JAN 2023) (Applies if the Work contains other than domestic components. Applies in lieu of FAR 52.225-1.)

252.225-7007 PROHIBITION ON ACQUISITION OF CERTAIN ITEMS FROM COMMUNIST CHINESE MILITARY COMPANIES (DEC 2018) (Applies if this contract is for an item on the United States Munitions List or the 600 series of the Commerce Control List.)

252.225-7008 RESTRICTION ON ACQUISITION OF SPECIALTY METALS (MAR 2013)

252.225-7009 RESTRICTION ON ACQUISITION OF CERTAIN ARTICLES CONTAINING SPECIALTY METALS (JAN 2023) (paragraphs (c) (6), (d), and (e) (1) are deleted) (Applies if the work to be furnished contains specialty metals).

252.225-7010 COMMERCIAL DERIVATIVE MILITARY ARTICLE-SPECIALTY METALS COMPLIANCE CERTIFICATE (JUL 2009)

252.225-7012 PREFERENCE FOR CERTAIN DOMESTIC COMMODITIES (APR 2022)

252.225-7013 DUTY-FREE ENTRY (NOV 2023) (Notes 1 and 2 apply in subparagraph (c). Applies in lieu of FAR 52-225-8. The prime contract number and identity of the Contracting Officer are contained elsewhere in this contract. If this information is not available, contact Rafael Advanced Defense Systems Ltd.'s Procurement Representative.)

252.225-7015 RESTRICTION ON ACQUISITION OF HAND OR MEASURING TOOLS (JUN 2005)

252.225-7016 RESTRICTION ON ACQUISITION OF BALL AND ROLLER BEARINGS (JAN 2023) (Applies if Work supplied under this Contract contains ball or roller bearings. Note 1 applies to subparagraph (a) (2).)

252.225-7017 PHOTOVOLTAIC DEVICES (MAR 2024)

252.225-7018 PHOTOVOLTAIC DEVICES – CERTIFICATE (MAR 2024)

252.225-7019 RESTRICTION ON ACQUISITION OF ANCHOR AND MOORING CHAIN (DEC 2009)

252.225-7021 TRADE AGREEMENTS-BASIC (FEB 2024) (Applies if the work contains other than U.S.-made, qualifying country, or designated country end products. Applicable in lieu of the clause at FAR 52.225-5 TRADE AGREEMENTS)

252.225-7025 RESTRICTION ON ACQUISITION OF FORGINGS (DEC 2009)

252.225-7030 RESTRICTION ON ACQUISITION OF CARBON, ALLOY, AND ARMOR STEEL PLATE (DEC 2006)

252.225-7031 SECONDARY ARAB BOYCOTT OF ISRAEL (JUN 2005)

252.225-7032 WAIVER OF UNITED KINGDOM LEVIES- EVALUATION OF OFFERS (APR 2003)

252.225-7033 WAIVER OF UNITED KINGDOM LEVIES (APR 2003) (Applies if this Contract is with a United Kingdom firm. Note 2 applies. Note 1 applies to the second sentence of paragraph (a).)

252.225-7036 BUY AMERICAN – FREE TRADE AGREEMENTS – BALANCE OF PAYMENTS PROGRAM-BASIC (FEB 2024)

252.225-7039 DEFENSE CONTRACTORS PERFORMING PRIVATE SECURITY FUNCTIONS OUTSIDE OF THE UNITED STATES (JAN 2023)

252.225-7040 CONTRACTOR PERSONNEL SUPPORTING U.S. ARMED FORCES DEPLOYED OUTSIDE THE UNITED STATES (OCT 2015)

252.225-7043 ANTITERRORISM/FORCE PROTECTION FOR DEFENSE CONTRACTORS OUTSIDE THE UNITED STATES (JUN 2015) (Applies where SELLER will be performing or traveling outside the U.S. under this Contract. For paragraph (c), see applicable information cited in DFARS 225.7401.)

252.225-7048 EXPORT-CONTROLLED ITEMS (JUN 2013)

252.225-7052 RESTRICTION ON THE ACQUISITION OF CERTAIN MAGNETS, TANTALUM, AND TUNGSTEN (JAN 2023) (Applies except where an exception in paragraph (c) applies).

252.225-7054 PROHIBITION ON USE OF CERTAIN ENERGY SOURCED FROM INSIDE THE RUSSIAN FEDERATION (JAN 2023)

252.225-7055 REPRESENTATION REGARDING BUSINESS OPERATIONS WITH THE MADURO REGIME (MAY 2022)

252.225-7056 PROHIBITION REGARDING BUSINESS OPERATIONS WITH THE MADURO REGIME (JAN 2023)

252.225-7057 PREAWARD DISCLOSURE OF EMPLOYMENT OF INDIVIDUALS WHO WORK IN THE PEOPLE'S REPUBLIC OF CHINA (AUG 2022)

252.225-7058 POSTAWARD DISCLOSURE OF EMPLOYMENT OF INDIVIDUALS WHO WORK IN THE PEOPLE'S REPUBLIC OF CHINA (JAN 2023) (Applicable if this Contract exceeds \$5,000,000. Disclosures required by this clause will be made to Rafael Advanced Defense Systems Ltd.)

252.225-7059 PROHIBITION ON CERTAIN PROCUREMENTS FROM THE XINJIANG UYGHUR AUTONOMOUS REGION – CERTIFICATON (JUN 2023)

252.225-7060, PROHIBITION ON CERTAIN PROCUREMENTS FROM THE XINJIANG UYGHUR AUTONOMOUS REGION (JUN 2023)

252.226-7001 UTILIZATION OF INDIAN ORGANIZATIONS, INDIAN-OWNED ECONOMIC ENTERPRISES, AND NATIVE HAWAIIAN SMALL BUSINESS CONCERNS (JAN 2023) (In subparagraph f (1), "Contractor" shall mean RAFAEL ADVANCED DEFENSE SYSTEMS LTD. Rafael shall have no liability to Seller for any incentive payment under this clause unless and until the government provides said incentive payment to Rafael on behalf of Seller. Applies if this contract exceeds 500,000\$. Note 2 applies to paragraph (c) the first time "Contracting Officer" appears

252.227-7013 RIGHTS IN TECHNICAL DATA - NON-COMMERCIAL ITEMS (MAR 2023) (Applicable in lieu of FAR 52.227-14. Applies to the extent specified in DFARS 252.227-7015)

252.227-7014 RIGHTS IN NON-COMMERCIAL COMPUTER SOFTWARE AND NON-COMMERCIAL COMPUTER SOFTWARE DOCUMENTATION (MAR 2023) (Applies in lieu of FAR 52.227-14).

252.227-7019 VALIDATION OF ASSERTED RESTRICTIONS - COMPUTER SOFTWARE (JAN 2023)

252.227-7037 VALIDATION OF RESTRICTIVE MARKINGS ON TECHNICAL DATA (JAN 2023)

252.229-7011 REPORTING OF FOREIGN TAXES – U.S. ASSISTANCE PROGRAMS (SEP 2005)

252.229-7014 FULL EXEMPTION FROM TWO-PERCENT EXCISE TAX ON CERTAIN FOREIGN PROCUREMENTS (OCT 2022)

252.231-7000 SUPPLEMENTAL COST PRINCIPLES (DEC 1991)

252.232-7015 PERFORMANCE-BASED PAYMENTS – REPRESENTATION (DEC 2022) (REQUIRED FOR CONTRACTS THAT INCLUDE PERFORMANCE-BASED PAYMENTS)

252.232-7016 NOTICE OF PROGRESS PAYMENTS OR PERFORMANCE-BASED PAYMENTS (APR 2020) (REQUIRED FOR CONTRACTS THAT INCLUDE PERFORMANCE-BASED PAYMENTS)

252.232-7018 PROGRESS PAYMENTS – MULTIPLE LOTS (MAY 2023)252.237-7019 TRAINING FOR CONTRACTOR PERSONNEL INTERACTING WITH DETAINEES (MAY 2023)

252.235-7003 FREQUENCY AUTHORIZATION-BASIC (MAR 2014) (Applies if this Contract requires developing, producing, constructing, testing, or operating a device requiring a frequency authorization. Note 2 applies.)

252.237-7019 TRAINING FOR CONTRACTOR PERSONNEL INTERACTING WITH DETAINESS (JAN 2023)

252.239-7009 REPRESENTATION OF USE OF CLOUD COMPUTING (SEP 2015)

252.239-7010 CLOUD COMPUTING SERVICES (JAN 2023)

252.239-7016 TELECOMMUNICATIONS SECURITY EQUIPMENT, DEVICES, TECHNIQUES, AND SERVICES (DEC 1991)

252.239-7017 NOTICE OF SUPPLY CHAIN RISK (DEC 2022)

252.239-7018 SUPPLY CHAIN RISK (DEC 2022)

252.243-7001 PRICING OF CONTRACT MODIFICATIONS (DEC 1991) (Applies if this is a fixed price contract).

252.244-7000 SUBCONTRACTS FOR COMMERCIAL ITEMS (DoD CONTRACTS) (NOV 2023)

252.245-7005 MANAGEMENT AND REPORTING OF GOVERNMENT PROPERTY (JAN 2024)

252.246-7001 WARRANTY OF DATA-BASIC (MAR 2014) ALTERNATE II (MAR 2014)

252.246-7003 NOTIFICATION OF POTENTIAL SAFETY ISSUES (JAN 2023) (SUPPLIER shall provide notifications to RAFAEL ADVANCED DEFENSE SYSTEMS LTD. and the ACO and PCO for the Prime Contract. Applies if this Contract is for (i) parts identified as critical safety items; (ii) systems and subsystems, assemblies, and subassemblies integral to a system; or (iii) repair, maintenance, logistics support, or overhaul services for systems and subsystems, assemblies, subassemblies, and parts integral to a system. Contractor shall provide notifications to RAFAEL ADVANCED DEFENSE SYSTEMS LTD. and the contracting officer identified to SELLER)



252.246-7007 CONTRACTOR COUNTERFEIT ELECTRONIC PART DETECTION AND AVOIDANCE SYSTEM (JAN 2023) (In paragraph (c)(2) Note 3 applies. In paragraph (c)(6) Note 6 applies.)

252.246-7008 SOURCES OF ELECTRONIC PARTS (JAN 2023) (Applies if this contract is for electronic parts or assemblies containing electronic parts, unless SELLER is the original manufacturer. Note 1 applies except in paragraph (d). Note 2 applies).

**2.1.1 The following additional clauses apply to this Contract as defined by the respective DFARS clause if the value of this Contract equals or exceeds \$150,000 (for Commercial and Non-Commercial Items):**

252.209-7002 DISCLOSURE OF OWNERSHIP OR CONTROL BY A FOREIGN GOVERNMENT (DEC 2022)

252.225-7050 DISCLOSURE OF OWNERSHIP OR CONTROL BY THE GOVERNMENT OF A COUNTRY THAT IS A STATE SPONSOR OF TERRORISM (DEC 2022)

252.244-7001 CONTRACTOR PURCHASING SYSTEM ADMINISTRATION (MAY 2014)

252.247-7023 TRANSPORTATION OF SUPPLIES BY SEA-BASIC (JAN 2023) (Applicable in lieu of FAR 52.247-64 in all Contracts for ocean transportation of supplies. In the first sentence of paragraph (g), insert a period after "Contractor" and delete the balance of the sentence. Paragraph (f) and (g) shall not apply if this Contract is at or below \$150,000. Notes 1 and 2 apply to paragraph (g).)

252.249-7002 NOTIFICATION OF ANTICIPATED CONTRACT TERMINATION OR REDUCTION (DEC 2022) (Applies if this Contract is equal or exceeds the threshold specified in DFARS 249.7003(c)(2)(i) and 249.7003(c)(2)(ii)). Note 2 applies. Delete paragraph (d)(1) and the first five words of paragraph (d)(2).)

**2.1.2 The following additional clauses apply to this Contract as defined by the respective DFARS clause if the value of this Contract equals or exceeds the Simplified Acquisition threshold (for Commercial and Non-Commercial Items):**

252.215-7010 REQUIREMENTS FOR CERTIFIED COST OF PRICING DATA AND DATA OTHER THAN CERTIFIED COST OR PRICING DATA (JAN 2023) This clause applies in lieu of FAR 52.215-20. Contracting Officer means "Rafael Advanced Defense Systems Ltd." Paragraph (b)(ii)(E) is deleted.

**2.2 The following additional clauses apply to this Contract as defined by the respective DFARS clause if the Contract is for a commercial item**

252.227-7015 TECHNICAL DATA – COMMERCIAL ITEMS (MAR 2023)

**2.3 The following additional clauses apply to this Contract as defined by the respective DFARS clause if the Contract is Cost Type, Incentive or T&M:**

252.234-7002 EARNED VALUE MANAGEMENT SYSTEM (MAY 2011)

252.242-7004 MATERIAL MANAGEMENT AND ACCOUNTING SYSTEM (MAY 2011)

252.242-7006 ACCOUNTING SYSTEM ADMINISTRATION (FEB 2012)

## **E. CERTIFICATIONS AND REPRESENTATIONS**

1. By accepting this Order from Rafael/ Rafael's representatives, Seller approves and acknowledges compliance with the relevant USG Clauses, as well as the applicable mandatory certifications and representations. Seller will immediately notify Rafael of any change of status regarding these Certifications and Representations.
2. Seller will flow down to its lower-tier subcontractors all applicable USG Clauses and any other requirements of this Contract and applicable law so as to enable Rafael and the Seller to comply with all applicable flow down requirements of Rafael.
3. With respect to applicable USG Clauses, Seller will furnish to Rafael (or directly to the USG upon request of Rafael) any certificate required with respect to Seller's compliance with the applicable USG Clause, ordinances or regulations.
4. **Certifications Applicable to All Orders:**

*If Seller is a non-U.S. company, clauses marked with an asterisk (\*) apply to this Contract only if work under the Contract will be performed in the United States or Seller is recruiting employees in the United States to work on the Contract.*

- 4.1. **FAR 52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions - (Applicable to solicitations and contracts the threshold specified in FAR 3.808 on the date of subcontract award)**

(a) Definitions. As used in this provision-"Lobbying contact" has the meaning provided at 2 U.S.C. 1602(8). The terms "agency," "influencing or attempting to influence," "officer or employee of an agency," "person," "reasonable compensation," and "regularly employed" are defined in the FAR clause of this solicitation entitled "Limitation on Payments to Influence Certain Federal Transactions" (52.203-12).

(b) Prohibition. The prohibition and exceptions contained in the FAR clause of this solicitation entitled "Limitation on Payments to Influence Certain Federal Transactions" (52.203-12) are hereby incorporated by reference in this provision.

(c) Certification. The Offeror, by signing its offer, hereby certifies to the best of its knowledge and belief that 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 its behalf in connection with the awarding of this Contract.

(d) Disclosure. If any registrants under the Lobbying Disclosure Act of 1995 have made a lobbying contact on behalf of the Offeror with respect to this Contract, the Offeror shall complete and submit, with its offer, OMB Standard Form LLL, Disclosure of Lobbying Activities, to provide the name of the registrants. The Offeror need not report regularly employed officers or employees of the Offeror to whom payments of reasonable compensation were made.

(e) Penalty. Submission of this certification and disclosure is a prerequisite for making or entering into this Contract imposed by 31 U.S.C. 1352. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure required 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.

#### 4.2. FAR 52.209-5 Certification Regarding Responsibility Matters

(a)(1) The Offeror certifies, to the best of its knowledge and belief, that:

##### **(i) The Offeror and/or any of its Principals –**

(A) Are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

(B) Have not, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) contract or subcontract; violation of Federal or State antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property;

(C) Are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph (a)(1)(i)(B) of this provision;

(D) Have not, within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds the threshold at 9.104-5(a)(2) for which the liability remains unsatisfied.

(1) Federal taxes are considered delinquent if both of the following criteria apply:

(i) The tax liability is finally determined. The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge to the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.

(ii) The taxpayer is delinquent in making payment. A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.

(2) Examples.

(i) The taxpayer has received a statutory notice of deficiency, under I.R.C. § 6212, which entitles the taxpayer to seek Tax Court review of a proposed tax deficiency. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek Tax Court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

(ii) The IRS has filed a notice of Federal tax lien with respect to an assessed tax liability, and the taxpayer has been issued a notice under I.R.C. § 6320 entitling the taxpayer to request a hearing with the IRS Office of Appeals contesting the lien filing, and to further appeal to the Tax Court if the IRS determines to sustain the lien filing. In the course of the hearing, the taxpayer is entitled to contest the underlying tax liability because the taxpayer has had no prior opportunity to contest the liability. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek tax court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

(iii) The taxpayer has entered into an installment agreement pursuant to I.R.C. § 6159. The taxpayer is making timely payments and is in full compliance with the agreement terms. The taxpayer is not delinquent because the taxpayer is not currently required to make full payment.

(iv) The taxpayer has filed for bankruptcy protection. The taxpayer is not delinquent because enforced collection action is stayed under 11 U.S.C. 362 (the Bankruptcy Code).

**(ii) The Offeror has not, within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.**

(2) "Principal" for the purposes of this certification, means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a division or business segment; and similar positions).

This Certification Concerns a Matter Within the Jurisdiction of an Agency of the United States and the Making of a False, Fictitious, or Fraudulent Certification May Render the Maker Subject to Prosecution Under Section 1001, Title 18, United States Code.

4.3. **52.209-7 (OCT 2018) Information Regarding Responsibility Matters.**

If Vendor has current active Federal contracts and grants with a total value greater than \$10,000,000, the Vendor represents, by submission of this offer, that the information it has entered in the FAPIIS is current, accurate, and complete as of the date of the submission of the offer with regard to the following:

1. Whether Vendor and/or any of its principals has, with in the last five years, been subject of a proceeding at the Federal or State level that resulted in a criminal conviction, a civil proceeding with a finding of fault and liability that results in the payment of \$5,000 or more, or an administrative proceeding with a finding of fault and liability that results in a fine of \$5,000 or more or restitution or damages in excess of \$100,000.

2. The Vendor shall post the information of this provision in FAPIIS as required through maintaining an active registration in the System for Award Management database via <https://www.acquisitions.gov>

4.4. **FAR 52.209-6 Protecting the Government's interest when subcontracting with contractors Debarred, Suspended or Proposed for Debarment**

Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (NOV 2021) (Applies if this Contract exceeds the threshold specified in FAR 9.405-2(b) on the date of award of this Contract except does not apply if this Contract is for commercially available off-the-shelf (COTS) items. Copies of notices provided by SELLER to the Contracting Officer shall be provided to RAFAEL ADVANCED DEFENSE SYSTEMS LTD.) incorporated herein by reference, with the same force and effect as if they were given in full text, and:

- 1) Contractor certifies that, to the best of its knowledge and belief, that Contractor and/or any of its Principals, (as defined in FAR 52.209-6) 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 RAFAEL ADVANCED DEFENSE SYSTEMS LTD. 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.

#### 4.5. FAR 52.222-22 Previous Contracts and Compliance Reports\*

(a) Seller represents that if Seller has participated in a previous contract or subcontract subject to the Equal Opportunity clause (FAR 52.222-26): (1) Seller has filed all required compliance reports and (2) that representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards.

(b) Paragraph (a) applies only to the extent (1) Seller performs work in the United States, or (2) recruits employees in the United States to Work on this Contract.

#### 4.6. FAR 52.222-25 Affirmative Action Compliance\*

Seller represents: (a) that Seller 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 (b) that in the event such a program does not presently exist, Seller will develop and place in operation such a written Affirmative Action Compliance Program within one-hundred twenty (120) days from the award of this Contract.

#### 4.7. FAR 52.209-13 VIOLATION OF ARMS CONTROL TREATIES OR AGREEMENTS-CERTIFICATION

- i. This provision does not apply to acquisitions at or below the simplified acquisition threshold or to acquisitions of commercial items as defined at FAR 2.101.
- ii. Certification by submission of offer and/or acceptance of this order

(1) The Vendor certifies that:

- (i) It does not engage and has not engaged in any activity that contributed to or was a significant factor in the President's or Secretary of State's determination that a foreign country is in violation of its obligations undertaken in any arms control, nonproliferation, or disarmament agreement to which the United States is a party, or is not adhering to its arms control, nonproliferation, or disarmament commitments in which the United States is a participating state. The determinations are described in the most recent unclassified annual report provided to Congress pursuant to section 403 of the Arms Control and Disarmament Act (22 U.S.C. 2593a). The report is available at <https://www.state.gov/bureaus-offices/under-secretary-for-arms-control-and-international-security-affairs/bureau-of-arms-control-verification-and-compliance/>; and
- (ii) No entity owned or controlled by the Offeror has engaged in any activity that contributed to or was a significant factor in the President's or Secretary of State's determination that a foreign country is in violation of its obligations undertaken in any arms control, nonproliferation, or disarmament agreement to which the United States is a party, or is not adhering to its arms control, nonproliferation, or disarmament commitments in which the United States is a participating state. The determinations are described in the most recent unclassified annual report provided to Congress pursuant to section 403 of the Arms Control and Disarmament Act (22 U.S.C. 2593a).

The report is available at <https://www.state.gov/t/avc/rls/rpt/>; IF SELLER instead is providing separate information with its offer in accordance with paragraph (d)(2) of this provision. These Terms must be amended based on such submission and acceptance thereof.

#### 4.8. FAR 52.203-2 Certificate of Independent Price Determination

As prescribed in 3.103-1, insert the following provision. If the *solicitation* is a Request for Quotations, the terms "Quotation" and "Quoter" *may* be substituted for "Offer" and "Offeror." Certificate of Independent Price Determination (Apr 1985)

- (a) The *offeror* certifies that-
- (1) The prices in this *offer* have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other *offeror* or competitor relating to-
    - (i) Those prices;
    - (ii) The intention to submit an *offer*; or
    - (iii) The methods or factors used to calculate the prices offered.
  - (2) The prices in this *offer* have not been and will not be knowingly disclosed by the *offeror*, directly or indirectly, to any other *offeror* or competitor before bid opening (in the case of a sealed bid *solicitation*) or contract award (in the case of a negotiated *solicitation*) unless otherwise required by law; and
  - (3) No attempt has been made or will be made by the *offeror* to induce any other concern to submit or not to submit an *offer* for the purpose of restricting competition.
- (b) Each *signature* on the *offer* is considered to be a certification by the signatory that the signatory-
- (1) Is the person in the *offeror's* organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to paragraphs (a)(1) through (a)(3) of this provision; or
  - (2)
    - (i) Has been authorized, *in writing*, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to paragraphs (a)(1) through (a)(3) of this provision \_\_\_\_\_ [*insert full name of person(s) in the offeror's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the offeror's organization*];
    - (ii) As an authorized agent, does certify that the principals named in subdivision (b)(2)(i) of this provision have not participated, and will not participate, in any action contrary to paragraphs (a)(1) through (a)(3) of this provision; and
    - (iii) As an agent, has not personally participated, and will not participate, in any action contrary to paragraphs (a)(1) through (a)(3) of this provision.
- (c) If the *offeror* deletes or modifies paragraph (a)(2) of this provision, the *offeror must* furnish with its *offer* a signed statement setting forth in detail the circumstances of the dis-closure.

#### 4.9. FAR 52.209-2 Prohibition on Contracting with Inverted Domestic Corporations – Representation

As prescribed in 9.108-5(a), insert the following provision:

Prohibition on *Contracting* with Inverted Domestic Corporations-Representation (Nov 2015)

- (a) *Definitions*. "Inverted domestic corporation" and "subsidiary" have the meaning given in the clause of this contract entitled Prohibition on *Contracting* with Inverted Domestic Corporations (52.209-10).
- (b) Government agencies are not permitted to use appropriated (or otherwise made available) funds for contracts with either an inverted domestic corporation, or a subsidiary of an inverted domestic corporation, unless the exception at 9.108-2(b) applies or the requirement is waived in accordance with the procedures at 9.108-4.
- (c) *Representation*. The *Offeror* represents that-
- (1) It  is,  is not an inverted domestic corporation; and
  - (2) It  is,  is not a subsidiary of an inverted domestic corporation.

4.10. FAR 52.225-20 Prohibition on Conducting Restricted Business Operations in Sudan-Certification.

As prescribed at 25.1103(d), insert the following provision:

Prohibition on Conducting *Restricted Business Operations* in Sudan-Certification (Aug 2009)

(a) *Definitions*. As used in this provision-

*Business operations* means engaging in commerce in any form, including by acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, *products, services, personal property*, real property, or any other apparatus of business or commerce.

*Marginalized populations of Sudan* means-

(1) Adversely affected groups in regions authorized to receive assistance under section 8(c) of the Darfur Peace and Accountability Act (Pub. L. 109-344) (50 U.S.C. 1701 note); and

(2) Marginalized areas in Northern Sudan described in section 4(9) of such Act.

*Restricted business operations* means *business operations* in Sudan that include power production activities, mineral extraction activities, oil-related activities, or the production of military equipment, as those terms are defined in the Sudan Accountability and Divestment Act of 2007 (Pub. L. 110-174). *Restricted business operations* do not include *business operations* that the person (as that term is defined in Section 2 of the Sudan Accountability and Divestment Act of 2007) conducting the business can demonstrate-

(1) Are conducted under contract directly and exclusively with the regional government of southern Sudan;

(2) Are conducted pursuant to specific authorization from the Office of Foreign Assets Control in the Department of the Treasury, or are expressly exempted under Federal law from the requirement to be conducted under such authorization;

(3) Consist of providing goods or services to *marginalized populations of Sudan*;

(4) Consist of providing goods or services to an internationally recognized peacekeeping force or humanitarian organization;

(5) Consist of providing goods or services that are used only to promote health or education; or

(6) Have been voluntarily suspended.

(b) *Certification*. By submission of its *offer*, the *offeror* certifies that the *offeror* does not conduct any *restricted business operations* in Sudan.

4.11. FAR 52.225-25 Prohibition on Contracting with Entities Engaging in Certain Activities or Transactions Relating to Iran—Representation and Certifications.

As prescribed at 25.1103(e), insert the following provision:

Prohibition on *Contracting* with Entities Engaging in Certain Activities or Transactions Relating to Iran—Representation and Certifications (Jun 2020)

(a) *Definitions*. As used in this provision-

*Person*—

(1) Means—

(i) A natural *person*;

(ii) A corporation, business association, partnership, society, trust, financial institution, insurer, underwriter, guarantor, and any other business organization, any other nongovernmental entity, organization, or group, and any governmental entity operating as a business enterprise; and

(iii) Any successor to any entity described in paragraph (1)(ii) of this definition; and

(2) Does not include a government or governmental entity that is not operating as a business enterprise.

*Sensitive technology*-

(1) Means hardware, software, telecommunications equipment, or any other technology that is to be used specifically-

(i) To restrict the free flow of unbiased information in Iran; or

(ii) To disrupt, monitor, or otherwise restrict speech of the people of Iran; and

(2) Does not include information or informational materials the export of which the President does not have the authority to regulate or prohibit pursuant to section 203(b)(3) of the International *Emergency Economic Powers Act* (50 U.S.C. 1702(b)(3)).

(b) The offeror shall e-mail questions concerning sensitive technology to the Department of State at CISADA106@state.gov.

(c) Except as provided in paragraph (d) of this provision or if a waiver has been granted in accordance with Federal Acquisition Regulation (FAR) 25.703-4, by submission of its offer, the offeror—

(1) Represents, to the best of its knowledge and belief, that the *offeror* does not export any *sensitive technology* to the government of Iran or any entities or individuals owned or controlled by, or acting on behalf or at the direction of, the government of Iran;

(2) Certifies that the *offeror*, or any *person* owned or controlled by the *offeror*, does not engage in any activities for which sanctions *may* be imposed under section 5 of the Iran Sanctions Act. These sanctioned activities are in the areas of development of the petroleum resources of Iran, production of refined petroleum *products* in Iran, sale and provision of refined petroleum *products* to Iran, and contributing to Iran's ability to acquire or develop certain weapons or technologies; and

(3) Certifies that the *offeror*, and any *person* owned or controlled by the *offeror*, does not knowingly engage in any transaction that exceeds the threshold at FAR 25.703-2(a)(2) with Iran's Revolutionary Guard Corps or any of its officials, agents, or *affiliates*, the property and interests in property of which are blocked pursuant to the International *Emergency Economic Powers Act* (50 U.S.C. 1701 et seq.) (see OFAC's Specially Designated Nationals and Blocked *Persons* List at <https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>).

(d) Exception for trade agreements. The representation requirement of paragraph (c)(1) and the certification requirements of paragraphs (c)(2) and (c)(3) of this provision do not apply if-

(1) This *solicitation* includes a trade agreements notice or certification (e.g., 52.225-4, 52.225-6, 52.225-12, 52.225-24, or comparable agency provision); and

(2) The *offeror* has certified that all the offered *products* to be supplied are designated country *end products* or designated country *construction* material.

## F. Re DPAS

1. This is a rated order certified for national defense use, and the Seller is required to follow all the provisions of the Defense Priorities and Allocations System regulation (15 CFR part 700).

2. Defense Priorities and Allocation System (DPAS) Rating:

(a) If a DPAS rating is identified in this Contract, then this Contract is a "Rated Order" certified for national defense use, and Seller will follow all the requirements of the DPAS regulations. If this Order is DX or DO-Rated, and exceeds \$50,000, Seller must acknowledge acceptance of DX-Rated orders within ten (10) days and DO-Rated Orders within fifteen (15) days of receipt of the Contract. For unrated Contracts Seller will acknowledge acceptance of the Order within ten (10) days of receipt.

(b) Without derogating from the foregoing, in the absence of Seller's written acknowledgement, Seller's commencement of performance of work will be deemed Seller's acceptance of this Contract.