

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

MASTODON DESIGN LLC)	
176 Anderson Ave., Suite F112)	
Rochester, New York 14607)	
)	
Plaintiff,)	
v.)	Civil Action No. _____
)	
VIZOCOM ICT LLC,)	
101 West Broadway, Suite 300)	
San Diego, California 92101)	
)	
Defendant.)	
_____)	

Civil Action No. _____

COMPLAINT

Plaintiff Mastodon Design LLC (“Mastodon”), by counsel, for its Complaint against Defendant Vizocom ICT LLC (“Vizocom”), states as follows:

Nature of the Action

1. This is a civil action for injunctive and monetary relief pursuant to the Lanham Act, 15 U.S.C. § 1125, as well as the statutory and common law of Virginia and other states whose laws may be implicated.
2. This action arises out of Vizocom’s falsely labeling and passing off its products as having been manufactured by Mastodon.

Parties

3. Mastodon is a Delaware limited liability company with its principal place of business in the state of New York.
4. On information and belief, Vizocom is a California corporation with its principal place of business in California.

Jurisdiction and Venue

5. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331 and § 1367.
6. This Court has specific and general personal jurisdiction over Vizocom because Vizocom regularly transacts business in Virginia by offering to sell and selling its products in Virginia, including the falsely labeled products at issue in this action.
7. Vizocom’s activities have had a substantial and reasonably foreseeable effect on business and commerce in this judicial district, because the products involved were provided to the Navy Special Warfare Group located in Little Creek, Virginia, in this judicial district.
8. The unlawful acts committed by Vizocom, as hereinafter alleged, have been and are, in whole or in part, carried out and made effective within the Eastern District of Virginia. The interstate trade and commerce described hereinafter is carried out in part within this District. Vizocom is subject to personal jurisdiction in this district. Thus, venue is proper in this district under 28 U.S.C. § 1391(b)(1), (2).
9. Those causes which arise under the common law and state law of Virginia are pendent or ancillary causes under 28 U.S.C. § 1338(b). This Court also has supplemental jurisdiction over the state law claims raised herein pursuant to 28 U.S.C. § 1367 because the state law claims are so related to the original jurisdiction federal claims raised herein that they form a part of the same case or controversy.

Factual Background

10. Mastodon is in the business of designing and manufacturing radio equipment for the United States government. It is well known for its expertise in the rapid design and manufacturing of rugged signals intelligence, electronic warfare and cyber operations products and solutions.

11. Vizocom is a competitor of Mastodon.
12. On April 25, 2019, the Department of the Navy, Naval Air Systems Command, Naval Air Warfare Center Aircraft Division Pax River (the “Navy” or “NavAir”) published on the FedBizOpps website a Request for Quote (“Solicitation No. N0042119Q0303” or the “RFQ”) which sought quotes for the provision of 450 “Mastodon Design Antennas.” *See* Exhibit 1, attached.
13. The RFQ was for a “brand name” procurement, and listed Mastodon as the required manufacturer. The RFQ further stated that the offeror “MUST BE AN AUTHORIZED Mastodon Design DISTRIBUTOR/RESELLER” (capitalization in the original).
14. The RFQ specified that the “award will be made to the vendor that submits the lowest, aggregate, firm fixed-price, brand name quote.”
15. The Mastodon Design Antenna specified in the RFQ is a flexible, wearable antenna used by the United States military Special Forces, in this case Navy SEALs.
16. The Mastodon antenna specified in the RFQ bears the Mastodon part number “MD1008-1710-01” (the “Mastodon Mark”) printed on each antenna. The “MD” portion of the Mastodon Mark represents “Mastodon Design”. The Mastodon Mark was listed in the RFQ as a required specification of the antennas to be supplied.
17. Mastodon adopted and began use of the Mastodon Mark as a service mark in connection with its activities and services in August, 2018, and has used the Mastodon Mark continuously and without interruption to the present day. Mastodon often uses the “MD” prefix as a part of its part numbers.

18. As a result of Mastodon's longstanding use of the Mastodon Mark and the "MD" prefix, the relevant consuming public recognizes the Mastodon Mark and "MD" as belonging solely to Mastodon, and Mastodon has built up substantial good will in such marks.
19. The Mastodon Mark is distinctive and has developed secondary meaning in the public mind in that consumers come to know and recognize the Mastodon Mark as identifying the goods and services of Mastodon.
20. On May 1, 2019, Vizocom requested and received, via e-mail from Mastodon, a quote of \$165,109.50 for the supply of 450 Mastodon Design Antennas.
21. On May 2, 2019 Vizocom submitted a bid to the Navy in response to the RFQ to supply Mastodon Design Antennas to the Navy.
22. On May 14, 2019, the Navy awarded Contract No. N004211P0467 (the "Contract") to Vizocom at an awarded price of \$165,109.50, identical to the price quoted by Mastodon.
23. Vizocom never placed an order with Mastodon for the Mastodon Design Antennas. Instead, it surreptitiously substituted its own antennas for the Mastodon Design Antennas.
24. On information and belief, on or before August 1, 2019, the completion date of the Contract, Vizocom delivered 450 antennas to the Navy.
25. On information and belief, the data sheet accompanying the antennas delivered to the Navy by Vizocom was labeled "Alpha Antenna" and bore the Mastodon Mark (the "Counterfeit Antennas"). *See* Exhibit 2, attached. The data sheet also included a photograph of a vest with the antennas, which was copied from a Mastodon data sheet and shows Mastodon antennas on the radios. *Id.*

26. Alpha Antenna is registered in Missouri as a fictitious name of Productive Industries, LLC. Neither Alpha Antenna nor Productive Industries, LLC are an authorized distributor or reseller of Mastodon.
27. After receipt of the Counterfeit Antennas, NavAir began distribution of them to the end users, including Navy Special Warfare Group Two (“NSWG-2”), Little Creek, Virginia.
28. NSWG-2 personnel noticed that the Counterfeit Antennas differed physically from the genuine Mastodon Design antennas which NSWG-2 had received under a previous contract.
29. This caused actual confusion among NSWG-2 personnel, who contacted Plaintiff to ask why the antennas received on this order were not the same as the other Mastodon Design Antennas that had been supplied to NSWG-2 and which had been ordered under the RFQ.

Count I
(Violation of Lanham Act – § 15 U.S.C. 1125(a)(1)(A))

30. Plaintiff incorporates paragraphs 1 through 29 as if fully set forth herein.
31. Vizocom sought to deceive the United States Government, the consumer, by labeling each antenna with the Mastodon Mark and using Mastodon’s imagery.
32. Vizocom, using the mislabeled antennas, delivered them to the Navy under the guise that they were produced by Mastodon.
33. Vizocom’s use of the Mastodon Mark and Mastodon’s imagery has caused and is likely to continue to cause confusion, mistake and/or deception among consumers and the public, leading the relevant consumer public falsely to believe that Vizocom’s goods are those of, are sponsored or approved by, or are in some way connected with Mastodon and CACI.

34. Vizocom's use of the Mastodon Mark and Mastodon's imagery has caused and will cause irreparable injury to Plaintiff for which Plaintiff is entitled to relief.
35. Said acts constitute unfair competition in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a)(1)(A), and Vizocom is liable to Plaintiff for (1) Vizocom's profits, (2) damages sustained by Plaintiff, and (3) the costs of the action, under 15 U.S.C. § 1117(a).
36. Vizocom's violation of the Lanham Act was intentional, willful, and malicious, and the Court should enter judgment for an amount not exceeding three times Plaintiff's damages and/or for additional sums based on Vizocom's profits.
37. The circumstances of this case render it exceptional, entitling Plaintiff to a recovery of its reasonable attorneys' fees.

Count II
(Violation of Lanham Act – False Advertising)

38. Plaintiff incorporates paragraphs 1 through 29 as if fully set forth herein.
39. In connection with goods and services, Vizocom used, in commerce, false designations of origin, false and misleading descriptions of fact, and/or false and misleading representations of fact in commercial advertising or promotion, which misrepresented the nature, characteristics, qualities, or geographic origin of Plaintiff's goods, services, and/or commercial activities.
40. Specifically, inter alia, Vizocom submitted proposal(s) to the Navy for goods and/or services improperly claiming to be providing antennas produced by Plaintiff.
41. Vizocom improperly invoiced the Navy for goods it was not authorized to provide.

42. Vizocom falsely claimed to be able to fulfill contract deliverables by providing the unauthorized goods and/or services of Plaintiff to the Navy.
43. Vizocom communicated these false advertisements to numerous government officials.
44. Vizocom's foregoing misrepresentations were material and were likely to, and in fact did, influence purchasing decisions.
45. Plaintiff has been injured as a result of Vizocom's misrepresentations, including by a diversion of sales and by a lessening of goodwill associated with Plaintiff's goods, services, and commercial activities.
46. Said acts constitute unfair competition in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a)(1)(B), and is liable to Plaintiff for (1) Vizocom's profits, (2) damages sustained by Plaintiff, and (3) the costs of this action, under 15 U.S.C. § 1117(a).
47. Vizocom's violation of the Lanham Act was intentional, willful, and malicious, and the Court should enter judgment for an amount not exceeding three times Plaintiff's damages and/or for additional sums based on Vizocom's profits.
48. The circumstances of this case render it exceptional, entitling Plaintiff to a recovery of its reasonable attorneys' fees.

Count III
(State Law Trademark Infringement)

49. Plaintiff incorporates paragraphs 1 through 29 as if fully set forth herein.
50. Defendant has used in commerce the Mastodon Designation in connection with its business.

51. Defendant's use in commerce of the Mastodon Designation in connection with its goods is likely to cause, and has caused, confusion or mistake or to deceive as to the source of origin of those goods.
52. The above-described acts of Defendant constitute trademark infringement in violation of Va. Code Ann. § 59.1-92.12 and other state's laws, entitling Plaintiff to relief.

Count IV
(Common Law Trademark Infringement)

53. Plaintiff incorporate paragraphs 1 through 29 as if fully set forth herein.
54. Defendant has used in commerce the Mastodon Mark in connection with its business.
55. Defendant's use in commerce of the Mastodon Mark in connection with its goods is likely to cause, and has caused, confusion or mistake or to deceive as to the source of origin of those goods.
56. The above-described acts of Defendant constitute common law trademark infringement in violation of the laws of Virginia and other states, entitling Plaintiff to relief.

Count IV
(Common Law Passing Off)

57. Plaintiff incorporates paragraphs 1 through 31 as if fully set forth herein.
58. In connection with goods and services, Vizocom used, in commerce, false designations of origin, false and misleading descriptions of fact, and/or false and misleading representations of fact in commercial advertising or promotion, which misrepresented the nature, characteristics, qualities, or geographic origin of Plaintiff's goods, services, and/or commercial activities.
59. Vizocom sought to deceive the Navy by labeling each antenna with the Mastodon Mark and promising genuine branded goods.

60. Vizocom profited from this deception by obtaining a contract with the Navy which it would not have obtained but for the deception.
61. Vizocom thereby violated the common law of Virginia and other states and is liable to Plaintiff for (1) Vizocom's profits, (2) damages sustained by Plaintiff, and (3) the costs of this action.
62. Vizocom's violation was intentional, willful, and malicious, and the Court should enter judgment for an amount not exceeding three times Plaintiff's damages and/or for additional sums based on Vizocom's profits.
63. The circumstances of this case render it exceptional, entitling Plaintiff to a recovery of its reasonable attorneys' fees.

Prayer for Relief

Wherefore, Plaintiff respectfully requests that the Court enter judgment in its favor and against Vizocom as follows:

- a. Granting preliminary and permanent injunctive relief enjoining Vizocom, its agents, servants, employees, attorneys, and all those persons in active concert or participation with any of them from use of or any false marking of its products with the Mastodon Mark, "MD" or any confusingly similar mark thereto, as well as Mastodon's imagery;
- b. Awarding Plaintiff damages sufficient to compensate Plaintiff for Vizocom's unlawful acts, together with pre-judgment and post-judgment interest thereon;
- c. Directing Vizocom to account for and pay to Plaintiff all profits earned from business unlawfully diverted from Plaintiff and from the sale and/or delivery of Plaintiff's property.

- d. Requiring Vizocom to engage in corrective advertising and to destroy all counterfeit products;
- e. Awarding Plaintiff its reasonable attorney's fees;
- f. Awarding punitive damages against Vizocom in an amount to be determined;
- g. Awarding Plaintiff its costs incurred in this action; and
- h. Awarding Plaintiff such other and further relief as the Court deems proper.

Plaintiff requests a jury trial on all issues so triable.

Respectfully submitted October 22, 2019

MASTODON DESIGN LLC

/s/ Richard C. Sullivan, Jr.

Richard C. Sullivan, Jr. (VSB 27907)
Jonathan M. Harrison, II (VSB 92911)
BEAN, KINNEY & KORMAN, P.C.
2311 Wilson Blvd, Suite 500
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703.525.4000
Fax: 703.525.2207
rsullivan@beankinney.com
jharrison@beankinney.com
Counsel for Plaintiff

Home	Getting Started	General Info	Opportunities	Agencies	Privacy
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ATTENTION:

FBO is moving to beta.SAM.gov starting on November 8, 2019. Until then, FBO.gov remains the authoritative source for Federal Business Opportunities. Once FBO has fully transitioned, you will be directed to beta.SAM.gov for contracting opportunities. Visit beta.SAM.gov today to preview new features like saved searches and the ability to follow notices. For more information, please visit the beta.SAM.gov [learning center](#) or read our [fact sheet](#).

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Mastodon Antennas

Solicitation Number: N0042119Q0303
Agency: Department of the Navy
Office: Naval Air Systems Command
Location: Naval Air Warfare Center Aircraft Division Pax River

[Notice Details](#)

[Packages](#)

[Print](#) [Link](#)

Original Synopsis
Apr 25, 2019
10:38 am

[Return To Opportunities List](#)

Solicitation Number: N0042119Q0303
Notice Type: Combined Synopsis/Solicitation

Synopsis:
Added: Apr 25, 2019 10:38 am
Section A - Solicitation/Contract Form

SECTION A

U.S. Government ~ Tax Exempt

All quotes/responses shall be submitted via email to Kimberly Abell at kimberly.d.abell1@navy.mil no later than 5 P.M EST May 2, 2019. **Items must be brand new. Quote all items or none.** Solicitation N00421-19-Q-0303 is issued as a brand name procurement. The Government intends to purchase on a firm fixed-price basis, and to solicit and award the proposed purchase order on a brand name basis for **Mastodon Design Antennas**, under the authority implemented by Federal Acquisition Regulation (FAR) by FAR Part 12 and FAR Part 13. **Offerors must be registered in the System for Award Management Registration (SAM) database prior to submission of an offer to be considered for**

ALL FILES

[RFQ](#)
Apr 25, 2019
[N0042119Q0303.docx](#)

GENERAL INFORMATION

Notice Type:
Combined Synopsis/Solicitation

Posted Date:
April 25, 2019

Response Date:
May 02, 2019 11:59 pm Eastern

Archiving Policy:
Automatic, 15 days after response date

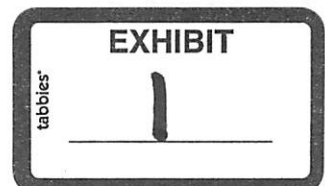
Archive Date:
May 17, 2019

Original Set Aside:
N/A

Set Aside:
Total Small Business

Classification Code:
59 -- Electrical and electronic equipment components

NAICS Code:
334 -- Computer and Electronic Product Manufacturing/334220 -- Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing



award of any DoD contract. This may be accomplished electronically at <http://www.sam.gov>.

See Attached RFQ

MUST BE AN AUTHORIZED Mastadon Design DISTRIBUTOR/RESELLER.

Offerors must complete the attached certification in Section K of this solicitation, 52.209-11, Representation by Corporation Regarding Delinquent Tax Liability or a Felony conviction under any Federal Law. Please complete certification and provide with your offer

This is a firm fixed-price procurement; therefore, the offeror's initial offer should represent the vendor's best quote in terms of price and technical acceptability. Your quote will only be evaluated on the information you provide.

*****Basis for Award*****

The Government intends to award this on a brand name basis. All interested parties **MUST** submit a brand name quote no later than **5 P.M EST May 2, 2019**. Only brand name quotes will be considered. Award will be made to the vendor that submits the lowest, aggregate, firm fixed-price, brand name quote. The Government will not pay for any information received.

*****Instructions to offerors*****

Please include the following information with your response:

- (1) FOB: Destination
- (2) Shipping Cost: N/A

- (3) Tax ID#
- (4) Dun & Bradstreet #
- (5) Cage Code:
- (6) Small Business – Yes ___ No ___
- (7) Estimated Delivery Date:

Government Point of Contact:

Kimberly Abell

Naval Air Warfare Center AD (PAX)

2.5.1 RAC, 21983 Bundy Road, BLDG 441

Patuxent River, MD 20670-1127

Email: kimberly.d.abell1@navy.mil

Please consult the list of [document viewers](#) if you cannot open a file.

RFQ

Type: Other (Draft RFPs/RFIs, Responses to Questions, etc.)

Posted Date: April 25, 2019

[N0042119Q0303.docx](#) (74.94 Kb)

Description: RFQ

Contracting Office Address:

Building 441
21983 Bundy Road Unit 7
Patuxent River, Maryland 20670
United States

Place of Performance:

NAWCAD
PATUXENT RIVER, Maryland 20670
United States

Primary Point of Contact:

Kimberly D. Abell,
Purchasing Agent
kimberly.d.abell1@navy.mil
Phone: 3013427650

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REQUEST FOR QUOTATIONS <i>(THIS IS NOT AN ORDER)</i>		THIS RQ <input checked="" type="checkbox"/> IS <input type="checkbox"/> IS NOT A SMALL BUSINESS SET-ASIDE			PAGE OF PAGES 1 24	
1. REQUEST NO. N0042119Q0303	2. DATE ISSUED 25-Apr-2019	3. REQUISITION/PURCHASE REQUEST NO. 1300767508	4. CERT. FOR NAT. DEF. UNDER BDSA REG. 2 AND/OR DMS REG. 1	RATING		
5a. ISSUED BY NAVAL AIR WARFARE CENTER AD (PAO) ___ 25.1 RAC, 21983 BUNDY ROAD, BLDG 441 PATUXENT RIVER MD 20670-1127			6. DELIVER BY (Date) SEE SCHEDULE			
5b. FOR INFORMATION CALL: (Name and Telephone no.) (No collect calls) KIMBERLY D. ABELL 301-342-7650			7. DELIVERY <input checked="" type="checkbox"/> FOB DESTINATION <input type="checkbox"/> OTHER (See Schedule)			
8. TO: NAME AND ADDRESS, INCLUDING ZIP CODE			9. DESTINATION (Consignee and address, including ZIP Code) 4.11.46 GREG LOUK BLDG 8115 17588 WEBSTER FIELD ROAD ST INIGOES MD 20684-4013 TEL: 757-366-4675 FAX:			
10. PLEASE FURNISH QUOTATIONS TO THE ISSUING OFFICE IN BLOCK 5a ON OR BEFORE CLOSE OF BUSINESS: (Date) 02-May-2019						
IMPORTANT: This is a request for information, and quotations furnished are not offers. If you are unable to quote, please so indicate on this form and return it to the address in Block 5a. This request does not commit the Government to pay any costs incurred in the preparation of the submission of this quotation or to contract for supplies or services. Supplies are of domestic origin unless otherwise indicated by quoter. Any representations and/or certifications attached to this Request for Quotations must be completed by the quoter.						
11. SCHEDULE (Include applicable Federal, State, and local taxes)						
ITEM NO. (a)	SUPPLIES/ SERVICES (b)	QUANTITY (c)	UNIT (d)	UNIT PRICE (e)	AMOUNT (f)	
SEE SCHEDULE						
12. DISCOUNT FOR PROMPT PAYMENT		a. 10 CALENDAR DAYS %	b. 20 CALENDAR DAYS %	c. 30 CALENDAR DAYS %	d. CALENDAR DAYS No. %	
NOTE: Additional provisions and representations <input type="checkbox"/> are <input type="checkbox"/> are not attached.						
13. NAME AND ADDRESS OF QUOTER (Street, City, County, State, and ZIP Code)			14. SIGNATURE OF PERSON AUTHORIZED TO SIGN QUOTATION		15. DATE OF QUOTATION	
			16. NAME AND TITLE OF SIGNER (Type or print)		TELEPHONE NO. (Include area code)	

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Section A - Solicitation/Contract Form

SECTION A

SECTION A

U.S. Government ~ Tax Exempt

All quotes/responses shall be submitted via email to Kimberly Abell at kimberly.d.abell1@navy.mil no later than **5 P.M EST May 2, 2019**. **Items must be brand new. Quote all items or none.** Solicitation N00421-19-Q-0303 is issued as a brand name procurement. The Government intends to purchase on a firm fixed-price basis, and to solicit and award the proposed purchase order on a brand name basis for **Mastodon Design Antennas**, under the authority implemented by Federal Acquisition Regulation (FAR) by FAR Part 12 and FAR Part 13. **Offerors must be registered in the System for Award Management Registration (SAM) database prior to submission of an offer to be considered for award of any DoD contract. This may be accomplished electronically at <http://www.sam.gov>.**

See Attached RFQ

MUST BE AN AUTHORIZED Mastadon Design DISTRIBUTOR/RESELLER.

Offerors must complete the attached certification in Section K of this solicitation, 52.209-11, Representation by Corporation Regarding Delinquent Tax Liability or a Felony conviction under any Federal Law. Please complete certification and provide with your offer

This is a firm fixed-price procurement; therefore, the offeror's initial offer should represent the vendor's best quote in terms of price and technical acceptability. Your quote will only be evaluated on the information you provide.

*****Basis for Award*****

The Government intends to award this on a brand name basis. All interested parties **MUST** submit a brand name quote no later than **5 P.M EST May 2, 2019**. Only brand name quotes will be considered. Award will be made to the vendor that submits the lowest, aggregate, firm fixed-price, brand name quote. The Government will not pay for any information received.

*****Instructions to offerors*****

Please include the following information with your response:

- (1) FOB: Destination
- (2) Shipping Cost: N/A
- (3) Tax ID#
- (4) Dun & Bradstreet #
- (5) Cage Code:
- (6) Small Business – Yes ___ No ___
- (7) Estimated Delivery Date:

Government Point of Contact:

Kimberly Abell

Naval Air Warfare Center AD (PAX)

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2.5.1 RAC, 21983 Bundy Road, BLDG 441
Patuxent River, MD 20670-1127
Email: kimberly.d.abell1@navy.mil

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Section B - Supplies or Services and Prices

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0001	P/N: MD1008-1710-01 FFP FOB: Destination MFR PART NR: P/N: MD1008-1710-01 PURCHASE REQUEST NUMBER: 1300767508 ADDITIONAL MARKINGS: M/F: GREG LOUK, 4.11.4.6, 757-366-4675 PSC CD: 5985	450	Each		

NET AMT

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0002	P/N: SHIPPING FFP SHIPPING & HANDLING FOB: Destination MFR PART NR: P/N: SHIPPING PURCHASE REQUEST NUMBER: 1300767508 ADDITIONAL MARKINGS: M/F: GREG LOUK, 4.11.4.6, 757-366-4675 PSC CD: 5985	1	Each		

NET AMT

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Section E - Inspection and Acceptance

INSPECTION AND ACCEPTANCE TERMS

Supplies/services will be inspected/accepted at:

CLIN	INSPECT AT	INSPECT BY	ACCEPT AT	ACCEPT BY
0001	Destination	Government	Destination	Government
0002	Destination	Government	Destination	Government

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Section F - Deliveries or Performance

DELIVERY INFORMATION

CLIN	DELIVERY DATE	QUANTITY	SHIP TO ADDRESS	DODAAC / CAGE
0001	01-AUG-2019	450	4.11.4.6 GREG LOUK BLDG 8115 17598 WEBSTER FIELD ROAD ST INIGOES MD 20684-4013 757-366-4675 FOB: Destination	N3555A
0002	01-AUG-2019	1	(SAME AS PREVIOUS LOCATION) FOB: Destination	N3555A

CLAUSES INCORPORATED BY REFERENCE

52.247-29

F.O.B. Origin

FEB 2006

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Section G - Contract Administration Data

CLAUSES INCORPORATED BY FULL TEXT

252.232-7003 ELECTRONIC SUBMISSION OF PAYMENT REQUESTS AND RECEIVING REPORTS (DEC 2018)

(a) Definitions. As used in this clause--

Contract financing payment means an authorized Government disbursement of monies to a contractor prior to acceptance of supplies or services by the Government.

(1) Contract financing payments include--

(i) Advance payments;

(ii) Performance-based payments;

(iii) Commercial advance and interim payments;

(iv) Progress payments based on cost under the clause at Federal Acquisition Regulation (FAR) 52.232-16, Progress Payments;

(v) Progress payments based on a percentage or stage of completion (see FAR 32.102(e)), except those made under the clause at FAR 52.232-5, Payments Under Fixed-Price Construction Contracts, or the clause at FAR 52.232-10, Payments Under Fixed-Price Architect-Engineer Contracts; and

(vi) Interim payments under a cost reimbursement contract, except for a cost reimbursement contract for services when Alternate I of the clause at FAR 52.232-25, Prompt Payment, is used.

(2) Contract financing payments do not include--

(i) Invoice payments;

(ii) Payments for partial deliveries; or

(iii) Lease and rental payments.

Electronic form means any automated system that transmits information electronically from the initiating system to affected systems.

Invoice payment means a Government disbursement of monies to a contractor under a contract or other authorization for supplies or services accepted by the Government.

(1) Invoice payments include--

(i) Payments for partial deliveries that have been accepted by the Government;

(ii) Final cost or fee payments where amounts owed have been settled between the Government and the contractor;

(iii) For purposes of subpart 32.9 only, all payments made under the clause at 52.232-5, Payments Under Fixed-Price Construction Contracts, and the clause at 52.232-10, Payments Under Fixed-Price

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Architect-Engineer Contracts; and

(iv) Interim payments under a cost-reimbursement contract for services when Alternate I of the clause at 52.232-25, Prompt Payment, is used.

(2) Invoice payments do not include contract financing payments.

Payment request means any request for contract financing payment or invoice payment submitted by the Contractor under this contract or task or delivery order.

Receiving report means the data prepared in the manner and to the extent required by Appendix F, Material Inspection and Receiving Report, of the Defense Federal Acquisition Regulation Supplement.

(b) Except as provided in paragraph (d) of this clause, the Contractor shall submit payment requests and receiving reports in electronic form using Wide Area WorkFlow (WAWF). The Contractor shall prepare and furnish to the Government a receiving report at the time of each delivery of supplies or services under this contract or task or delivery order.

(c) Submit payment requests and receiving reports to WAWF in one of the following electronic formats:

(1) Electronic Data Interchange.

(2) Secure File Transfer Protocol.

(3) Direct input through the WAWF website.

(d) The Contractor may submit a payment request and receiving report using methods other than WAWF only when-

(1) The Contractor has requested permission in writing to do so, and the Contracting Officer has provided instructions for a temporary alternative method of submission of payment requests and receiving reports in the contract administration data section of this contract or task or delivery order;

(2) DoD makes payment for commercial transportation services provided under a Government rate tender or a contract for transportation services using a DoD-approved electronic third party payment system or other exempted vendor payment/invoicing system (e.g., PowerTrack, Transportation Financial Management System, and Cargo and Billing System);

(3) DoD makes payment on a contract or task or delivery order for rendered health care services using the TRICARE Encounter Data System; or

(4) The Governmentwide commercial purchase card is used as the method of payment, in which case submission of only the receiving report in WAWF is required.

(e) Information regarding WAWF is available at <https://wawf.eb.mil/>.

(f) In addition to the requirements of this clause, the Contractor shall meet the requirements of the appropriate payment clauses in this contract when submitting payment requests.

(End of clause)

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252.232-7006 WIDE AREA WORKFLOW PAYMENT INSTRUCTIONS (DEC 2018)

(a) Definitions. As used in this clause—

“Department of Defense Activity Address Code (DoDAAC)” is a six position code that uniquely identifies a unit, activity, or organization.

“Document type” means the type of payment request or receiving report available for creation in Wide Area WorkFlow (WAWF).

“Local processing office (LPO)” is the office responsible for payment certification when payment certification is done external to the entitlement system.

“Payment request” and “receiving report” are defined in the clause at 252.232-7003, Electronic Submission of Payment Requests and Receiving Reports.

(b) Electronic invoicing. The WAWF system provides the method to electronically process vendor payment requests and receiving reports, as authorized by Defense Federal Acquisition Regulation Supplement (DFARS) 252.232-7003, Electronic Submission of Payment Requests and Receiving Reports.

(c) WAWF access. To access WAWF, the Contractor shall—

(1) Have a designated electronic business point of contact in the System for Award Management at <https://www.sam.gov>; and

(2) Be registered to use WAWF at <https://wawf.eb.mil/> following the step-by-step procedures for self-registration available at this web site.

(d) WAWF training. The Contractor should follow the training instructions of the WAWF Web-Based Training Course and use the Practice Training Site before submitting payment requests through WAWF. Both can be accessed by selecting the “Web Based Training” link on the WAWF home page at <https://wawf.eb.mil/>.

(e) WAWF methods of document submission. Document submissions may be via web entry, Electronic Data Interchange, or File Transfer Protocol.

(f) WAWF payment instructions. The Contractor shall use the following information when submitting payment requests and receiving reports in WAWF for this contract or task or delivery order:

(1) Document type. The Contractor shall submit payment requests using the following document type(s):

(i) For cost-type line items, including labor-hour or time-and-materials, submit a cost voucher.

(ii) For fixed price line items—

(A) That require shipment of a deliverable, submit the invoice and receiving report specified by the Contracting Officer.

COMBO _____

(Contracting Officer: Insert applicable invoice and receiving report document type(s) for fixed price line items that require shipment of a deliverable.)

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(B) For services that do not require shipment of a deliverable, submit either the Invoice 2in1, which meets the requirements for the invoice and receiving report, or the applicable invoice and receiving report, as specified by the Contracting Officer.

SEE SECTION E _____

(Contracting Officer: Insert either "Invoice 2in1" or the applicable invoice and receiving report document type(s) for fixed price line items for services.)

(iii) For customary progress payments based on costs incurred, submit a progress payment request.

(iv) For performance based payments, submit a performance based payment request.

(v) For commercial item financing, submit a commercial item financing request.

(2) Fast Pay requests are only permitted when Federal Acquisition Regulation (FAR) 52.213-1 is included in the contract.

[Note: The Contractor may use a WAWF "combo" document type to create some combinations of invoice and receiving report in one step.]

(3) Document routing. The Contractor shall use the information in the Routing Data Table below only to fill in applicable fields in WAWF when creating payment requests and receiving reports in the system.

Routing Data Table*

<i>Field Name in WAWF</i>	<i>Data to be entered in WAWF</i>
Pay Official DoDAAC	N64142
Issue By DoDAAC	N00421
Admin DoDAAC**	N00421
Inspect By DoDAAC	N3555A
Ship To Code	N3555A
Ship From Code	N/A
Mark For Code	N/A
Service Approver (DoDAAC)	N/A
Service Acceptor (DoDAAC)	N/A
Accept at Other DoDAAC	N/A
LPO DoDAAC	N/A
DCAA Auditor DoDAAC	N/A
Other DoDAAC(s)	N/A

(*Contracting Officer: Insert applicable DoDAAC information. If multiple ship to/acceptance locations apply, insert "See Schedule" or "Not applicable.")

**Contracting Officer: If the contract provides for progress payments or performance-based payments, insert the DoDAAC for the contract administration office assigned the functions under FAR 42.302(a)(13).)

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(4) Payment request. The Contractor shall ensure a payment request includes documentation appropriate to the type of payment request in accordance with the payment clause, contract financing clause, or Federal Acquisition Regulation 52.216-7, Allowable Cost and Payment, as applicable.

(5) Receiving report. The Contractor shall ensure a receiving report meets the requirements of DFARS Appendix F.

(g) WAWF point of contact.

MARY.E.STONE@NAVY.MIL

WAWF PHONE: 301-995-8341

(1) The Contractor may obtain clarification regarding invoicing in WAWF from the following contracting activity's WAWF point of contact.

(Contracting Officer: Insert applicable information or "Not applicable.")

(2) Contact the WAWF helpdesk at 866-618-5988, if assistance is needed.

(End of clause)

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Section I - Contract Clauses

CLAUSES INCORPORATED BY REFERENCE

52.204-13	System for Award Management Maintenance	OCT 2018
52.212-4	Contract Terms and Conditions--Commercial Items	OCT 2018
52.232-33	Payment by Electronic Funds Transfer--System for Award Management	OCT 2018
52.232-39	Unenforceability of Unauthorized Obligations	JUN 2013
52.244-6	Subcontracts for Commercial Items	JAN 2019
252.203-7002	Requirement to Inform Employees of Whistleblower Rights	SEP 2013

CLAUSES INCORPORATED BY FULL TEXT

52.204-21 BASIC SAFEGUARDING OF COVERED CONTRACTOR INFORMATION SYSTEMS (JUNE 2016)

(a) Definitions. As used in this clause -

"Covered contractor information system" means an information system this is owned or operated by a contractor that processes, stores, or transmits Federal contract information.

"Federal contract information" means information, not intended for public release, that is provided by or generated for the Government under a contract to develop or deliver a product or service to the Government, but not including information provided by the Government to the public (such as a public Web sites) or simple transactional information, such as necessary to process payments.

"Information" means any communication or representation of knowledge such as facts, data, or opinions, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual (Committee on National Security Systems Instruction (CNSSI) 4009).

"Information system" means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information (44 U.S.C. 3502).

(b) Safeguarding requirements and procedures. (1) The Contractor shall apply the following basic safeguarding requirements and procedures to protect covered contractor information systems. Requirements and procedures for basic safeguarding of covered contractor information systems shall include, at a minimum, the following security controls:

(i) Limit information system access to authorized users, processes acting on behalf of authorized users, or devices (including other information systems).

(ii) Limit information system access to the types of transactions and functions that authorized users are permitted to execute.

(iii) Verify and control/limit connections to and use of external information systems.

(iv) Control information posted or processed on publicly accessible information systems.

(v) Identify information system users, processes acting on behalf of users, or devices.

(vi) Authenticate (or verify) the identities of those users, processes, or devices, as a prerequisite to allowing access to organizational information systems.

(vii) Sanitize or destroy information system media containing Federal Contract Information before disposal or release for reuse.

(ix) Escort visitors and monitor visitor activity; maintain audit logs of physical access; and control and manage physical access devices.

(x) Monitor, control, and protect organizational communications (i.e., information transmitted or received by organizational information systems) at the external boundaries and key internal boundaries of the information systems.

(xi) Implement subnetworks for publicly accessible system components that are physically or logically separated from internal networks.

(xii) Identify, report, and correct information and information system flaws in a timely manner.

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(xiii) Provide protection from malicious code at appropriate locations within organizational information systems.

(xiv) Update malicious code protection mechanisms when new releases are available.

(xv) Perform periodic scans of the information system and real-time scans of files from external sources as files are downloaded, opened, or executed.

(2) Other requirements. This clause does not relieve the Contractor of any other specific safeguarding requirements specified by Federal agencies and departments relating to covered contractor information systems generally or other Federal safeguarding requirements for controlled unclassified information (CUI) as established by Executive Order 13556.

(c) Subcontracts. The Contractor shall include the substance of this clause, including this paragraph (c), in subcontracts under this contract (including subcontracts for the acquisition of commercial items, other than commercially available off-the-shelf items), in which the subcontractor may have Federal contract information residing in or transiting through its information system.

52.212-5 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS--COMMERCIAL ITEMS (JAN 2019)

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

(1) 52.203-19, Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (JAN 2017) (section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions)).

(2) 52.204-23, Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (Jul 2018) (Section 1634 of Pub. L. 115-91).

(3) 52.209-10, Prohibition on Contracting with Inverted Domestic Corporations (Nov 2015).

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

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

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

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

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

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

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

___ (5) [Reserved]

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

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

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

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

___ (10) [Reserved]

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

___ (ii) Alternate I (NOV 2011) of 52.219-3.

___ (12) (i) 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (OCT 2014) (if the offeror elects to waive the preference, it shall so indicate in its offer) (15 U.S.C. 657a).

___ (ii) Alternate I (JAN 2011) of 52.219-4.

___ (13) [Reserved]

X (14)(i) 52.219-6, Notice of Total Small Business Set-Aside (NOV 2011) (15 U.S.C. 644).

___ (ii) Alternate I (NOV 2011).

___ (iii) Alternate II (NOV 2011).

___ (15)(i) 52.219-7, Notice of Partial Small Business Set-Aside (June 2003) (15 U.S.C. 644).

___ (ii) Alternate I (Oct 1995) of 52.219-7.

___ (iii) Alternate II (Mar 2004) of 52.219-7.

___ (16) 52.219-8, Utilization of Small Business Concerns (Oct 2018) (15 U.S.C. 637(d)(2) and (3)).

___ (17)(i) 52.219-9, Small Business Subcontracting Plan (Aug 2018) (15 U.S.C. 637(d)(4)).

___ (ii) Alternate I (Nov 2016) of 52.219-9.

___ (iii) Alternate II (Nov 2016) of 52.219-9.

___ (iv) Alternate III (Nov 2016) of 52.219-9.

___ (v) Alternate IV (Aug 2018) of 52.219-9.

___ (18) 52.219-13, Notice of Set-Aside of Orders (NOV 2011) (15 U.S.C. 644(r)).

___ (19) 52.219-14, Limitations on Subcontracting (JAN 2017) (15 U.S.C. 637(a)(14)).

___ (20) 52.219-16, Liquidated Damages—Subcon-tracting Plan (Jan 1999) (15 U.S.C. 637(d)(4)(F)(i)).

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____ (21) 52.219-27, Notice of Service-Disabled Veteran-Owned Small Business Set-Aside (NOV 2011) (15 U.S.C. 657f).

____ (22) 52.219-28, Post Award Small Business Program Rerepresentation (July 2013) (15 U.S.C. 632(a)(2)).

____ (23) 52.219-29, Notice of Set-Aside for, or Sole Source Award to, Economically Disadvantaged Women-Owned Small Business Concerns (Dec 2015) (15 U.S.C. 637(m)).

____ (24) 52.219-30, Notice of Set-Aside for, or Sole Source Award to, Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program (Dec 2015) (15 U.S.C. 637(m)).

X (25) 52.222-3, Convict Labor (June 2003) (E.O. 11755).

X(26) 52.222-19, Child Labor--Cooperation with Authorities and Remedies (Jan 2018) (E.O. 13126).

X (27) 52.222-21, Prohibition of Segregated Facilities (Apr 2015).

X (28)(i) 52.222-26, Equal Opportunity (SEPT 2016) (E.O. 11246).

____ (ii) Alternate I (Feb 1999) of 52.222-26.

X (29)(i) 52.222-35, Equal Opportunity for Veterans (OCT 2015)(38 U.S.C. 4212).

____ (ii) Alternate I (July 2014) of 52.222-35.

X (30)(i) 52.222-36, Equal Opportunity for Workers with Disabilities (JUL 2014) (29 U.S.C. 793).

____ (ii) Alternate I (July 2014) of 52.222-36.

X (31) 52.222-37, Employment Reports on Veterans (FEB 2016) (38 U.S.C. 4212).

____ (32) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496).

X (33)(i) 52.222-50, Combating Trafficking in Persons (JAN 2019) (22 U.S.C. chapter 78 and E.O. 13627).

____ (ii) Alternate I (March 2, 2015) of 52.222-50 (22 U.S.C. chapter 78 and E.O. 13627).

____ (34) 52.222-54, Employment Eligibility Verification (Oct 2015). (E. O. 12989). (Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial items as prescribed in 22.1803.)

____ (35)(i) 52.223-9, Estimate of Percentage of Recovered Material Content for EPA-Designated Items (May 2008) (42 U.S.C. 6962(c)(3)(A)(ii)). (Not applicable to the acquisition of commercially available off-the-shelf items.)

____ (ii) Alternate I (May 2008) of 52.223-9 (42 U.S.C. 6962(i)(2)(C)). (Not applicable to the acquisition of commercially available off-the-shelf items.)

____ (36) 52.223-11, Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons (June, 2016) (E.O. 13693).

____ (37) 52.223-12, Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners (June, 2016) (E.O. 13693).

____ (38) (i) 52.223-13, Acquisition of EPEAT® Registered Imaging Equipment (Jun 2014) (E.O.s 13423 and 13514).

____ (ii) Alternate I (OCT 2015) of 52.223-13.

____ (39)(i) 52.223-14, Acquisition of EPEAT® Registered Televisions (Jun 2014) (E.O.s 13423 and 13514).

____ (ii) Alternate I (Jun 2014) of 52.223-14.

____ (40) 52.223-15, Energy Efficiency in Energy-Consuming Products (Dec 2007) (42 U.S.C. 8259b).

____ (41)(i) 52.223-16, Acquisition of EPEAT[supreg]-Registered Personal Computer Products (OCT 2015) (E.O.s 13423 and 13514).

____ (ii) Alternate I (Jun 2014) of 52.223-16.

X (42) 52.223-18, Encouraging Contractor Policies to Ban Text Messaging While Driving (Aug 2011) (E.O. 13513).

____ (43) 52.223-20, Aerosols (June, 2016) (E.O. 13693).

____ (44) 52.223-21, Foams (June, 2016) (E.O. 13693).

____ (45)(i) 52.224-3, Privacy Training (JAN 2017) (5 U.S.C. 552a).

____ (ii) Alternate I (JAN 2017) of 52.224-3.

X (46) 52.225-1, Buy American--Supplies (May 2014) (41 U.S.C. chapter 83).

____ (47) (i) 52.225-3, Buy American--Free Trade Agreements--Israeli Trade Act (May 2014) (41 U.S.C. chapter 83, 19 U.S.C. 3301 note, 19 U.S.C. 2112 note, 19 U.S.C. 3805 note, 19 U.S.C. 4001 note, Pub. L. 103-182, 108-77, 108-78, 108-286, 108-302, 109-53, 109-169, 109-283, 110-138, 112-41, 112-42, and 112-43).

____ (ii) Alternate I (May 2014) of 52.225-3.

____ (iii) Alternate II (May 2014) of 52.225-3.

____ (iv) Alternate III (May 2014) of 52.225-3.

____ (48) 52.225-5, Trade Agreements (AUG 2018) 19 U.S.C. 2501, et seq., 19 U.S.C. 3301 note).

X (49) 52.225-13, Restrictions on Certain Foreign Purchases (JUNE 2008) (E.O.'s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).

____ (50) 52.225-26, Contractors Performing Private Security Functions Outside the United States (Oct 2016) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. 2302 Note).

____ (51) 52.226-4, Notice of Disaster or Emergency Area Set-Aside (Nov 2007) (42 U.S.C. 5150)

____ (52) 52.226-5, Restrictions on Subcontracting Outside Disaster or Emergency Area (Nov 2007) (42 U.S.C. 5150).

____ (53) 52.232-29, Terms for Financing of Purchases of Commercial Items (Feb 2002) (41 U.S.C. 4505, 10 U.S.C. 2307(f)).

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____ (54) 52.232-30, Installment Payments for Commercial Items (Jan 2017) (41 U.S.C. 4505, 10 U.S.C. 2307(f)).

X (55) 52.232-33, Payment by Electronic Funds Transfer—System for Award Management (Oct 2018) (31 U.S.C. 3332).

____ (56) 52.232-34, Payment by Electronic Funds Transfer—Other than System for Award Management (July 2013) (31 U.S.C. 3332).

____ (57) 52.232-36, Payment by Third Party (MAY 2014) (31 U.S.C. 3332).

____ (58) 52.239-1, Privacy or Security Safeguards (Aug 1996) (5 U.S.C. 552a).

____ (59) 52.242-5, Payments to Small Business Subcontractors (JAN 2017)(15 U.S.C. 637(d)(12)).

____ (60)(i) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. Appx. 1241(b) and 10 U.S.C. 2631).

____ (ii) Alternate I (Apr 2003) of 52.247-64.

____ (iii) Alternate II (Feb 2006) of 52.247-64.

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

____ (1) 52.222-17, Nondisplacement of Qualified Workers (May 2014) (E.O. 13495).

____ (2) 52.222-41, Service Contract Labor Standards (AUG 2018) (41 U.S.C. chapter 67).

____ (3) 52.222-42, Statement of Equivalent Rates for Federal Hires (MAY 2014) (29 U.S.C. 206 and 41 U.S.C. chapter 67).

____ (4) 52.222-43, Fair Labor Standards Act and Service Contract Labor Standards--Price Adjustment (Multiple Year and Option Contracts) (AUG 2018) (29 U.S.C. 206 and 41 U.S.C. chapter 67).

____ (5) 52.222-44, Fair Labor Standards Act and Service Contract Labor Standards--Price Adjustment (MAY 2014) (29 U.S.C. 206 and 41 U.S.C. chapter 67).

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

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

____ (8) 52.222-55, Minimum Wages Under Executive Order 13658 (DEC 2015) (E.O. 13658).

____ (9) 52.222-62, Paid Sick Leave Under Executive Order 13706 (JAN 2017) (E.O. 13706).

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

(d) Comptroller General Examination of Record. The Contractor shall comply with the provisions of this paragraph (d) if this contract was awarded using other than sealed bid, is in excess of the simplified acquisition threshold, and does not contain the clause at 52.215-2, Audit and Records--Negotiation.

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

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

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

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

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

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

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

(iv) 52.219-8, Utilization of Small Business Concerns (Oct 2018) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$700,000 (\$1.5 million for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(v) 52.222-17, Nondisplacement of Qualified Workers (MAY 2014) (E.O. 13495). Flow down required in accordance with paragraph (l) of FAR clause 52.222-17.

(vi) 52.222-21, Prohibition of Segregated Facilities (Apr 2015).

(vii) 52.222-26, Equal Opportunity (Sept 2016) (E.O. 11246).

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

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

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

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

(xii) 52.222-41, Service Contract Labor Standards (Aug 2018), (41 U.S.C. chapter 67).

(xiii) _____ (A) 52.222-50, Combating Trafficking in Persons (JAN 2019) (22 U.S.C. chapter 78 and E.O. 13627).

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____ (B) Alternate I (March 2, 2015) of 52.222-50 (22 U.S.C. chapter 78 and E.O. 13627).
(xiv) 52.222-51, Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment--Requirements (May 2014) (41 U.S.C. chapter 67.)

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

(xvi) 52.222-54, Employment Eligibility Verification (Oct 2015) (E. O. 12989).

(xvii) 52.222-55, Minimum Wages Under Executive Order 13658 (Dec 2015) (E.O. 13658).

(xviii) (A) 52.224-3, Privacy Training (JAN 2017) (5 U.S.C. 552a).

(B) Alternate I (JAN 2017) of 52.224-3.

(xix) 52.222-62 Paid Sick Leave Under Executive Order 13706 (JAN 2017) (E.O. 13706).

(xx) 52.225-26, Contractors Performing Private Security Functions Outside the United States (Oct 2016) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. 2302 Note).

(xxi) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations. (May 2014) (42 U.S.C. 1792). Flow down required in accordance with paragraph (e) of FAR clause 52.226-6.

(xxii) 52.247-64, Preference for Privately-Owned U.S. Flag Commercial Vessels (Feb 2006) (46 U.S.C. Appx 1241(b) and 10 U.S.C. 2631). Flow down required in accordance with paragraph (d) of FAR clause 52.247-64.

(2) While not required, the Contractor may include in its subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

(End of clause)

52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)

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

252.204-7000 DISCLOSURE OF INFORMATION (OCT 2016)

(a) The Contractor shall not release to anyone outside the Contractor's organization any unclassified information, regardless of medium (e.g., film, tape, document), pertaining to any part of this contract or any program related to this contract, unless--

- (1) The Contracting Officer has given prior written approval;
- (2) The information is otherwise in the public domain before the date of release; or
- (3) The information results from or arises during the performance of a project that involves no covered defense information (as defined in the clause at DFARS 252.204-7012, Safeguarding Covered Defense Information and Cyber Incident Reporting) and has been scoped and negotiated by the contracting activity with the contractor and research performer and determined in writing by the contracting officer to be fundamental research (which by definition cannot involve any covered defense information), in accordance with National Security Decision Directive 189, National Policy on the Transfer of Scientific, Technical and Engineering Information, in effect on the date of contract award and the Under Secretary of Defense (Acquisition, Technology, and Logistics) memoranda on

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Fundamental Research, dated May 24, 2010, and on Contracted Fundamental Research, dated June 26, 2008 (available at DFARS PGI 204.4).

(b) Requests for approval under paragraph (a)(1) shall identify the specific information to be released, the medium to be used, and the purpose for the release. The Contractor shall submit its request to the Contracting Officer at least 10 business days before the proposed date for release.

(c) The Contractor agrees to include a similar requirement, including this paragraph(c), in each subcontract under this contract. Subcontractors shall submit requests for authorization to release through the prime contractor to the Contracting Officer.

252.204-7012 SAFEGUARDING COVERED DEFENSE INFORMATION AND CYBER INCIDENT INFORMATION (OCT 2016)

(a) Definitions. As used in this clause --

"Adequate security" means protective measures that are commensurate with the consequences and probability of loss, misuse, or unauthorized access to, or modification of information.

"Compromise" means disclosure of information to unauthorized persons, or a violation of the security policy of a system, in which unauthorized intentional or unintentional disclosure, modification, destruction, or loss of an object, or the copying of information to unauthorized media may have occurred.

"Contractor attributional/proprietary information" means information that identifies the contractor(s), whether directly or indirectly, by the grouping of information that can be traced back to the contractor(s) (e.g., program description, facility locations), personally identifiable information, as well as trade secrets, commercial or financial information, or other commercially sensitive information that is not customarily shared outside of the company.

"Controlled technical information" means technical information with military or space application that is subject to controls on the access, use, reproduction, modification, performance, display, release, disclosure, or dissemination. Controlled technical information would meet the criteria, if disseminated, for distribution statements B through F using the criteria set forth in DoD Instruction 5230.24, Distribution Statements on Technical Documents. The term does not include information that is lawfully publicly available without restrictions.

"Covered contractor information system" means an unclassified information system that is owned, or operated by or for, a contractor and that processes, stores, or transmits covered defense information.

"Covered defense information" means unclassified controlled technical information or other information, as described in the Controlled Unclassified Information (CUI) Registry at <http://www.wrarchives.gov/cui/registry/category-list.html>, that requires safeguarding or dissemination controls pursuant to and consistent with law, regulations, and Governmentwide policies, and is --

(1) Marked or otherwise identified in the contract, task order, or delivery order and provided to the contractor by or on behalf of DoD in support of the performance of the contract; or

(2) Collected, developed, received, transmitted, used, or stored by or on behalf of the contractor in support of the performance of the contract.

"Cyber incident" means actions taken through the use of computer networks that result in a compromise or an actual or potentially adverse effect on an information system and/or the information residing therein.

"Forensic analysis" means the practice of gathering, retaining, and analyzing computer-related data for investigative purposes in a manner that maintains the integrity of the data.

"Information system" means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information.

"Malicious software" means computer software or firmware intended to perform an unauthorized process that will have adverse impact on the confidentiality, integrity, or availability of an information system. This definition includes a virus, worm, Trojan horse, or other code-based entity that infects a host, as well as spyware and some forms of adware.

"Media" means physical devices or writing surfaces including, but not limited to, magnetic tapes, optical disks, magnetic disks, large-scale integration memory chips, and printouts onto which covered defense information is recorded, stored, or printed within a covered contractor information system.

"Operationally critical support" means supplies or services designated by the Government as critical for airlift, sealift, intermodal transportation services, or logistical support that is essential to the mobilization, deployment, or sustainment of the Armed Forces in a contingency operation.

"Rapidly report" means within 72 hours of discovery of any cyber incident.

"Technical information" means technical data or computer software, as those terms are defined in the clause at DFARS 252.227-7013, Rights in Technical Data - Non Commercial Items, regardless of whether or not the clause is incorporated in this solicitation or contract. Examples of technical information include research and engineering data, engineering drawings, and associated lists, specifications, standards, process sheets, manuals, technical reports, technical orders, catalog-item identifications, data sets, studies and analyses and related information, and computer software executable code and source code.

(b) Adequate security. The Contractor shall provide adequate security for all covered contractor information systems. To provide adequate security, the Contractor shall implement, at a minimum, the following information security protections:

(1) For covered contractor information systems that are part of an information technology (IT) service or system operated on behalf of the Government, the following security requirements apply:

(i) Cloud computing services shall be subject to the security requirements specified in the clause 252.239-7010, Cloud Computing Services, of this contract.

(ii) Any other such IT service or system (i.e., other than cloud computing) shall be subject to the security requirements specified elsewhere in this contract.

(2) For covered contractor information systems that are not part of an IT service or system operated on behalf of the Government and therefore are not subject to the security requirement specified at paragraph (b)(1) of this clause, the following security requirements apply:

(i) Except as provided in paragraph (b)(2)(ii) of this clause, the covered contractor information system shall be subject to the National Institute of Standards and Technology (NIST) Special Publication (SP) 800-171, "Protecting Controlled Unclassified Information in Nonfederal Information Systems and Organizations," (available via the internet at <http://dx.doi.org/10.6028/NIST.SP.800-171>) that is in effect at the time the solicitation is issued or as authorized by the Contracting Officer.

(ii)(A) The Contractor shall submit requests to vary from NIST SP 800-171, as soon as practical, but not later than December 31, 2017. For all contracts awarded prior to October 1, 2017, the Contractor shall notify the DoD Chief Information Officer (CIO), via email at osd.dibcsia@mail.mil, within 30 days of contract award, of any security requirements specified by NIST SP 800-171 not implemented at the time of contract award.

(B) The Contractor shall submit requests to vary from NIST SP 800-171 in writing to the Contracting Officer, for consideration by the DoD CIO. The Contractor need not implement any security requirement adjudicated by an authorized representative of the DoD CIO to be nonapplicable or to have an alternative but equally effective, security measure that may be implemented in its place.

(C) If the DoD CIO has previously adjudicated the contractor's requests indicating that a requirement is not applicable or that an alternative security measure is equally effective, a copy of that approval shall be provided to the Contracting Officer when requesting its recognition under this contract.

(D) If the Contractor intends to use an external cloud service provider to store, process, or transmit any covered defense information in performance of this contract, the Contractor shall require and ensure that the cloud service provided meets security requirements equivalent to those established by the Government for the Federal Risk and Authorization Management Program (FedRAMP) Moderate baseline (<https://www.fedramp.gov/resources/documents/>) and that the cloud service provider complies with requirements in paragraphs (c) through (g) of this clause for cyber incident reporting, malicious software, media preservation and protection, access to additional information and equipment necessary for forensic analysis, and cyber incident damage assessment.

(3) Apply other information systems security measures when the Contractor reasonably determines that information systems security measures, in addition to those identified in paragraph (b)(1) and (2) of this clause, may be required to provide adequate security in a dynamic environment or to accommodate special circumstances (e.g., medical devices) and any individual, isolated, or temporary deficiencies based on an assessed risk or vulnerability. These measures may be addressed in a system security plan.

(c) Cyber incident reporting requirement.

(1) When the Contractor discovers a cyber incident that affects a covered contractor information system or the covered defense information residing therein, or that affects the contractor's ability to perform the requirements of the contract that are designated as operationally critical support, the Contractor shall --

(i) Conduct a review for evidence of compromise of covered defense information, including, but not limited to, identifying compromised computers, servers, specific data, and user accounts. This review shall also include analyzing covered contractor information system(s) that were part of the cyber incident, as well as other information

systems on the Contractor's network(s), that may have been accessed as a result of the incident in order to identify compromised covered defense information, or that affect the Contractor's ability to provide operationally critical support; and

(ii) Rapidly report cyber incidents to DoD at <http://dibnet.dod.mil>.

(2) Cyber incident report. The cyber incident report shall be treated as information created by or for DoD and shall include, at a minimum, the required elements at <http://dibnet.dod.mil>.

(3) Medium assurance certificate requirement. In order to report cyber incidents in accordance with this clause, the Contractor or subcontractor shall have or acquire a DoD-approved medium assurance certificate to report cyber incidents. For information on obtaining a DoD-approved medium assurance certificate, see <http://iase.disa.mil/pki/eca/Pages/index.aspx>.

(d) Malicious software. When the Contractor or subcontractors discover and isolate malicious software in connection with a reported cyber incident, submit the malicious software to DoD Cyber Crime Center (DC#) in accordance with instructions provided by DC3 or the Contracting Officer. Do not send the malicious software to the Contracting Officer.

(e) Media preservation and protection. When a Contractor discovers a cyber incident has occurred, the Contractor shall preserve and protect images of all known affected information systems identified in paragraph (c)(1)(i) of this clause and all relevant monitoring/packet capture data for at least 90 days from the submission of the cyber incident report to allow DoD to request the media or decline interest.

(f) Access to additional information or equipment necessary for forensic analysis. Upon request by DoD, the Contractor shall provide DoD with access to additional information or equipment that is necessary to conduct a forensic analysis.

(g) Cyber incident damage assessment activities. If DoD elects to conduct a damage assessment, the Contracting Officer will request that the Contractor provide all of the damage assessment information gathered in accordance with paragraph (e) of this clause.

(h) DoD safeguarding and use of contractor attributional/proprietary information. The Government shall protect against the unauthorized use or release of information obtained from the contractor (or derived from information obtained from the contractor) under this clause that includes contractor attributional/proprietary information, including such information submitted in accordance with paragraph (c). To the maximum extent practicable, the Contractor shall identify and mark attributional/proprietary information. In making an authorized release of such information, the Government will implement appropriate procedures to minimize the contractor attributional/proprietary information that is included in such authorized release, seeking to include only that information that is necessary for the authorized purpose(s) for which the information is being released.

(i) Use and release of contractor attributional/proprietary information not created by or for DoD. Information that is obtained from the contractor (or derived from information obtained from the contractor) under this clause that is not created by or for DoD is authorized to be released outside of DoD--

(1) To entities with missions that may be affected by such information;

(2) To entities that may be called upon to assist in the diagnosis, detection, or mitigation of cyber incidents;

(3) To Government entities that conduct counterintelligence or law enforcement investigations;

(4) For national security purposes, including cyber situational awareness and defense purposes (including with Defense Industrial Base (DIB) participants in the program at 32 CFR part 236); or

(5) To a support services contractor ("recipient") that is directly supporting Government activities under a contract that includes the clause at 252.204-7009, Limitations on the Use or Disclosure of Third-Party Contractor Reported Cyber Incident Information.

(j) Use and release of contractor attributional/proprietary information created by or for DoD. Information that is obtained from the contractor (or derived from information obtained from the contractor) under this clause that is created by or for DoD (including the information submitted pursuant to paragraph (c) of this clause) is authorized to be used and released outside of DoD for purposes and activities authorized by paragraph (i) of this clause, and for any other lawful Government purposes or activity, subject to all applicable statutory, regulatory, and policy based restrictions on the Government's use and release of such information.

(k) The Contractor shall conduct activities under this clause in accordance with applicable laws and regulations on the interception, monitoring, access, use, and disclosure of electronic communications and data.

(l) Other safeguarding or reporting requirements. The safeguarding and cyber incident reporting required by this clause in no way abrogates the Contractor's responsibility for other safeguarding or cyber incident reporting pertaining to its unclassified information systems as required by other applicable clauses of this contract, or as a result of other applicable U.S. Government statutory or regulatory requirements.

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(m) Subcontracts. The Contractor shall --

(1) Include this clause, including this paragraph (m), in subcontracts, or similar contractual instruments, for operationally critical support, or for which subcontract performance will involve covered defense information, including subcontracts for commercial items, without alteration, except to identify the parties. The Contractor shall determine if the information required for subcontractor performance retains its identity as covered defense information and will require protection under this clause, and if necessary, consult with the Contracting Officer; and

(2) Require subcontractor to--

(i) Notify the prime Contractor (or next higher-tier subcontractor) when submitting a request to vary from a NIST SP 800-171 security requirement to the Contracting Officer, in accordance with paragraph (b)(2)(ii)(B) of this clause; and

(ii) Provide the incident report number, automatically assigned by DoD, to the prime Contractor (or next higher-tier subcontractor) as soon as practicable, when reporting a cyber incident to DoD as required in paragraph (c) of this clause.

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Section K - Representations, Certifications and Other Statements of Offerors

CLAUSES INCORPORATED BY FULL TEXT

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

(a) As required by sections 744 and 745 of Division E of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub.L. 113-235), and similar provisions, if contained in subsequent appropriations acts, the Government will not enter into a contract with any corporation that --

(1) Has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency is aware of the unpaid tax liability, unless an agency has considered suspension or debarment of the corporation and made a determination that suspension or debarment is not necessary to protect the interests of the Government; or

(2) Was convicted of a felony criminal violation under any Federal law within the preceding 24 months, where the awarding agency is aware of the conviction, unless an agency has considered suspension or debarment of the corporation and made a determination that this action is not necessary to protect the interests of the Government.

(b) The Offeror represents that --

(1) It is is not a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and

(2) It is is not a corporation that was convicted of a felony criminal violation under any Federal law within the preceding 24 months,

α ALPHA ANTENNA®

112 East Commercial Street, Pleasant Hill, MO 64080 – USA, www.AlphaAntenna.com, (816) 282-8234

MD1008-1710-01 VHF/UHF Antenna Datasheet

Description

This wearable portable UHF/VHF Body Worn Antenna offers a low profile design, which:

- Decreases visual signature
- Increases Tx/Rx omni performance
- Increases performance in prone position.

Electrical

RF Capacity: 10W
Input Impedance: 50 Ohms
Radiation Pattern: Omni
Polarization: Vertical
VSWR: <3.5:1
Gain: -15 to +2

Mechanical

RF Connector: TNC Male
Length: 39.5 Inches
Weight: 4.6 ounces

VHF/UHF (30-520MHz)

P/N: MD1008-1710-01





MASTODON

d e s i g n

“Scourge” VHF/UHF (30-520MHz)

P/N: MD1008-1710-01

Electrical

RF Capacity: 10W

Input Impedance

- 50 Ohms

Radiation Pattern

- Omni

Polarization

- Vertical

VSWR

- <3.5:1

Gain

- -15 to +2

Mechanical

RF Connector

- TNC Male

Length

- 39.5 inches

Weight

- 4.6 ounces



Patent Pending



Low profile design

- Decrease visual signature
- Increase Tx / Rx omni performance
- Increase performance in prone position

JS 44 (Rev. 09/19)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
 Mastodon Design LLC
 176 Anderson Ave., Suite F112
 Rochester, New York 14607

(b) County of Residence of First Listed Plaintiff Rochester City
 (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
 Richard C. Sullivan, Jr.
 Bean, Kinney & Korman, PC
 2311 Wilson Blvd, Suite 500, Arlington, VA 22201 (703) 525-4000

DEFENDANTS
 Vizocom ICT LLC
 101 West Broadway, Suite 300
 San Diego, California 92101

County of Residence of First Listed Defendant San Diego County
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

1 U.S. Government Plaintiff

3 Federal Question (U.S. Government Not a Party)

2 U.S. Government Defendant

4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input checked="" type="checkbox"/> 5	<input checked="" type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only) Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input checked="" type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWF (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from Another District (specify) 6 Multidistrict Litigation - Transfer 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
15 U.S.C. 51125

Brief description of cause:
Lanham Act claim for false labeling and passing off.

VII. REQUESTED IN COMPLAINT:

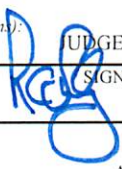
CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ _____

CHECK YES only if demanded in complaint:
 JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instruction):

JUDGE _____ DOCKET NUMBER _____

DATE: 10/22/2019

SIGNATURE OF ATTORNEY OF RECORD: 

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
- United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
- PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.