52.219-16 LIQUIDATED DAMAGES—SUBCONTRACTING PLAN (SEP 2021) (DEVIATION NOV 2025)

(a) The Government will measure performance by applying the percentage goals to the total actual subcontracting dollars, or, if a commercial plan is involved, to the pro rata share of actual subcontracting dollars attributable to Government contracts covered by the commercial plan. If, at contract completion or, in the case of a commercial plan, at the close of the fiscal year for which the plan is applicable, the Contractor has failed to meet its subcontracting goals and the Contracting Officer decides in accordance with paragraph

(b) of this clause that the Contractor failed to make a good faith effort to comply with its subcontracting plan, established in accordance with the clause in this contract entitled “Small Business Subcontracting Plan,” the Contractor shall pay the Government liquidated damages in a stated amount. The amount of probable damages attributable to the Contractor's failure to comply shall equal the actual dollar amount by which the Contractor failed to achieve each subcontract goal. (b) Before the Contracting Officer makes a final decision that the Contractor has failed to make a good faith effort to comply with the subcontracting plan, the Contracting Officer shall give the Contractor written notice specifying the failure and permitting the Contractor to demonstrate the good faith efforts it made and to discuss the matter. The Contracting Officer may take failure to respond to the notice as an admission that no valid explanation exists. If, after consideration of all the pertinent data, the Contracting Officer finds that the Contractor failed to make a good faith effort to comply with the subcontracting plan, the Contracting Officer will issue a final decision to that effect and require that the Contractor pay the Government liquidated damages as provided in paragraph (a) of this clause.

(c) With respect to commercial plans, the Contracting Officer who approved the plan will perform the functions of the Contracting Officer under this clause on behalf of all agencies with contracts covered by the commercial plan.

(d) The Contractor has the right of appeal, under the clause in this contract entitled, Disputes, from any final decision of the Contracting Officer.

(e) Liquidated damages shall be in addition to any other remedies that the Government may have.

(End of clause)