



East Coast Repair & Fabrication, LLC.
PO Box 13687
Chesapeake, VA 23325
Tel: (757) 455-9600
Fax: (757) 455-6717

Terms and Conditions for Services and Products

1. **Scope of Services.** Any entity (Supplier) that performs any services for East Coast Repair & Fabrication (ECR) or sells products to ECR, including Components, Engineering, Installation and/or other services identified in any Purchase Order (Order) or Statement of Work to which these conditions are attached, are subject to the terms and conditions set forth herein. Any Order accepted by Supplier will be subject to these standard terms and conditions.
2. **Access to Shipyard and/or Ship.** Only US Citizens are eligible for access to US Navy vessels. Supplier warrants that, unless prior approval is obtained for non-US Citizens, only US citizens shall have access to US Navy ships for performance of the work.
3. **Changes.** ECR may at any time, by written order, make changes to the Contract Work. If any such change causes an increase or decrease in the cost of, or the time required for, performance of this Contract, ECR shall make an equitable adjustment in the Contract Price, the performance or delivery schedule, or both, and shall so modify this Contract. If ECR changes the Contract delivery date(s) such that Supplier is required to work overtime, ECR shall pay therefor an amount equal only to Supplier's actual additional labor costs occasioned by such overtime.

ECR's or the Government's technical personnel may from time to time render assistance or give technical advice or discuss or exchange information with Supplier's personnel concerning the Contract Work. Such actions, however, shall not be deemed to be a change under this Changes paragraph and shall not be the basis for any equitable adjustment.

All change order requests must be submitted in writing to the ECR Project Manager within 24 hours of identified scope change. All change orders must be authorized in written form and in advance of work to be performed. The change order must include a detailed description of a valid change in scope or condition, and the price for execution of the recommended actions with a specific period of performance.

4. **Acceptance of work.** The Purchase Order incorporating these terms and conditions becomes a binding contract on the terms set forth in the Purchase Order and these Standard Terms and Conditions when it is accepted by acknowledgement or commencement of performance of any work, whichever comes first.



5. **Payment.** ECR has the right to withhold payment on any Invoice pertaining to any product or services that have not been completed, as defined by the scope of work for that specific purchase order, or for any services performed, or product delivered, that are not accepted by ECR or ECR's customers due to inferior or incomplete delivery or performance. ECR's terms for payment are NET 30, unless otherwise noted on the purchase order. All invoices are subject to review for progress and/or validation of hours worked and charges billed as appropriate. Supplier will provide only the personnel that meet the requirements of the Labor Category and/or Statement of Work included in the RFQ.
6. **ECR Furnished Information.** All information (oral, written or otherwise) except as noted to the contrary, furnished to Supplier, shall be considered confidential or proprietary.
7. **Period of Performance.** The Terms and Conditions are based on an anticipated period of performance as defined in each Purchase Order.
8. **Relationship of Parties.** Each party is acting as an independent contractor and not as an agent, partner, or joint venture of the other party. Except as provided herein, neither party shall have any right, power, or authority to act or to create any obligations, express or implied, on behalf of the other party.
9. **Indemnification against defects.** In the event of any defect or other deficiency in any product or service provided by Supplier to ECR under this contract, Supplier agrees to indemnify ECR against any and all claims, responsibility and liability with respect thereto of such product or service which is discovered and promptly reported by ECR to Supplier in writing within one (1) year following Suppliers' performance of the defective or otherwise deficient portion of the service. Supplier also agrees to indemnify ECR against all claims and liabilities with respect to Supplier's employees suffering injuries during the performance of their services and/or damages caused by Supplier employees to the ship on which services are performed. The Supplier shall and does hereby agree to indemnify, save and hold harmless and defend ECR from the payment of any sum of money to any person whosoever on account of claims or suits arising out of injuries to persons, including death or damage to property caused by Supplier, its employees, agents or subcontractors, or in any way attributable to the performance of the work herein contracted for.
10. **Warranties.** Supplier agrees that for all work provided pursuant to the Purchase Order, Supplier shall give the warranties called for in the Prime Contract, and that such warranties shall run from the later of redelivery of the vessels(s) to the Government or completion of the work. Additionally, the Supplier warrants that all work shall be free from all defects in Workmanship and materials; be new and of good marine quality; be suitable for the purpose intended; be of merchantable quality; if of supplier's design, meet all performance requirements and be free from defects in design; and conform to the performance requirements as established in the Purchase Order and its references, all for a minimum period of ninety calendar days (unless



otherwise specified in the Purchase Order). ECR shall not be deemed to have accepted any work furnished by the supplier pursuant to the Purchase Order until they have been finally accepted by the Government under the Prime Contract and the Warranty period has expired. ECR may, at any time during the Warranty period, require the supplier to remedy by repair, correction, or replacement, without cost to ECR, any of the work provided by the Supplier which fails to comply with the requirements of the Purchase Order including the above warranties, not matter what the cause.

The foregoing is in lieu of all other guarantees and warranties of whatsoever kind or nature, whether expressed or implies, whether common law, statutory, contractual, tort or otherwise, including, but not limited to, any warranty of merchantability or fitness.

11. Insurance and Indemnification.

(a) Supplier shall, at its own expense, provide and maintain during the entire Performance Period at least the kinds and minimum amounts of insurance required in the Prime Contract. ECR shall be named as an additional insured under all required policies. Supplier shall provide ECR a Certificate of Insurance showing proof of the required coverages. The Supplier's Certificate of Insurance shall provide evidence of (i) Workers' Compensation insurance including the United States Longshore and Harbor Workers' Act coverage, (ii) Marine General Liability insurance with limits of at least \$5,000,000 and (iii) automobile Liability coverage with limits of at least \$5,000,000. Supplier shall be bound by all terms and conditions of the insurance clauses contained in the Prime Contract.

(b) Supplier agrees to indemnify, defend, and hold harmless ECR, its directors, officers, agents, consignees, employees, affiliates and representatives from and against all expenses, damages, claims, suits, settlements, or liabilities of any kind whatsoever, including, but not limited to, breach of warranties, accidents, occurrences, injuries and losses to or any person or property wherever, which arise out of or are connected to the goods and/or services purchased/rendered hereunder on this Purchase Order.

12. Limitation of Liability. ECR's total aggregate liability to Supplier, whether at law, in equity, in admiralty or otherwise, whether in contract, in tort or otherwise, for correction of any unexcused delay, for any liquidated damages, for any loss or damage, pollution, personal injury, disease or death, or otherwise whatsoever, in any way arising out of, resulting from or relating to this contract, shall in no event exceed the sum equal to one-hundred (100) percent of the total compensation ECR owes Supplier (in accordance with these Terms and Conditions) for the product, service or services provided by Supplier under this contract; and Supplier unconditionally releases and discharges ECR from any liability in excess thereof and from any liability not expressly assumed by ECR this contract.



13. **Disputes.** Either party may litigate any dispute arising under or relating to this Contract before any court of competent jurisdiction in the State of Virginia. Pending resolution of any such dispute by settlement or by final judgment, the parties shall proceed diligently with performance.
14. **Prime Contract.** The prime contract together with all documents described therein are incorporated by reference and made a part of the subcontract Purchase Order (Order). Except as modified herein, the Supplier assumes the same obligations to ECR under the Order that ECR assumes to the customer under the prime contract, and the Supplier shall comply with all conditions of the prime contract as they apply to the Work under the Order.
15. **General Terms.**
- (a) This Purchase Order shall be governed and construed in accordance with the laws of the Commonwealth of Virginia, except as otherwise provided herein with respect to government clauses, laws and regulations incorporated by reference, regardless of the law that applies under choice of law analysis.
 - (b) The relationship between ECR and the Supplier pursuant to any Purchase Order shall be that of an independent contractor and Supplier is not an employee, servant, joint venture, or agent for ECR.
 - (c) If any one or more of the provisions of this Purchase Order is found to be invalid the remaining provisions shall not be affected, and this Purchase Order shall be interpreted as if not containing such provisions.
16. **Disputes.** With respect to any claim that may arise between the Supplier and ECR for which the government is or may be liable, Supplier agrees that it will prepare its claim and will timely present it to ECR for submission to the government under the Contract Disputes Act of 1978, the Disputes Clause of the Prime Contract, or any other disputes resolution provisions of the Prime Contract. Terms and conditions of any disputes clause contained in the Prime Contract will be construed and made applicable to this Purchase Order. Supplier agrees to proceed diligently with the performance of the Purchase Order, including any Change Orders, pending resolution of any dispute.
17. **Compliance with Law.** Supplier shall comply with all federal, state and local laws, regulations, ordinances, orders, actions, policies or common laws, which are applicable and in existence during performance of this Purchase Order.



18. Export Control Compliance.

(a) If Supplier is organized to do business in the United States, Supplier shall comply with the Arms Export Control Act (22 U.S.C. 2778), the International Traffic In Arms Regulations (ITAR) (22 CFR Parts 120 to 130), the regulations issued by the Office of Foreign Assets Control (OFAC) (31 CFR Chapter V), and all other applicable laws, regulations and orders which control the imports and exports of defense articles, defense services, and technical data.

(1) The Vessel and the Contract Products are deemed to be “defense articles” under the ITAR. This Contract may require Supplier to furnish “defense services” and/or export technical data” as defined in the ITAR.

(2) Supplier represents and warrants that, if it manufactures or exports defense articles or furnishes defense services, it is registered with the Office of Defense Trade Controls (DTC), Bureau of Political-Military Affairs, Department of State.

(3) Technical data and defense services furnished by Buyer to Supplier are authorized for use only by Supplier and may not be exported or re-exported without a license or other approval from DTC.

(4) If Supplier desires to authorize ECR to export technical data directly to, or furnish defense services to, a sub-tier supplier that is a foreign person, Supplier shall include ECR as a third party signatory on any export license or other approval prior to ECR’s exporting technical data to, or furnishing a defense service to, any such foreign person sub-tier supplier.

(5) Supplier shall provide to ECR, upon request, all licenses or other approvals obtained by Supplier in compliance with the above requirements, redacted if Supplier desires to prevent the disclosure of any proprietary data.

(b) If Supplier is not organized to do business in the United States, Supplier nevertheless shall perform this Contract in compliance with the laws, regulations and terms set forth in subparagraph (a) hereof, specifically including, but not limited to, those provisions regarding the re-export of defense articles, defense services and technical data. Supplier shall execute any documents required by ECR in order for ECR to lawfully export defense articles, defense services or technical data, or furnish defense services, to Supplier in the performance of this Contract.

19. Termination and Default. ECR may terminate the Purchase Order, in whole or in part, in accordance with the appropriate FAR Default or Termination for Convenience clause incorporated into this Purchase Order by reference or incorporated into the Prime Contract. Accordingly, the terms and conditions set forth therein shall govern the rights of both parties in case of a termination of the Prime Contract by the Government or if ECR terminates this Purchase Order for either convenience or default.



20. Force Majeure.

(a) Any delay or failure of performance by Supplier shall not constitute default under this Contract or give rise to any claim for damages if, and to the extent, that such delay or failure is caused by the occurrence of Force Majeure. The term "Force Majeure" shall mean any event or occurrence beyond the reasonable control and without the fault or negligence of Supplier, which by exercise of due diligence, Supplier shall not have been able to avoid or overcome. Such events and occurrences may include, by way of example and not limitation, natural disasters, floods, windstorms, severe weather and other acts of God, fires, explosions, riots, wars, sabotage, Supplier's labor problems (including strikes and slowdowns but excluding lockouts), power failures, and acts of government. (b) Supplier shall provide notice to ECR of the occurrence of Force Majeure no later than fifteen (15) days after Supplier knows or has reason to know of the existence of the Force Majeure event, and such notice shall include Supplier's estimated impact on the performance or delivery schedule. No extension of the delivery or performance schedule shall be granted unless such timely notice had been given to ECR. Supplier shall provide notice to Buyer of the cessation of any reported Force Majeure event within five (5) days after such event has ceased to exist, and such notice shall include a statement of the amount of delay in the performance or delivery schedule caused by such event.

21. Solicitation of Employees. Supplier shall not solicit for hire any ECR employee prior to the expiration of one (1) year following the completion of Supplier's work under this contract.

22. Non-Waiver. Failure of ECR to enforce at any time or for any period any term or condition of this contract shall not be construed as a waiver of such term or condition nor of the right of ECR to thereafter enforce any or all such terms or conditions. Invalidity of any one or more of these Terms and Conditions, or portion thereof, in general or in application to any party or circumstance, shall not be affect or impair the remaining Terms and Conditions or portions thereof or application to other parties or circumstances.

23. Assignment. Supplier may not assign this contract without the express written consent of ECR.

24. Entire Agreement. Both parties agree that the provisions of this Contract including any documents incorporated herein by reference, shall constitute the entire Agreement between the parties hereto and supersede all prior agreements relating to the subject matter hereof. This Contract may only be modified or amended in writing and executed by a duly authorized representative of ECR and Supplier.

Notices required by this Contract to be given by Supplier or ECR to the other shall be in writing and shall be deemed effective when served personally; delivered by courier service (with proof of delivery); successfully transmitted by fax (with confirmation of receipt); sent by email (with



the time of confirmation of receipt by the addressee); or deposited in the U.S. Mail, first class postage prepaid, addressed as follows:

To Supplier:
As indicated on face of
the purchase order

To Buyer:
East Coast Repair & Fabrication
PO Box 13687
Chesapeake, VA 23325
Attn: Purchasing Manager
purchasing@ecrfab.com



FAR & DFAR FLOWDOWN PROVISIONS

PROVISIONS INCORPORATED BY REFERENCE. The below listed Federal Acquisition Regulation (FAR) and the Department of Defense Federal Acquisition Regulation Supplement (DFARS) clauses are hereby incorporated by reference and made part of the Purchase Order with the same force and effect as though set forth in full text herein. The effective version of each FAR and DFARS clause shall be the same version as that found in ECR's Prime Contract. The full text of a clause may be accessed electronically at these addresses: <http://acquisition.gov/far> or <http://farsite.hill.af.mil>

This Contract is entered into by the parties in support of a U.S. Government contract. As used in the FAR/DFAR clauses referenced below and otherwise in this Contract:

1. "Commercial Item" means a commercial item as defined in FAR 2.101.
2. "Contract" means this Contract.
3. "Contracting Officer" shall mean the U.S. Government Contracting Officer for ECR's government prime contract under which this Contract is entered.
4. "Contractor" and "Offeror" means SUPPLIER, as defined in this document, acting as the immediate subcontractor to ECR.
5. "Prime Contract" means the contract between ECR and the U.S. Government or between ECR and its higher - tier contractor who has a contract with the U.S. Government.
6. "Subcontract" means any contract placed by the Contractor or lower - tier subcontractors under this Contract.

NOTES

The following notes apply to the clauses incorporated by reference below only when specified in the parenthetical phrase following the clause title and date.

1. Substitute "ECR" for "Government" or "United States" throughout this clause.
2. Substitute "ECR Procurement Representative" for "Contracting Officer", "Administrative Contracting Officer", and "ACO" throughout this clause.
3. Insert "and ECR" after "Government" throughout this clause.
4. Insert "or ECR" after "Government" throughout this clause.
5. Communication/notification required under this clause from/to the Contractor to/from the Contracting Officer shall be through ECR.
6. Insert "and ECR" after "Contracting Officer", throughout the clause.
7. Insert "or ECR Procurement Representative" after "Contracting Officer", throughout the clause.

The following FAR clauses apply to this Contract:



**ECR QA Form 7.4.1-2
Terms and Conditions**

52.202-1	Definitions	Nov-13	252.203-7000	Requirements Relating to Compensation of Former DoD Officials	Sep-11
52.203-3	Gratuities	Apr-84	252.203-7003	Agency Office of the Inspector General	Dec-12
52.203-5	Covenant Against Contingent Fees	May-14	252.204-7000	Disclosure Of Information	Aug-13
52.203-8	Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity	May-14	252.204-7003	Control Of Government Personnel Work Product	Apr-92
52.203-10	Price Or Fee Adjustment For Illegal Or Improper Activity	May-14	252.204-7005	Oral Attestation of Security Responsibilities	Nov-01
52.203-12	Limitation On Payments To Influence Certain Federal Transactions	Oct-10	252.204-7008	Compliance With Safeguarding Covered Defense Information Controls	Oct-16
52.204-4	Printed or Copied Double-Sided on Postconsumer Fiber Content Paper	May-11	252.204-7009	Limitations on the Use or Disclosure of Third-Party Contractor Reported Cyber Incident Information	Oct-16
52.204-10	Reporting Executive Compensation and First-Tier Subcontract Awards	Jul-13	252.205-7000	Provision Of Information To Cooperative Agreement Holders	Dec-91
52.204-12	Data Universal Numbering System Number Maintenance	Dec-12	252.209-7004	Subcontracting With Firms That Are Owned or Controlled By The Government of a Country that is a State Sponsor of Terrorism	Dec-14
52.204-13	System for Award Management Maintenance	Jul-13	252.209-7010	Critical Safety Items	Aug-11
52.204-19	Incorporation by Reference of Representations and Certifications	DEC 2014.	252.211-7005	Substitutions for Military or Federal Specifications and Standards	Nov-05
52.209-9	Updates of Publicly Available Information Regarding	Jul-13	252.211-7006	Passive Radio Frequency Identification	Sep-11



**ECR QA Form 7.4.1-2
Terms and Conditions**

52.209-10	Responsibility Matters Prohibition on Contracting With Inverted Domestic Corporations	Dec-14	252.211-7007	Reporting of Government-Furnished Property	Aug-12
52.210-1	Market Research	Apr-11	252.211-7008	Use of Government-Assigned Serial Numbers	Sep-10
52.211-5	Material Requirements	Aug-00	252.215-7000	Pricing Adjustments	Dec-12
52.211-15	Defense Priority And Allocation Requirements	Apr-08	252.215-7002	Cost Estimating System Requirements	Dec-12
52.215-2	Audit and Records--	Oct-10	252.217-7003	Changes	Dec-91
52.215-8	Negotiation Order of Precedence--	Oct-97	252.217-7005	Inspection and Manner of Doing Work	Jul-09
52.215-10	Uniform Contract Format	Aug-11	252.217-7006	Title	Dec-91
52.215-11	Price Reduction for Defective Certified Cost or Pricing Data	Aug-11	252.217-7008	Bonds	Dec-91
52.215-21	Price Reduction for Defective Certified Cost or Pricing Data--	Oct-10	252.217-7009	Default	Dec-91
52.216-7	Modifications Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data --	Jun-13	252.217-7010	Performance	Jul-09
52.216-8	Allowable Cost And Payment	Jun-11	252.217-7011	Access to Vessel	Dec-91
52.219-4	Fixed Fee	Oct-14	252.217-7012	Liability and Insurance	Aug-03
52.219-8	Notice of Price Evaluation Preference for HUBZone Small Business Concerns	Oct-14	252.217-7013	Guarantees	Dec-91
52.219-9	Utilization of Small Business Concerns	Oct-14	252.217-7014	Discharge of Liens	Dec-91
52.219-16	Small Business Subcontracting Plan	Jan-99	252.217-7015	Safety and Health	Dec-91
	Liquidated Damages-				



**ECR QA Form 7.4.1-2
Terms and Conditions**

52.219-28	Subcontracting Plan Post-Award Small Business Program Rerepresentation	Jul-13	252.217-7016	Plant Protection	Dec-91
52.222-1	Notice To The Government Of Labor Disputes	Feb-97	252.217-7027	Contract Definitization	Dec-12
52.222-2	Payment For Overtime Premiums	Jul-90	252.217-7028	Over And Above Work	Dec-91
52.222-3	Convict Labor	Jun-03	252.219-7003	Small Business Subcontracting Plan (DOD Contracts)	Oct-14
52.222-19	Child Labor -- Cooperation with Authorities and Remedies	Jan-14	252.223-7001	Hazard Warning Labels	Dec-91
52.222-20	Contracts for Materials, Supplies, Articles, and Equipment Exceeding \$15,000	May-14	252.223-7004	Drug Free Work Force	Sep-88
52.222-26	Equal Opportunity	Mar-07	252.225-7001	Buy American And Balance Of Payments Program-- Basic (Nov 2014)	Nov-14
52.223-5	Pollution Prevention and Right-to-Know Information	May-11	252.225-7002	Qualifying Country Sources As Subcontractors	Dec-12
52.223-6	Drug-Free Workplace	May-01	252.225-7004	Report of Intended Performance Outside the United States and Canada-- Submission after Award	Oct-10
52.223-10	Waste Reduction Program	May-11	252.225-7008	Restriction on Acquisition of Specialty Metals	Mar-13
52.223-11	Ozone-Depleting Substances	May-01	252.225-7012	Preference For Certain Domestic Commodities	Feb-13
52.223-12	Refrigeration Equipment and Air Conditioners	May-95	252.225-7015	Restriction on Acquisition of Hand Or Measuring Tools	Jun-05
52.223-15	Energy Efficiency in Energy-Consuming Products	Dec-07	252.225-7021	Trade Agreements--Basic (Nov 2014)	Nov-14



**ECR QA Form 7.4.1-2
Terms and Conditions**

52.223-19	Compliance with Environmental Management Systems	May-11	252.225-7030	Restriction On Acquisition Of Carbon, Alloy, And Armor Steel Plate	Dec-06
52.228-7	Insurance--Liability To Third Persons	Mar-96	252.225-7036	Buy American-- Free Trade Agreement-- Balance of Payments Program--Basic (Nov 2014)	Nov-14
52.229-3	Federal, State And Local Taxes	Feb-13	252.225-7038	Restriction on Acquisition of Air Circuit Breakers	Jun-05
52.229-4	Federal, State, And Local Taxes (State and Local Adjustments)	Feb-13	252.227-7013	Rights in Technical Data-- Noncommercial Items	Feb-14
52.230-6	Administration of Cost Accounting Standards	Jun-10	252.227-7015	Technical Data-- Commercial Items	Feb-14
52.232-1	Payments	Apr-84	252.227-7025	Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends	May-13
52.232-8	Discounts For Prompt Payment	Feb-02	252.227-7030	Technical Data-- Withholding Of Payment	Mar-00
52.232-9	Limitation On Withholding Of Payments	Apr-84	252.231-7000	Supplemental Cost Principles	Dec-91
52.232-11	Extras	Apr-84	252.232-7010	Levies on Contract Payments	Dec-06
52.232-17	Interest	May-14	252.242-7004	Material Management And Accounting System	May-11
52.232-20	Limitation Of Cost	Apr-84	252.242-7005	Contractor Business Systems Accounting System	Feb-12
52.232-23	Assignment Of Claims	May-14	252.242-7006	Administration Pricing Of Contract Modifications	Feb-12
52.232-25	Prompt Payment	Jul-13	252.243-7001	Requests for Equitable Adjustment	Dec-91
52.232-33	Payment by Electronic Funds Transfer--System for Award Management	Jul-13	252.243-7002		Dec-12
52.232-39	Unenforceability of Unauthorized Obligations	Jun-13	252.244-7001	Contractor Purchasing	May-14



**ECR QA Form 7.4.1-2
Terms and Conditions**

52.233-1 Alt I	Disputes (May 2014) - Alternate I	Dec-91	252.245-7001	System Administration	Apr-12
52.233-3	Protest After Award	Aug-96	252.245-7002	Tagging, Labeling, and Marking of Government-Furnished Property	Apr-12
52.233-4	Applicable Law for Breach of Contract Claim	Oct-04	252.245-7003	Reporting Loss of Government Property	Apr-12
52.237-2	Protection Of Government Buildings, Equipment, And Vegetation	Apr-84	252.245-7004	Contractor Property Management System Administration	May-13
52.242-2	Production Progress Reports	Apr-91	252.246-7000	Reporting, Reutilization, and Disposal	
52.242-3	Penalties for Unallowable Costs	May-14	252.247-7021	Material Inspection And Receiving Report	Mar-08
52.242-4	Certification of Final Indirect Costs	Jan-97	252.251-7000	Returnable Containers Other Than Cylinders	May-95
52.242-13	Bankruptcy	Jul-95		Ordering From Government Supply Sources	Aug-12
52.242-15	Stop-Work Order	Aug-89			
52.242-17	Government Delay Of Work	Apr-84			
52.243-1	Changes-- Fixed Price	Aug-87			
52.243-2	Changes-- Cost-Reimbursement	Aug-87			
52.244-2	Subcontracts	Oct-10			
52.244-5	Competition In Subcontracting	Dec-96			
52.245-1	Government Property	Apr-12			
52.245-9	Use And Charges	Apr-12			
52.246-2	Inspection Of Supplies-- Fixed Price	Aug-96			
52.246-3	Inspection Of Supplies Cost-	May-01			



52.246-16	Reimburse ment Responsibility For Supplies	Apr-84
52.246-24	Limitation Of Liability--High- Value Items	Feb-97
52.247-34	F.O.B. Destination	Nov-91
52.247-63	Preference For U.S. Flag Air Carriers	Jun-03
52.247-68	Report of Shipment (REPSHIP)	Feb-06
52.249-2	Termination For Convenience Of The Government (Fixed-Price)	Apr-12
52.249-6	Termination (Cost Reimburse ment)	May-04
52.249-8	Default (Fixed-Price Supply & Service)	Apr-84
52.249-14	Excusable Delays	Apr-84
52.251-1	Government Supply Sources	Apr-12
52.253-1	Computer Generated Forms	Jan-91



CERTIFICATIONS AND REPRESENTATIONS

SUPPLIER acknowledges that ECR will rely upon SUPPLIER certifications and representations contained in this clause and in any written offer, proposal or quote, or company profile submission, which results in award of a contract to SUPPLIER. By entering into such contract, SUPPLIER republishes the certifications and representations submitted with its written offer, including company profile information, and oral offers/quotations made at the request of ECR, and SUPPLIER makes those certifications and representations set forth below. SUPPLIER shall immediately notify ECR of any change of status regarding any certification or representation.

1. **FAR 52.203 - 11** Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (Applicable to solicitations and contracts exceeding \$150,000)

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

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

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

(c) Certification. SUPPLIER hereby certifies to the best of its knowledge and belief that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on its behalf in connection with the awarding of this contract.

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

(e) Penalty. Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by 31 U.S.C. 1352. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure required to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.



2. **FAR 52.209 - 5** Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters

(a)(1) SUPPLIER certifies, to the best of its knowledge and belief, that - -

(i) SUPPLIER and/or any of its Principals - -

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

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

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

(D) Have not, within a three - year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds \$3,500 for which the liability remains unsatisfied.

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

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

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

(2) Examples.

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



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

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

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

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

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

(b) SUPPLIER shall provide immediate written notice to ECR if, at any time prior to contract award, SUPPLIER learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(c) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that SUPPLIER knowingly rendered an erroneous certification, in addition to other remedies available, ECR may terminate this contract for default.

3. FAR 52.222 - 22 Previous Contracts and Compliance Reports

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

4. FAR 52.222 - 25 Affirmative Action Compliance

SUPPLIER represents:



(a) that SUPPLIER has developed and has on file at each establishment, Affirmative Action programs required by the rules and regulations of the Secretary of Labor (41 CFR 60 - 1 and 60 - 2), or

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

This purchase order/contract is subject to the provisions contained in Executive Order #11246 and any subsequent or related regulations regarding equal opportunity of employment. Further, the affirmative action clauses set forth in 41CFR 60-300.5(a) and 41 CFR 60-741.5(a) relating to qualified protected veterans and individuals with disabilities are incorporated herein by specific reference. "This contractor and subcontractor shall abide by the requirements of 41 CFR 60-300.5(a) and 41 CFR 741.5(a). These regulations prohibit discrimination against qualified protected veterans and qualified individuals on the basis of disability and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and qualified individuals with disabilities."