



General Contract Terms and Conditions

1) Definitions. As used throughout this document, the following terms shall have the meanings as set forth below:

"Company" means Seaward Services, Inc.

"Delivery" means the point in time when goods and/or services are received by Company at the address shown on the face of and in accordance with the terms of the applicable Order.

"FAR" means Federal Acquisition Regulation of the United States of America.

"Government" means the government of the United States of America.

"Order" means purchase orders, work orders, subcontracts, charges and/or modifications except as otherwise provided in this document.

"Seller" means subcontractor, vendor, or supplier named on the face of an Order.

2) Acceptance. Company and Seller agree that these General Contract Terms and Conditions shall be part of any contract formed between the parties as a result of an Order. Acceptance of this Order shall be limited to the terms and conditions contained herein and incorporated herein by reference. This Order shall be deemed accepted upon the return of the acknowledgement copy of this order or the commencement of performance by Seller. Before any Order issued by Company becomes a binding contract, it constitutes an offer to enter into a contract that can be revoked at any time, in whole or in part, by Company prior to acceptance by Seller.

3) Specifications. Any commercial, technical, or other specifications included in the Order or any addenda thereto, shall be conclusively presumed to be accepted as additional terms and conditions upon commencement of performance or acknowledgment by Seller. Seller agrees to be bound by each and every requirement, specification and document so incorporated therein.

4) Deliveries. Seller shall give notice of shipment to Company at the time of delivery of any shipment of items to a carrier for transportation. When delivery is to be in accordance with Company's written releases, Seller shall not procure, fabricate, assemble, or ship any item except to the extent authorized by Company in such written releases. Seller will, at its expense, ship by express or air shipment or by the most expeditious way if the delivery schedule is endangered for any reason other than Company's fault. Company reserves the right to reject all or any part of any delivery that varies from the quantity authorized by Company for shipment. All items must be suitably prepared, packed, and shipped in accordance with the governing classifications and tariffs applicable thereto. Risk of loss and damage to items shall remain with Seller until Delivery. All items shall be packaged in accordance with good commercial practice in a manner sufficient to ensure arrival in an undamaged condition. Seller shall be responsible to Company for all direct and indirect costs or damages incurred by Company as a result of, or caused by, improper packing, packaging, handling, shipping, or otherwise. Seller shall also be responsible for all costs of returning damaged items, including packing, shipping, and insuring.

5) Delivery of Data. All data required under this Order must also be delivered not later than the time specified in this Order. Company may, at its election so long as required data remain undelivered beyond the time so specified, withhold payment to Seller for any item previously or subsequently delivered in an amount up to ten percent (10%) of the total value of this Order. The term "data" will include, without limitation, drawings, reproductions, specifications, photographs, reproducible copy, parts lists, plans, reports, computations and certifications.

6) Time of the Essence. Time is of the essence for all Orders. Seller shall give timely notice to Company of any expected delay in delivery. Unauthorized advance shipments and shipments other than for the quantity ordered are returnable at Seller's expense.

others to use, such government-owned Articles.

7) Use of New Material. Seller warrants that none of the items furnished under this Order are government or commercial surplus, used, remanufactured, or reconditioned or of such age or so deteriorated as to impair the usefulness or safety thereof, unless otherwise specifically stated on the face of this Order.

8) Material, Equipment, Tools, and Facilities.

Unless otherwise stated in this Order, Seller shall supply all material, equipment, tools and facilities required to perform this Order. Title to all such property furnished to Seller by Company or acquisition of which was specifically directed and paid for by Company, and any replacement thereof, or any materials affixed or attached thereto (all hereinafter collectively referred to as "**Articles**") shall be and remain in Company, with the right of possession in Company, Seller will use said Articles only in the performance of work for Company. Seller shall bear the risk of loss of all Articles while in Seller's custody or control and while in the custody or control of Seller's suppliers and Seller shall keep the Articles insured at Seller's expense against loss and damage in an amount equal to the cost of replacement. All articles are subject to removal and return at Company's written request, in which event Seller, at Company's expense, will prepare such Articles for shipment and deliver them to Company in the same condition as originally received by Seller, reasonable wear and tear excepted. Seller will promptly notify Company of the location of Articles located in any place other than Seller's plant. Seller shall establish and maintain a system to control, protect, preserve and maintain all Company-owned Articles, and Seller, at its expense, will maintain all Articles in good condition and repair or replace them to the extent necessary for performance of this Order. Company does not warrant the accuracy of Articles which it furnishes, and all items delivered by Seller must be in strict accordance with the requirements of this Order. Upon completion or termination of this Order, Seller will retain all Articles at its expense until disposition directions are received from Company. Seller will pay personal property taxes on all Articles in its possession. If this Order is issued under a U.S. Government Property (Fixed Price Contracts) clause, FAR Subsection 52.245-2, shall apply to this Order with respect to all Government-owned Articles, and nothing herein shall be construed as restricting the Government's use of , or the Government's right to authorize

9) Warranties.. Seller warrants for a period of twelve (12) months from date of Delivery (or for such longer period as specified on the face of this Order or extended by Seller in any warranty to any other customer for similar items during the term of this Order) that all items furnished

- a) will be of good quality and free from defects in material and workmanship;
- b) will conform to applicable drawings, specifications, specified performance requirements, samples and other descriptions furnished or specified by Company; and
- c) will be merchantable, suitable for the intended purposes and free from all other defects, including defects in design, to the extent such items are not of a detailed design furnished by Company.

In the event Seller is required to replace or correct any component of any item as a result of a breach of the foregoing warranties, the running of the warranty period for the item of which the defective component is a part shall be suspended from the date Seller receives notice of the breach of warranty until the date the component is replaced or corrected, and this warranty shall apply to such replacement or corrected items furnished for the unexpired portion of the warranty period. Company's approval of Seller's samples or first articles shall not be construed as a waiver by the Company of any requirement of the drawings, specifications, specified performance requirements, and/or other referenced descriptions applicable hereto or of any express or implied warranty. Seller shall provide to Company data and reports applicable to any correction or replacement under this warranty (including revision and updating of all affected data called for under this Order) and Seller shall bear the cost therefore.

Seller hereby acknowledges that Seller has represented and this Order has been entered into on the basis that Seller has reviewed and accepted the specified performance requirement(s) as set forth in this Order and that Seller assumes all risks and full responsibility for meeting said specified performance requirement(s). Accordingly, notwithstanding any conflict or inconsistency which hereafter may be found between achievement of the specified

performance requirements and Seller's proposal for the item(s) being purchased herein, the Seller hereby warrants that the item(s) to be delivered or performed hereunder will meet or exceed the specified performance requirements of this Order.

Seller agrees that the foregoing warranties shall be in addition to, and not limited by, any warranties provided by law or offered by Seller.

10) Defective or Nonconforming Items/Breach of Warranty. In the event of Seller's Delivery of defective or nonconforming items or Seller's breach of warranty, Company may, at its election and in addition to any other rights or remedies it may have at law or equity or under this Order, recover from Seller any costs of removing such items from property, equipment or products in which such items have been incorporated and any additional costs of disassembly, fault isolation, failure analysis, reinstallation, reinspection and retesting and

- a) Return the items at Seller's risk and expense and recover from Seller the price paid therefor and, if elected by Company, purchase or manufacture similar items and recover from Seller the excess costs and expenses thereof;
- b) Accept or retain the items and equitably reduce their price; or
- c) Require Seller, at Seller's expense, to promptly replace or correct such items and, if Seller fails to promptly replace or correct such items as directed by Company, Company may repair them or have them repaired at Seller's expense or elect any of the other remedies available to it under this Order or at law.

11) Inspection. Without affecting other rights under this Order, Company and its customers may inspect all items prior to acceptance or rejection.. At all reasonable times, including the period of manufacture, Company and its customers may inspect and/or test the items to be furnished hereunder at the places where the work is being performed, including those of the Seller's suppliers, and Seller shall provide, without additional charge, reasonable facilities and assistance for safe and convenient inspection and test. All such inspections and tests shall be conducted in such a manner as not to unduly delay the work. Company may inspect one

hundred percent (100%) or a sample of all items or any lot of items at Company's option, and Company shall have the right to reject all or any portion of the items or lot of items if any such inspection reveals them to be, in Company's sole opinion, defective or nonconforming. Seller shall provide and maintain a test and inspection system acceptable to the Company and its customers, if required. Records of all inspection work by Seller shall be kept complete and available to Company and its customers during the performance hereof and for four (4) years after final payment by Company or for such longer period as may be specified elsewhere herein. As used herein, the Company's customers shall include the Government and/or government(s). If the items are intended for Government use, Seller shall also comply with the requirements of Part 46 (Quality Assurance) of the FAR unless otherwise directed by Company. If Government source inspection is to be provided, then Seller shall comply with the provisions of FAR Section 52.246-2. Seller agrees to insert the substance of this clause, including this sentence, in every purchase Order or subcontract issued under this Order.

12) Packaging & Shipment. Unless otherwise provided on the face of this Order, the prices appearing herein include all applicable costs and charges for packing, loading, shipping and insurance, all of which shall be arranged or performed by Seller in a manner consistent with the "Deliveries" section above and safeguards items against damage and loss. Each package shall be marked to show the Company Order number and part numbers, and shall include a packing list of all contents.

13) Prices & Payments. All prices stated in the Order are firm and not subject to escalation. Seller warrants that the prices set forth in this Order are at least as low as those currently being quoted by Seller to commercial users for the same goods and/or services, in like quantities, under similar circumstances. Unless otherwise expressly agreed, payment terms are NET 60 days from receipt of Seller's invoice for goods and/or services delivered and accepted by Company. Company may make adjustments necessary because of shortages, rejections, or other failures to comply with the requirements of this Order prior to payment. Invoices must reference the corresponding Order number and be delivered with supporting documents to the following address:

Seaward Services, Inc.
222 Pearl Street
New Albany, IN 47150
Attn: Accounts Payable

14) Discounts. In connection with any discount offered, time will be computed from the date of delivery of the items to the carrier when acceptance is at point of origin, or from the delivery at destination or point of embarkation when delivery and acceptance are at either of these points, or from the date the correct invoice is received in the office specified by Company, if the latter is later than date of delivery. Payment is deemed to be made for the purpose of earning discount on the date of mailing of Company's check for payment.

15) Tax Exemption. Purchases of goods and services for the Government and for commercial vessels engaged in interstate marine transportation are exempt from state and local sales and use taxes; therefore, Seller shall not charge Company such taxes for such goods or services. Company shall furnish all appropriate tax exemption certificates to Seller upon request. If tax exemption is not applicable to this Order, federal, state, and local tax expense should be included in the prices appearing herein.

16) Technical Data. All drawings, data, designs, engineering instructions, models, specifications, computer software, computer software documentation, or other technical information, written, oral, or otherwise, supplied by or on behalf of Company or prepared by Seller specifically in connection with performance of this Order (hereinafter designated "**Information**") shall be and remain the property of Company. Seller shall not use or disclose such Information except in the performance of Orders for Company, and upon Company's request, such Information and all copies thereof shall be returned to Company. Where Seller furnishes such Information to Seller's suppliers for procurement of supplies for use in the performance of Company's Orders. Seller shall insert the substance of this provision in its Orders. Nothing herein shall be construed as restricting the government's use of, or the government's right to authorize others to use government-owned Information.

17) Indemnification.
IN THE EVENT THAT ANY
REPRESENTATIVES OF SELLER ARE ON

COMPANY'S PREMISES OR ITS VESSELS OR ANY GOVERNMENT VESSELS, SELLER AGREES TO INDEMNIFY AND SAVE COMPANY AGAINST ALL LIABILITIES, LOSSES, DAMAGES AND EXPENSES, INCLUDING REASONABLE ATTORNEY FEES, FOR PERSONAL INJURIES, DEATH OR PROPERTY DAMAGE OF SELLER, ITS EMPLOYEES, AGENTS, OR ITS SUBCONTRACTORS OF ANY TIER OR THEIR AGENTS OR EMPLOYEES, INCIDENT TO, ARISING OUT OF, OR RESULTING FROM THE ACTIVITIES OF SELLER, ITS EMPLOYEES AND AGENTS, OR ITS SUBCONTRACTORS AND THEIR AGENTS AND EMPLOYEES, OR IN CONNECTION WITH THE WORK TO BE PERFORMED, SERVICES TO BE RENDERED, OR GOODS TO BE FURNISHED, UNDER ANY ORDER, EXCEPT IN THOSE INSTANCES WHERE SUCH LIABILITY, LOSSES, DAMAGES OR EXPENSES ARE CAUSED SOLELY AND DIRECTLY BY COMPANY'S NEGLIGENCE.

18) Insurance. Seller will maintain and carry liability insurance which includes but is not limited to employer's liability, workmen's compensation, general liability, public liability, property damage liability, product liability, completed operations liability and contractual liability in amounts set forth or incorporated in this Order with insurance carriers acceptable to Company, and if no amounts are so set forth, then in amounts acceptable to and approved by Company, but in no event shall such amounts be less than minimum statutory requirements, if any. Seller will, if requested by Company, furnish certificates of insurance from its carrier on the foregoing coverages, which shall provide that such coverage shall not be changed without thirty (30) days advance written notification to Company from the carrier.

19) Entire Contract. The Order, when accepted by Seller, shall constitute the entire contract between Company and Seller. Any acceptance of this Order is limited to acceptance of the express terms of the offer contained herein. Any proposal for additional or different terms or any attempt by Seller to vary in any degree any of the terms of this offer in Seller's acceptance is hereby objected to and rejected but such proposal shall not operate as a rejection of this offer unless such variances are in the terms of the description, quantity, price, or

delivery schedule of the goods and/or services but shall be deemed a material alteration thereof, and this offer shall be deemed accepted by the Seller without said additional or different terms. If this Order shall be deemed an acceptance of a prior offer by Seller, such acceptance is limited to the express terms contained herein. Additional or different terms or any attempt by Seller to vary in any degree any of the terms of this Order shall be deemed material and shall be rejected. However, this Order shall not operate as a rejection of the Seller's offer unless it contains variances in the terms of the description, quantity, price, or delivery schedule of the goods and/or services.

20) Company Changes. Company may from time to time, by written change order, make changes, issue additional instructions, or require additional work. If any such change causes an increase or decrease in the cost of or time required for performance of this Order, whether or not changed by the Order, an equitable adjustment shall be made in the price or delivery schedule or both and this Order shall be modified accordingly. No claim by Seller for adjustment hereunder shall be allowed unless made in writing for a specified amount within twenty (20) days from the date notice of any such change is received by Seller. In the event Seller is unable to submit a claim for a specific amount within such twenty (20) day period, Seller may submit a good-faith, reasonable, not-to-exceed amount to be definitized by Seller within an additional twenty (20) days. Where the cost of property rendered obsolete or excess as the result of a change is included in Seller's claim for adjustment, Company will have the right to take title thereto and prescribe the manner of disposition thereof. Nothing in this clause shall excuse Seller from proceeding with performance of this Order as changed. Notwithstanding the above or any other provision of this Order, the Seller hereby agrees that no changes to the items, which may be required in Order to meet the specified performance requirements of this Order, shall entitle the Seller to any adjustment in either price or delivery.

These General Terms and Conditions shall apply to all written modifications unless the parties agree otherwise. No additions, extra

work, or alterations shall be paid for by Company unless performed pursuant to, and in accordance with a written Order of the Company.

21) Seller Changes. During performance of this Order, Seller shall not make any changes in the design of items to be furnished by Seller under this Order without advance written notification to, and written approval of, the Company. The above requirement applies whether or not there is a cost impact associated with the change and regardless of the type of change involved, including product improvements.

22) Stop-Work Orders. Company may, at any time, by written order, require Seller to stop all or any part of the work under this Order for a period of up to ninety (90) days after delivery of such stop-work order, and for any further period as the parties may agree. Immediately upon receipt of such stop-work order, Seller shall comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work stoppage. At any time during such period, Company may, in whole or part, either cancel the stop-work order or terminate the work in accordance with subparagraph a) or b) of the "Termination" clause of this Order. To the extent the stop-work order is cancelled or expires, Seller shall resume work. If a stop-work order is the sole and exclusive cause of a material change in cost or delivery, an adjustment shall be made in the price (excluding profit) or the delivery schedule, or both, and this order modified accordingly; provided, however, that no adjustment in price or delivery shall be made under this provision if:

- a) The work would have been otherwise interrupted or delayed; or
- b) Such adjustment is available or expressly excluded under any other provision of this Order.

No claim for adjustment shall be allowed unless submitted to Company in writing, in a specified amount, within twenty (20) days after the work is terminated or the stop-work Order expires or is cancelled, whichever occurs first. In the event Seller is unable to submit a claim in a specified amount within such twenty (20) day period, Seller may submit a good-faith, reasonable, not-to-exceed amount to be definitized by the seller within an additional twenty (20) days.

23) Hazardous Materials. Seller certifies that it has reported and shall continue to report, in accordance with the Toxic Substances Control Act ("TSCA") and the Inventory Reporting and Pre-manufacture Notice regulations of the U.S. Environmental Protection Agency, all reportable chemical substances which Seller currently manufactures or may manufacture in the future and which are supplied by Seller to Company. Seller further certifies that it has taken appropriate action to assure that chemical substances which Seller does not manufacture, and which are components of Seller's goods and /or services sold to Company, have been reported as required by the Inventory Reporting and Pre-manufacture Notice regulations. Seller further certifies that for any chemical substance supplied to Company, Seller shall inform Company of any TSCA restriction governing the use of such chemical substance including, but not limited to, proposed or final significant new use rule restrictions. Seller shall submit a material safety data sheet ("MSDS") for each hazardous material to the Company (*attention:* Environmental Health & Safety Manager) within fifteen (15) days of issuance of the Order. For the purposes of any Order, "hazardous materials" means any explosives, radioactive materials, PCBs, CFCs, or substances defined as "hazardous substances" in the Comprehensive Environmental Response and Liability Act of 1980, as amended from time to time.

24) MSA. In the event a Master Service Agreement ("MSA") is in effect between the parties at the time any Order is issued, and a conflict or inconsistency exists between the terms and conditions of the MSA and the Order, the terms and conditions of the MSA shall control.

25) Nondiscrimination. Seller agrees to comply with all provisions of Executive Order 11246, as amended by Executive Order 11375 and all rules, regulations and relevant orders of the Secretary of Labor related to equal employment opportunity that are in effect on the date of any Order.

26) Compliance with Laws. Seller shall comply with all statutes, legal directives and regulations in its performance under any Order. In the event that goods and/or services do not conform to any legal requirement in addition to the requirements of any Order and Company sustains any liability or penalty for such nonconformance, Seller shall indemnify Company

for all such liability costs and expenses, including attorney fees and interest.

27) Law & Venue. Any claims arising from or related to this Order shall be litigated exclusively in a court of competent jurisdiction in or for Floyd County, Indiana, under Indiana law. Seller agrees to the jurisdiction of said courts.

28) Disputes. In case of a dispute over this Order, the prevailing party shall be entitled to recover reasonable attorney fees and costs after final, non-appealable judgment. Pending settlement or final decision of any dispute, Seller shall proceed with the performance of this Order. Any agreement between the parties shall be interpreted as having been drafted jointly by the parties. Accordingly, any rule of law that would require interpretation of any ambiguities in an agreement against the party that drafted a particular provision is not applicable and is hereby waived.

If this Order is a first-tier subcontract issued under a government prime contract, Company will consider requests from Seller to appeal in Company's name any final determination of the government Contracting Officer which affects Seller only; provided, however, that Seller shall itself prosecute such appeal and pay any and all costs to Company (including reasonable attorney's fees) in connection with or resulting from such appeal. Company, in its sole and absolute discretion, shall determine whether or not to grant such Seller requests. The decision rendered in any such appeal shall be final and binding on the Seller.

29) Intellectual Property. Seller grants to Company a license for all intellectual property rights that are necessary for Company and its affiliates to use any of the goods or benefit from any of the services delivered by or on behalf of Seller. Seller represents and warrants to Company that software provided to Company by or on behalf of Seller, whether integrated into or as separate goods or in connection with services, does not infringe upon or constitute an unauthorized use of any patent, trade secret, copyright, or other proprietary right. Seller shall hold harmless, indemnify and defend Company for any suit or proceeding brought against Company based on a claim that any goods or services purchased or any part thereof, infringe any patent, trade secret copyright, or other proprietary right of any third party, provided Seller is

notified promptly in writing and given authority, information, and assistance by Company to defend such suit or proceeding. Seller shall pay all costs of defending such suits or proceedings, including attorney fees, any damages awarded against Company and any amounts agreed upon by Seller to settle such claims. If the use of goods, or any part thereof, is enjoined due to infringement, or precluded by settlement, Seller shall promptly, at its own expense, and at its option, either procure for Company the right to continue using such goods, replace the same with non-infringing goods that conform to applicable specifications, or modify such goods in a manner acceptable to Company so they becomes non-infringing.

30) Termination. Company may terminate this Order in accordance with the following provisions:

a) Company may terminate this Order in whole or in part at any time by written notice stating the extent and effective date of such termination. In such event, the rights of the parties shall be governed by the provisions of the clause set forth in Subsection 52.249-2 of the FAR as in effect on the date of this Order, which clause is incorporated herein by reference; provided, however, that all references in such clause to the Government or any of its boards or officers are deleted, and all references therein to the Government or the Contracting Officer shall mean Company or its designees (including the Government or its representatives if so designated by the Company).

b) Company reserves the right to terminate this Order in whole or from time to time, in part for Seller's default if:

- a. Seller fails to perform in accordance with any of the requirements of this Order or to make progress so as to endanger performance hereunder, or
- b. Seller becomes insolvent or suspends any of its operations or if any petition is filed or proceeding commenced by or against Seller under any state or federal law relating to bankruptcy, arrangement,

reorganization receivership, or assignment for the benefit of creditors.

Any such termination will be without liability to Company except for completed items delivered and accepted by Company, payment for which can be set off against any damages to Company. Company may require Seller to transfer title and deliver to Company any or all property produced or procured by Seller for performance of the work terminated, and Seller shall be credited with the reasonable value thereof not to exceed Seller's cost or the contract price, whichever is less. Seller will be liable for damages caused by or resulting from its default including, but not limited to, excess costs of re-procurement. If, after a default termination, it is determined that Seller was not in default, the termination shall be considered to have been made pursuant to subparagraph A of this clause.

c) To the extent this Order is not terminated pursuant to subparagraphs A or B above, Seller shall continue performance.

31) Excusable Delays. Neither party shall be in default for any delay or failure to perform hereunder due to causes beyond its control and without its fault or negligence; provided that any delay or failure to perform caused by the default of a supplier of the Seller at any lower tier shall be excused only if its is beyond the control of both Seller and such supplier and without the fault or negligence of either and the items to be furnished are not obtainable from other sources in sufficient time to permit Seller to meet the delivery schedule; and provided further that occurrence of any such cause which will or may delay Seller's performance.

32) Separate Contracts. Company reserves the right to enter into other agreements in connection with the goods and/or services provided hereunder or otherwise, in its sole discretion. Seller shall afford other contractors reasonable cooperation in the execution of their work conducted pursuant to any such agreements.

33) Notice of Labor Disputes. Whenever Seller has knowledge that any actual or potential labor dispute is delaying or threatens to delay the

timely performance of this Order, Seller shall immediately give notice thereof, including all relevant information with respect thereto to Company. Seller agrees to insert the substance of this clause, including this sentence, in any purchase Order or subcontracts hereunder, and shall report immediately to Company any such notice received from Seller's subcontractors of suppliers

34) Conflict of Interest. Neither Seller nor any tier subcontractor of Seller shall hire any employee or officer of Company while that employee or officer is an employee or officer of Company, or make any payments to any employee or officer of Company, or to any designee of any such employee or officer, or favor any employee or officer of Company, or any designee of any such employee or officer with gifts or entertainment of significant cost or value, or with services or goods sold at less than full market value.

35) Independent Service Provider. Nothing herein creates a joint venture, employer-employee, agency or partnership relationship between the parties. Neither party may enter into any contracts or commitments in the name of, or on behalf of, the other party, or bind the other party in any respect.

36) Severability; Remedies; Waiver. If any one or more provisions contained in this Order are held by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, the remaining provisions shall nonetheless remain valid and enforceable. The remedies contained herein are cumulative and in addition to any other remedies at law or equity. Company's failure to enforce, or waive of a breach of, any provision of this Order does not constitute a waiver of any other breach or of such provision.

37) Assignment. Company may assign this Order at any time. Seller shall not assign this Order or any of its rights, duties, or obligations under this Order, including without limitation any right to payment, without the prior written consent of Company. This Order shall inure solely to the benefit of the parties hereto and their respective successors and permitted assigns, except as specifically provided by this Order.

38) Subcontracting. Seller shall not subcontract all or any portion of the services covered by this Order without the prior written consent of Company. Seller shall advise Company

of any manufacturing services requiring special processes (such as welding, plating, coating, painting, soldering, or wiretapping) being subcontracted so that Company may determine whether any special quality control, inspection or government approval is required.

39) Title and Risk of Loss. Seller represents and warrants to Company that it has, and that Company shall receive from Seller good, valid and marketable title to all goods supplied hereunder, free and clear of any and all liens, security interests, encumbrances, pledges, rights of redemption, and/or retentions or reservations of title. SELLER AGREES TO INDEMNIFY, DEFEND AND HOLD COMPANY HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION, LOSSES, LIABILITIES, COSTS AND EXPENSES (INCLUDING REASONABLE ATTORNEY FEES) RESULTING FROM OR RELATED TO ANY BREACH OF SAID WARRANTY. When Company is required to make installment payments in respect to goods to be manufactured and provided by Seller to Company under this Order, commencing upon the first payment made and continuing with each subsequent payment thereafter, title to such goods shall pass to Company as work proceeds commensurate with the payments made by Company to Seller. Risk of loss or damage to such goods shall not pass from Seller to Company unless and until Delivery of the goods occurs. In addition to any other rights that may exist under Tennessee law or at common law or under this Order, Seller shall be entitled to a possessory lien on each undelivered item that constitutes goods under this Order for any unpaid portion of the price for such goods then actually due and payable.

40) Testing and Acceptance. It shall be Seller's sole responsibility to obtain all required certifications and ratings for the goods from regulatory agencies or other third parties, and to provide documentation of compliance with such standards to Company in a timely manner. Seller represents and warrants to Company that any and all such documentation to be valid and accurate. When a Factory Acceptance Test ("FAT") is required, a detailed FAT shall be performed on the goods at Seller's facility in accordance with Seller's standard protocol to ensure conformity with contract specifications and to enable such goods to receive required classifications and certifications. Seller shall

submit to Company its FAT protocol at least thirty (30) days in advance of the test date. Company shall have the right to reject or comment on the FAT protocol, to require reasonable changes in the FAT protocol to assure that sufficient testing is done to prove compliance with all such requirements, and to have an authorized representative attend the FAT. Company shall be given a minimum seven (7) day advance notice of the scheduled dates for the FAT. When sea trials are required, the goods will undergo sea trials to prove that, without limitation, the construction, design, machinery, equipment and systems of the goods operate in accordance with all contractual, technical, and regulatory requirements and specifications. Upon completion of all required FAT and sea trials and any corrective measures to the satisfaction of Company, Company shall sign an appropriate Acceptance Certificate confirming acceptance of the goods by Company.

41) Information. Seller represents and warrants to Company that all information, data, manuals, instructions and certifications furnished by Seller in connection with this Order is true, complete and accurate in all material respects, and that Seller has no reason to believe any such information to be inaccurate in any material respect since the date such information was furnished to Company. Additionally, Seller shall not, without the prior written consent of Company, make any release of information associated with this Order (other than to Seller's employees and subcontractors which is required for the performance of their duties) nor use the name of Company in any advertising or publicity.

42) Order of Precedence. In the event of any conflict among the provisions of this Order, the following order of precedence shall apply in interpreting this Order:

a) The text of the Order.

b) Any Special or Supplemental Terms and Conditions incorporated by reference in the Order.

c) These General Contract Terms and Conditions.

d) Other contract documents.

43) Company Policies. Seller represents and warrants to Company that no gratuities or anything of value has been given to or received from any representative of Company, and that Seller shall abide by Company's Code of Business Conduct and Ethics Policy as published from time to time by Company on Company's website at www.seawardservices.com.

44) Additional Government Provisions. If the face of this Order indicates that it is placed under a Government prime or higher-tier subcontract or purchase order, or if the face of this Order does not indicate that it is placed under a commercial contract, the following Supplemental Purchase Order Provisions Under U.S. Government Contracts are applicable:

**SUPPLEMENTAL PURCHASE ORDER
PROVISIONS UNDER U.S. GOVERNMENT
CONTRACTS**

ADDITIONAL GOVERNMENT PROVISIONS. If the face of this Order indicates that it is placed under a Government prime contract or higher tier subcontract or purchase Order or if the face of this Order does not indicate that it is placed under a commercial contract, the following provisions are applicable to this Order to the extent provided herein. As used herein, "FAR" shall mean the Federal Acquisitions Regulation, "DFARS" shall mean the Department of Defense Supplement to the Federal Acquisitions Regulation, "NASA" shall mean the National Astronautics and Space Administration, "NASAFARS" shall mean the NASA Supplement to the Federal Acquisition Regulations, "DOE" shall mean the Department of Energy, "DFAR" shall mean the DOE Supplement to the Federal Acquisition Regulations, "DOT" shall mean the Department of Transportation, "TAR" shall mean the DOT Supplement to the Federal Acquisition Regulations.

Government contract clauses incorporated by reference are those in effect on the date of this Order in the latest Government prime contract under which this Order is a subcontract; however, if Company does not enter into a contract with its customer until after the date of this Order, such clauses are those in effect on the date of this Order and Seller agrees to comply with any revised versions of the Government contract clauses cited that are set forth in Company's contract with its customer. The Government clauses are the FAR and DFARS clauses cited unless the Government contract number on the face of this Order indicates that this Order is placed under a NASA, DOE or DOT prime or higher tier subcontract, in which event the FAR and NASAFARS, DFAR or TAR clauses indicated below, respectively, are applicable. In all such clauses, unless otherwise specified, "this contract" shall mean this Order, "Contractor" shall mean Seller, "Contracting Officer" shall mean Company, "Government" shall include Company to the extent necessary to enable Company to administer this Order and to perform its obligations under its Government prime contract or higher tier subcontract, and "subcontract(s)" and "subcontractor(s)" shall mean Seller's lower tier subcontract(s) and subcontractor(s), respectively.

A. GOVERNMENT CONTRACT CLAUSES.

1. The following FAR Provisions are incorporated herein by reference as applicable unless otherwise stated on the face of this purchase Order:

<u>CLAUSE TITLE</u>	<u>FAR REFEREN CE</u>	<u>APPLIED TO</u>
Covenant Against Contingent Fees	52.203-5	All
Restrictions on Subcontractor Sales to the Government	52.203-6	All
Anti-Kickback Procedure	52.203-7	All
Cancellation, Rescission and Recovery for Illegal or Improper Activity	52.203.8	All
Price or Fee Adjustment for Illegal or Improper Activity	52.203-10	All
Certification and Disclosure Regarding Payments to Influence Federal Transactions	52.203-11	Orders exceeding \$100,000
Security Requirements	52.204-2	If this Order involves access to classified information.

<u>CLAUSE TITLE</u>	<u>FAR REFEREN CE</u>	<u>APPLIED TO</u>
Required Sources for Jewel Bearing and related Items	52.208-1	All
Protecting the Government's Interest When Subcontracting With Contractors Debarred, Suspended, or Proposed for Debarment	52.209-6	All
Defense Priority and Allocation Requirements	52.211-15	All
Audit and Records	52.213-2	All
Order of Precedence	52.215-8	All
Price Reduction for Defective Cost or Pricing Data	52.215-10	All
Utilization of Small Disadvantaged and Women Owned Small Business Concerns	52.219-8	All
Convict Labor	52.222-3	All
Prohibition of Segregated Facilities	52.222-21	All
Equal Opportunity	52.222-26	All
Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era	52.222-35	Orders exceeding \$10,000
Affirmative Action for Workers with Disabilities	52.222-36	Orders exceeding \$2,500
Notification of Employee Rights Concerning Payment of Union Dues or Fees	52.222-39	All
Service Contract Act of 1965, As Amended	52.222-41	Orders exceeding \$2,500
Fair Labor Standards Act	52.222-43	All
Clean Air and Water	52.223-2	All
Hazardous Material Identification and Material Safety Data	52.223-3	All
Drug Free Workplace	52.223-6	All
Privacy Act	52.224-2	Orders involving the design, development, or operation of a system of records on individuals
Authorization and Consent	52.227-1	All
Notice and Assistance Regarding Patent and Copyright Infringement	52.227-2	All
Patent Indemnity	52.227-3	All
Rights In Data – General	52.227-14	All
Insurance – Liability to Third Parties	52.228-7	All
Payments	52.232-1	All
Limitation on Withholding of Payments	52.232-9	All
Disputes	52.233-1	All
Protest After Award	52.233-3	All
Changes – Fixed Price	52.243-1	All
Subcontracts	52.244-2	All
Subcontracts for Commercial Items.	52.244-6	All
Government Property – Fixed Price	52.245-2	All
Preference for Privately Owned U.S.- Flag Commercial Vessels	52.247-64	All
Value Engineering	52.248-1	All

<u>CLAUSE TITLE</u>	<u>FAR REFEREN CE</u>	<u>APPLIED TO</u>
Termination for Convenience of the Government – Fixed Price	52.249-1	All

B. SPECIAL LABOR PROVISIONS.

The following clauses are incorporated herein by reference to the extent they are included in Company's prime or higher tier subcontract under which this Order is placed.

1. SERVICE CONTRACT ACT OF 1965, far 52.222-41 (or TAR 52.222-75 if this Order is issued under a DOT prime or higher tier contract). As used therein, "Contractor" shall mean Seller except in the term "Government Prime Contractor".
2. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT- OVERTIME COMPENSATION - GENERAL FAR 52.222-4. As used therein, "Contractor" shall mean Seller except in the term "Government Prime Contractor". Company reserves the right to withhold monies payable to Seller an amount equal to that withheld by Contracting Officer under the Company's prime or higher tier subcontract pursuant to the "Withholding of Funds" clause for any liabilities acts or omissions of Seller or its subcontractor(s)

C. COST OR PRICING DATA.

If Seller is required to furnish a Certificate of Current Cost of Pricing Data substantially in conformance with the form prescribed in FAR Subsection 15.904-4 in connection with the pricing of this Order or any change thereto or modification thereof, the following FAR clauses are incorporated herein by reference: PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA, FAR 52.215-22; PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA-MODIFICATIONS. FAR 52.215-23; SUBCONTRACTOR COST OR PRICING DATA, far 52.215-24; SUBCONTRACTOR COST OR PRICING DATA-MODIFICATIONS, FAR 52.215-25.

Seller agrees to furnish and require its lower tier subcontractors to furnish cost or pricing data as defined in the FAR on a Standard Form 1411 or other form prescribed by Company and a Certificate of Current Cost or Pricing Data substantially in conformance with the form set forth in FAR Subsection 16.804-4 in connection with the pricing of any change to or modification of this Order. Seller agrees to indemnify and hold Company harmless from and against any loss or damage Company may incur which arises out of or results from any failure of Seller or Seller's actual or prospective subcontractors or vendors, at whatever label, to comply with any of the actual or prospective subcontractors or vendors, at whatever level, to comply with any of the foregoing provisions.

D. COST ACCOUNTING STANDARDS.

Unless the face of this Order indicates it is exempt from Cost Accounting Standards provisions, the following provisions apply.

1. Seller shall comply with the provisions of FAR clause 52.230-3 "Cost Accounting Standards," (excluding subparagraph (b) thereof), hereby incorporated herein by reference or, if the face of this Order so indicates, FAR clause 52.230-5, "Disclosure and Consistency of Cost Accounting Practices," (excluding subparagraph (b) thereof), hereby incorporated herein by reference provided, however, that , in lieu of submission of a Disclosure Statement to Company as may be required by either of said clauses, Seller may as appropriate, submit a Certificate of Submittal of Disclosure Statement Containing Privileged information as contained in Company's form approved for that

purpose.

2. Seller shall comply with the provisions of FAR clause 52.830-4 "Administration of Cost Accounting Standards," hereby incorporated herein by reference.
3. As used herein and in the clauses incorporated herein by reference, the Cost Accounting Standards applicable shall be those in effect on the date of this Order or the date of final agreement on price as shown on Seller's "Certificate of Current Cost or Pricing Data", if applicable.
4. In the event Government Contracting Officer of the prime contract under which this Order is issued determines that the Government incurred any increased costs under the prime contract because Seller or a lower tier subcontractor failed to comply with an applicable Cost Accounting Standard, rule or regulation of the Cost Accounting Standards Board or any other provision of this Cost Accounting Standards Clause, and as a result, the prime contract price or the price of this Order is reduced pursuant to the Cost Accounting Standards clause, and as a result, the prime contract price or the price of this Order is reduced pursuant to the Cost Accounting Standards clause in the prime contract or, where the prime contract is on other than a firm fixed price basis, if the price of this Order is disallowed in whole or part, then the price of this Order shall be appropriately reduced and this Order shall be modified in writing as may be necessary to reflect such reduction.
5. Seller agrees to identify and serve Company harmless from and against any loss, damage, liability or expenses caused by any failure of Seller or Seller's lower tier subcontractors or vendors to comply with any of the foregoing provisions.

E. PATENT CLAUSES.

If this Order contemplates or has as one of its purposes experimental developmental, research, design, or engineering work, the following clauses set forth in the indicated Subsections of the FAR and the NASAFARS are, to the extent that such clauses are included in Company's prime or higher tier subcontract under which this Order is placed, incorporated herein by reference: PATENT RIGHTS-ACQUISITION BY THE GOVERNMENT, FAR 52.227-13; PATENT RIGHTS-RETENTION BY THE CONTRACTOR (SHORT FORM), FAR 52.227-12; PATENT RIGHTS-RETENTION BY THE CONTRACTOR (SHORT FORM) FAR 52.227-11; PATENTS-SUBCONTRACTS, DFARS 282-7034; NEW TECHNOLOGY, NASAFARS 1852.227-70

F. CLEAN AIR AND WATER.

Seller shall comply with the provisions of FAR clause 52.223-2 if this Order is over \$100,000 or is of indefinite quantity and expected to exceed \$100,000, or if Seller's facility to be used in connection with this Order has been the subject of a conviction under the Clean Air Act (22 U.S.C. 1318 (c)) and is listed by EPA, or this Order is not otherwise exempt. Seller agrees to indemnify and hold Company harmless to attorneys' fees), or liability resulting from any failure of the Seller or his lower tier subcontractors to comply therewith.

G. CERTIFICATION OF CLAIMS.

Seller shall provide a certification of any claim or request for adjustment submitted by it which forms the basis of a claim or request for adjustment submitted to the Government or Company's customer by the Company. Seller's certification shall be in the form and signed by the appropriate official of the Seller as set forth in the "Disputes" clause, FAR 2.233-1, or the "Certification of Requests for Adjustment or Relief Exceeding \$100,000", DFARS

222,233-7000, as directed by the Company. Seller's shall provide such certification upon request by the Company for any such claim or request for adjustment regardless of the value thereof, Seller shall indemnify and hold harmless the Company for any liability or reduction in Company's claim or request for adjustment to its customer resulting from any false or fraudulent statement or certification submitted by Seller in connection with this Order.

H. LIQUIDATED DAMAGES-SUPPLIES, SERVICES, OR RESEARCH AND DEVELOPMENT.

As prescribed in 11.504(a), the Company may insert the following clause in solicitations and contracts when a fixed-price contract is contemplated for supplies, services, or research and development (see 11.502(b)):

Liquidated Damages-Supplies, Services, or Research and Development (APR 1984)

(a) If the Contractor fails to deliver the supplies or perform the services within the time specified in this contract, or any extension, the Contractor shall, in place of actual damages, pay to the Government as fixed, agreed, and liquidated damages, for each calendar day of delay the sum of (**TBD**).

(b) Alternatively, if delivery or performance is so delayed, the Government may terminate this contract in whole or in part under the Default-Fixed-Price Supply and Service clause in this contract and in that event, the Contractor shall be liable for fixed, agreed, and liquidated damages accruing until the time the Government may reasonably obtain delivery or performance of similar supplies or services. The liquidated damages shall be in addition to excess costs under the Termination clause.

(c) The Contractor shall not be charged with liquidated damages when the delay in delivery or performance arises out of causes beyond the control and without the fault or negligence of the Contractor as defined in the Default-Fixed-Price Supply and Service clause in this contract.