

**SUPPLEMENTAL TERMS AND CONDITIONS - SERVICES
SUBCONTRACT/PURCHASE ORDERS**

APPLICABILITY

When a deliverable item under this Contract includes the provision of Services, the following supplemental terms and conditions shall apply as specified herein. In the event of an inconsistency between these supplemental terms and conditions and another term or condition of this Contract, the "Precedence" Clause of this Contract shall apply and these supplemental terms and conditions shall have the same level of precedence as any other BAEDOC incorporated in the Contract; provided however that to the extent a provision of these supplemental terms and conditions cannot be reconciled with a provision in a "BAEDOC" applicable to this Contract, the provisions of these supplemental terms and conditions shall take precedence over the provision contained in such other BAEDOC.

The following supplemental terms and conditions apply to this Contract:

101. ASSIGNMENT OF NON-U.S. PERSONNEL

- (a) In order to assist BAE SYSTEMS' compliance with U.S. security and export control requirements, SELLER shall not assign any persons who are not United States citizens or aliens granted permanent residency in the United States to work on this Contract without first obtaining BAE SYSTEMS written approval, which approval shall not be unreasonably withheld.
- (b) SELLER shall be responsible for ensuring that all personnel it assigns to this Contract have all required work permits, appropriate licenses, and security clearances necessary to perform the Work. SELLER shall produce such records at any reasonable time upon BAE SYSTEMS request.
- (c) **APPLICABLE TO WORK PERFORMED AT BAE SYSTEMS Ship Repair, Inc. shipyards only:** SELLER is hereby placed on notice that, at any given time, BAE SYSTEMS may have a United States Navy vessel in its shipyard and, in accordance with BAE SYSTEMS' prime contracts, only U.S. citizens are eligible for access to U.S. Navy vessels, work sites and adjacent areas, and shops where work on the naval vessel's equipment is being performed, unless prior approval is obtained for non-U.S. citizens. SELLER warrants that, unless prior approval is obtained for non-U.S. citizens, only U.S. citizens shall have access to BAE SYSTEMS' shipyard.

102. CONTRACT COORDINATION

- (a) BAE SYSTEMS shall appoint a Technical Representative(s) who shall be responsible for maintaining liaison with SELLER's Lead Supervisor(s).
- (b) SELLER shall appoint a Lead Supervisor(s) who shall be responsible for supervising and directing the work of SELLER's employees and maintaining liaison with BAE SYSTEMS' Technical Representative(s).
- (c) BAE SYSTEMS and SELLER shall inform each other, in writing, of names of the Technical Representative(s) and Lead Supervisor(s) appointed.
- (d) All notices to be furnished by SELLER shall be sent to the BAE SYSTEMS Procurement Representative with a copy to the BAE SYSTEMS Technical Representative.
- (e) The BAE SYSTEMS Technical Representative has no authority to make changes in, to amend, or to modify this Contract. Such changes, amendments or modifications can only be made by the

BAE SYSTEMS Procurement Representative and must be in writing.

103. DEFINITIONS

The following terms shall have the meaning set forth below:

"Services" shall mean the time and effort of SELLER in performing identifiable labor tasks which are themselves a deliverable under this Contract. Services covers activities performed both by professional and non-professional personnel of SELLER. Without limiting the foregoing, examples of Services include but are not limited to: engineering design; test functions; training; information technology support; equipment maintenance or repair; temporary labor, and contract labor suppliers; facility improvement, maintenance or repair; security guards; travel administration; and food preparation and cafeteria operations.

Unless expressly otherwise stated, all defined terms used in this Supplement shall have the same meaning set forth in the applicable BAEDOC(s).

104. INDEMNITY BY SELLER

In addition to, and without limiting, the indemnification provisions contained in the BAEDOC(s) applicable to this Contract, the following additional provisions shall apply:

(FOR SUBCONTRACTS UNDER BAE SYSTEMS Ship Repair Inc. and its subsidiaries, the following is superseded by the Indemnity Agreement executed by SELLER in connection with becoming an approved SUBCONTRACTOR of BAE SYSTEMS SHIP REPAIR INC and its subsidiaries.)

(a) **SELLER SHALL INDEMNIFY, HOLD HARMLESS AND, AT BAE SYSTEMS' ELECTION, DEFEND BAE SYSTEMS, ITS DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, AND BENEFITS PLANS FROM AND AGAINST ALL LOSSES, COSTS, CLAIMS, PENALTIES, CAUSES OF ACTION, DAMAGES, LIABILITIES, FEES, AND EXPENSES, INCLUDING, BUT NOT LIMITED TO, REASONABLE ATTORNEYS' FEES, ALL EXPENSES OF LITIGATION AND/OR SETTLEMENT, AND COURT COSTS (HEREINAFTER COLLECTIVELY REFERRED TO AS "CLAIMS"), ARISING FROM OR RELATED TO:**

- (1) **ANY INJURY, INCLUDING BUT NOT LIMITED TO DEATH, TO ANY PERSON(S), OR DAMAGE TO PROPERTY, ARISING FROM OR RELATED TO OR CAUSED OR CLAIMED TO HAVE BEEN CAUSED BY ACTS OR OMISSIONS OF SELLER, ITS DIRECTORS, OFFICERS, EMPLOYEES OR AGENTS, OR ANY OTHER PERSON OR ENTITY DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM, WITH RESPECT TO OR IN CONNECTION WITH SERVICES UNDER THIS CONTRACT.**
- (2) **ANY CLAIMS, MADE BY SELLER'S DIRECTORS, OFFICERS, EMPLOYEES OR AGENTS (EXCEPT CLAIMS FOR PERSONAL INJURY OR DEATH ARISING FROM GROSS NEGLIGENCE OR INTENTIONAL TORTS ON THE PART OF BAE SYSTEMS) AGAINST BAE SYSTEMS OR ITS DIRECTORS, OFFICERS, EMPLOYEES OR AGENTS IN EITHER THEIR OFFICIAL OR INDIVIDUAL CAPACITIES.**

- (3) **ALLEGED IMPROPER CONDUCT OF ANY NATURE OR TYPE, INCLUDING, BUT NOT LIMITED TO, PHYSICAL, MENTAL OR SEXUAL ABUSE OR HARASSMENT, INVASION OF BODILY INTEGRITY, VIOLATION OF CIVIL RIGHTS, AND/OR DISCRIMINATION, BY OR ATTRIBUTABLE TO ANY OF SELLER'S DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, SUPPLIERS OR SUBCONTRACTORS.**
 - (4) **SELLER'S FAILURE TO PAY ANY OF SELLER'S EMPLOYEES, AGENTS, SUPPLIERS, OR SUBCONTRACTORS, FOR SERVICES RENDERED UNDER THIS CONTRACT.**
- (b) SELLER shall notify BAE SYSTEMS as soon thereafter as is practicable, of any Claims arising from or related to subparagraphs 104 (a)(1)-(4). SELLER shall not settle, adjust, or compromise any such claim or any action or proceeding arising therefrom without the written approval of BAE SYSTEMS which shall not be unreasonably withheld. BAE SYSTEMS further agrees to cooperate with any investigation of such Claims and to provide SELLER any information reasonably available to BAE SYSTEMS (not of a classified, confidential or privileged nature), and reasonably necessary for the investigation or defense of such Claims.

105. INDEPENDENT CONTRACTOR RELATIONSHIP

In addition to, and without limiting, the "INDEPENDENT CONTRACTOR RELATIONSHIP" Clause contained in the BAEDOC(s) applicable to this Contract, the following additional provisions shall apply:

- (a) SELLER shall inform BAE SYSTEMS if a former employee of BAE SYSTEMS or its parent, subsidiary or affiliates will be assigned Work under this Contract, and any such assignment shall be subject to BAE SYSTEMS approval.
- (b) SELLER shall provide BAE SYSTEMS with any information about SELLER's personnel that BAE SYSTEMS is required by law to obtain, including, but not limited to, information on "leased employees" and "management services organization" as these terms are used in Sections 414(m), (n) and (o) of the Internal Revenue Code.
- (c) BAE SYSTEMS INFORMATION provided to the SELLER remains the property of BAE SYSTEMS (or third parties as applicable). SELLER shall not use any BAE SYSTEMS INFORMATION for any purpose except to perform this Contract and shall not disclose any BAE SYSTEMS INFORMATION to third parties without the prior written consent of BAE SYSTEMS. Within thirty (30) days of the expiration or termination of this Contract or upon the request of BAE SYSTEMS, SELLER shall return or certify the destruction of all BAE SYSTEMS INFORMATION and any reproductions, and SELLER shall promptly surrender all information or proprietary data developed by SELLER in performance of this Contract, unless its retention is authorized in writing by BAE SYSTEMS.
- (d) SELLER will notify BAE SYSTEMS within two (2) business days upon discovery of (i) any lost or unauthorized altered Business or Personnel Confidential Information collected, held or processed by SELLER on BAE SYSTEMS's behalf, or (ii) any confirmed breaches of its information security systems. SELLER will maintain records of any known or suspected security breaches in accordance with commercially accepted industry practices and will make such records pertaining specifically to BAE SYSTEMS reasonably available to BAE SYSTEMS and its affected customers upon request. Except as required by applicable law, SELLER agrees that it will not inform any third party of any such security breach affecting BAE SYSTEMS data without BAE SYSTEMS's prior written consent. If such disclosure is required by law or regulation, it shall be disclosed only to the extent required by law or regulation and, if so permitted, after a five (5) business day prior written notification to BAE SYSTEMS of the requirement for such disclosure. SELLER will bear the cost of reproduction or any other remedial steps necessary or advisable to address the security breach.
- (e) All SELLER Services will be hosted and provided in the United States of America. In no event shall SELLER allow any person who is not a United States citizen or a lawful permanent resident to work on or have access to, any BAE SYSTEMS data, information or material.
- (f) The provisions set forth above shall take precedence over any conflicting obligations that may be contained in a Proprietary Information Agreement between BAE SYSTEMS and SELLER.

107. INSURANCE/ENTRY ON BAE SYSTEMS OR CUSTOMER PROPERTY

In addition to, and without limiting, the "INSURANCE/ENTRY ON BAE SYSTEMS OR CUSTOMER PROPERTY" Clause contained in the BAEDOC(s) applicable to this Contract, the following additional provisions shall apply:

- (a) SELLER shall not use, display, reproduce or disclose any information, knowledge, or data of BAE SYSTEMS, except as provided under paragraph 106(c) below, which SELLER may receive from BAE SYSTEMS or come in contact with, including but not limited to, proprietary information of BAE SYSTEMS or of others when in possession of BAE SYSTEMS (hereinafter, collectively, BAE SYSTEMS INFORMATION). BAE SYSTEMS INFORMATION includes, but is not limited to, business plans, marketing information, personnel information, information about suppliers, cost estimates, forecasts, bid and proposal data, financial data, metrics, technical information, formulae, algorithms, software, hardware, firmware, compositions, products, processes, methods, procedures, inventions, trade secrets, systems, drawings or designs.
 - (b) Prior to commencement of assignment, SELLER shall have a written agreement with each of its employees performing Work hereunder sufficient to enable SELLER to comply with this paragraph 106.
 - (a) SELLER's personnel, while on BAE SYSTEMS' or Customer's premises, shall not sell, advertise or market any goods or services (other than the goods or services which may be the subject of this Contract) or memberships, or distribute printed, written or graphic materials without BAE SYSTEMS' written permission or as permitted by law.
 - (b) SELLER must coordinate in advance with BAE SYSTEMS access to BAE SYSTEMS' or Customer's premises.
 - (c) SELLER shall, at its sole cost and expense obtain and maintain in force throughout the original term, and any extension, of this Contract (to include the warranty period), the following minimum limits of insurance placed with a company reasonably acceptable to BAE SYSTEMS, each of which shall be primary to any insurance of BAE SYSTEMS:
- (FOR SUBCONTRACTS UNDER BAE SYSTEMS Ship Repair Inc. and its subsidiaries, the following requirements are superseded by

requirements of the Indemnity Agreement executed by SELLER in connection with becoming an approved SUBCONTRACTOR of BAE SYSTEMS Ship Repair Inc. and its subsidiaries.)

(1) Automobile General Liability:

For Owned, Hired & Non-Owned	
(bodily injury)	\$3,000,000 each occurrence
(property damage)	\$3,000,000 each occurrence

(2) Comprehensive General Liability (CGL):

Public Liability (bodily injury)	\$1,000,000 each occurrence \$3,000,000 aggregate
Public Liability (property damage)	\$1,000,000 each occurrence \$3,000,000 aggregate

(3) Employer's Liability: \$1,000,000 each occurrence

(4) Errors & Omissions: \$1,000,000 each occurrence
\$3,000,000 aggregate

(5) Products Liability : \$1,000,000 each occurrence
\$3,000,000 aggregate

(6) Worker's Compensation: Statutory

(7) Umbrella/Excess Liability: \$10,000,000 per occurrence and in the aggregate.

(8) Property and Contractor's Equipment Insurance Sufficient to cover all SELLERs and SELLER's employee owned tools and equipment brought onto BAE SYSTEMS /Customer Property

- (d) The insurance coverage and limits required of the SELLER under this Contract are designed to meet the minimum requirement of BAE SYSTEMS. They are not designed to limit the SELLER'S liability under this Contract or as a recommended insurance program for SELLER. The SELLER alone should seek professional assistance if the SELLER has any question concerning its exposure to loss under this Contract or the applicable insurance coverage that may be necessary to address such exposure.
- (e) SELLER shall cause BAE SYSTEMS its directors, officers, employees and agents to be named as an additional insured under each of the insurance policies required by this Contract, except Workers Compensation. Insurance maintained pursuant to this paragraph shall be considered primary as respects the interest of BAE SYSTEMS and is not contributory with any insurance that BAE SYSTEMS may carry.
- (f) All policies, including Workers Compensation, shall contain a Waiver of Subrogation in favor of BAE SYSTEMS.
- (g) SELLER shall, before commencing work under this Contract, deliver a Certificate of Insurance and/or actual insurance policies required by this Contract. Any Certificate of Insurance shall contain a provision that the coverage provided under the policies, as well as the policies, will not be canceled or materially changed unless the insurers provide BAE SYSTEMS with thirty (30) days written notice of the intent to cancel a policy, or materially change the coverage provided under the policy.
- (h) Unless otherwise specified in this Contract, SELLER shall be responsible for supplying all tools and equipment necessary to perform its Services under this Contract.

108. INTELLECTUAL PROPERTY

In addition to, and without limiting, the "INTELLECTUAL PROPERTY" Clause contained in the BAEDOC(s) applicable to this Contract, the following additional provisions shall apply:

- (a) To the extent that any deliverable items may not, by operation of law, be works made for hire, SELLER hereby assigns to BAE SYSTEMS the ownership of copyright in the deliverable items and BAE SYSTEMS shall have the right to obtain and hold in its own name copyrights, registrations and similar protection which may be available in the deliverable items. SELLER shall provide to BAE SYSTEMS or its designees all assistance reasonably required and documentation necessary to perfect such rights.

109. MAINTENANCE OF RECORDS

In addition to, and without limiting, the "MAINTENANCE OF RECORDS" Clause contained in the BAEDOC(s) applicable to this Contract, the following additional provisions shall apply:

SELLER's records shall also include time records, phone bills, travel receipts, expense reports, and job summaries.

110. MECHANICS AND OTHER LIENS

- (a) **TO THE EXTENT PERMITTED BY LAW, SELLER AGREES THAT IT WILL NOT ASSERT ANY MECHANICS LIEN, OR ANY OTHER LABOR OR MATERIAL LIEN, AGAINST ANY PROPERTY OWNED BY OR IN THE CARE, CUSTODY OR CONTROL OF BAE SYSTEMS TO SECURE PAYMENT OF ANY AMOUNTS THAT MAY BECOME DUE TO SELLER FOR FURNISHING ANY LABOR OR MATERIAL IN PERFORMANCE OF THIS CONTRACT OR FOR PERFORMING ANY WORK ASSOCIATED THEREWITH. SELLER UNDERSTANDS THAT BY ACCEPTING THIS CONTRACT IT HAS WAIVED ITS RIGHTS (IF ANY) TO ASSERT A LIEN AND IT WILL BE PRECLUDED FROM EXERCISING THE MECHANICS LIEN RIGHTS IT MAY OTHERWISE BE AFFORDED UNDER APPLICABLE STATE LAW. SELLER SHALL COOPERATE IN PROVIDING AND FILING ANY WAIVERS AND/OR RELEASES OF LIEN THAT BAE SYSTEMS MAY REQUIRE. IN THE EVENT THAT APPLICABLE LAW DOES NOT PERMIT THE SELLER'S WAIVER OF LIENS IN ADVANCE, SELLER AGREES THAT IT SHALL FOREBEAR FROM FILING A LIEN UNLESS AND UNTIL IT COMPLETES THE WORK REQUIRED BY THE CONTRACT AND WILL PROVIDE A RELEASE AND WAIVER SIMULTANEOUS WITH FINAL PAYMENT UNDER THE CONTRACT.**
- (b) **SELLER agrees to secure releases and waivers of lien in favor of BAE SYSTEMS from SELLER's suppliers and subcontractors coincident with SELLER's final payments to them.** In the event any of SELLER's suppliers or subcontractors assert a mechanics lien, or any other labor or material lien, against any property owned by or in the care, custody or control of BAE SYSTEMS, BAE SYSTEMS at its election may immediately satisfy such lien and charge all amounts (including reasonable attorney's fees) associated with satisfying such lien to SELLER and/or offset such amounts against payments owed to SELLER.

111. OCCUPATIONAL SAFETY AND HEALTH

SELLER shall notify BAE SYSTEMS promptly in writing if a charge of noncompliance with the Occupational Safety and Health Act of 1970, as

amended has been filed against SELLER arising from or related to SELLER's Services performed hereunder on premises owned, leased or operated by BAE SYSTEMS.

112. FAILURE TO MEET PAYROLL

If SELLER fails to meet its payroll or employee benefit obligations and such failure disrupts, delays, or otherwise hinders delivery and/or performance of Work under this Agreement and/or BAE SYSTEMS' prime contract, BAE SYSTEMS may, without accepting responsibility or liability for SELLER's payroll or employee benefit obligations, solicit, recruit, hire, or otherwise employ or retain SELLER's employees who are deemed by BAE SYSTEMS to be necessary for delivery and performance of the Work being provided under this Contract. Any action taken by BAE SYSTEMS under this Article shall not relieve the SELLER of any liability for default under this Contract.

113. NON-SOLICITATION AGREEMENT

- (a) During the Contract and for one (1) year after expiration or termination of this Contract, SELLER agrees that neither it, nor its employees directly supporting this Contract or the BAE SYSTEMS' prime contract shall recruit, solicit, or assist in the recruiting or soliciting for employment, including as a consultant, any technical or professional employees of BAE SYSTEMS who are supporting this Agreement or BAE SYSTEMS' prime contract, without prior written approval from BAE SYSTEMS. Notwithstanding the foregoing, SELLER may utilize non-targeted recruiting efforts without violating this Article.
- (b) SELLER acknowledges and agrees that in the event of a violation of this Article, there are no adequate remedies at law and BAE SYSTEMS will suffer irreparable harm entitling it to seek immediate injunctive relief in addition to any and all other available legal remedies it may have.

114. WARRANTY

In addition to, and without limiting, the "WARRANTY" Clause contained in the BAEDOC(s) applicable to this Contract, the following additional provisions shall apply:

- (a) SELLER warrants that it is and shall remain free of any obligation or restriction which would interfere or be inconsistent with, or present a conflict of interest concerning, the Services to be furnished by SELLER under this Contract.
- (b) SELLER warrants that it will perform the Services under this Contract with the highest degree of professional skill and sound practices and judgment exercised by businesses that perform or offer Services of a similar nature.
- (c) If the Services fail to conform to the foregoing warranty, SELLER, at BAE SYSTEMS' option, shall, without additional charge, promptly re-perform such Services. If re-performance of the Services is not timely or fails to correct the non-conformity, BAE SYSTEMS may elect to replace, re-procure or re-perform the Service at SELLER's expense. All warranties shall run to BAE SYSTEMS and its Customers.
- (d) Malicious Technology
 - a. "Malicious Technology" means any software, electronic, mechanical or other means, device or function, e.g. (key, node, lock, time-out, "back door," "trapdoor," "booby trap," "drop dead device," "data scrambling device," "Trojan Horse,") that would allow Provider or a third party to: (i) monitor or gain unauthorized access to any BAE SYSTEMS system, (ii) use any electronic self-help mechanism or (iii) restrict, disable, limit or impair the performance of a BAE SYSTEMS system.

- b. SELLER warrants that the Services will not: (i) contain any Malicious Technology, (ii) monitor BAE SYSTEMS's use of the Services; (iii) replicate, transmit or activate itself without control of a person operating the computing equipment on which it resides; or (iv) alter, damage or erase any data or computer programs resident on BAE SYSTEMS computers or hardware without control of a person operating the computing equipment on which it resides. If SELLER is in breach of this subsection, no "right to cure" period will apply. BAE SYSTEMS reserves the right to pursue any available civil or criminal action against SELLER for violation of this provision. SELLER will not install, use or execute any software on any BAE SYSTEMS CPUs without BAE SYSTEMS's written approval. SELLER acknowledges that it does not have any right to electronically repossess or use any self-help related to the Services.

114. SUBCONTRACTORS

- a) By appropriate agreement, written where legally required for validity, the CONTRACTOR shall require each SUBCONTRACTOR, to the extent of the Work to be performed by the SUBCONTRACTOR, to be bound to the CONTRACTOR by terms of the Contract Documents, and to assume toward the CONTRACTOR all the obligations and responsibilities which the CONTRACTOR, by the Contract Documents, assumes toward BAE SYSTEMS or others as specified therein. Each SUBCONTRACTOR agreement shall preserve and protect the rights of BAE SYSTEMS or others as specified therein under the Contract Documents with respect to the Work to be performed by the SUBCONTRACTOR so the subcontracting thereof will not prejudice such rights, and shall allow to the SUBCONTRACTOR, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies and redress against the CONTRACTOR that the CONTRACTOR, by the Contract Documents, has against BAE SYSTEMS. The CONTRACTOR shall make available to each proposed SUBCONTRACTOR, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the SUBCONTRACTOR will be bound, and, upon written request of the SUBCONTRACTOR, identify to the SUBCONTRACTOR, terms and conditions of the proposed subcontract agreement which may be at variance with the Contract Documents.