

Seager Mechanical Systems, llc, dba, STRUCTURAL MECHANICAL SYSTEMS

GENERAL TERMS AND CONDITIONS

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Subcontracting and Assignment

The Purchase Order may not be subcontracted in whole or in part nor assigned, nor may any assignment of any money due or to become due be made by Seller without in each case, the prior written consent of Seager Mechanical Systems, dba, Structural Mechanical Systems (herein after referred to as 'SMS') and if required by the US Government.

Property

From time to time, SMS or the Government directly, will furnish property (as defined by the FAR) to the Seller. The FAR Part 45 clause regarding property incorporated into the Prime Contract, shall govern with respect to handling and safekeeping of Government property. Representatives of both SMS and the Government shall have the right to inspect the property at reasonable times, as well as records attendant thereto.

Changes

- (a) Buyer 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, Buyer shall make an equitable adjustment in the Contract Price, the performance or delivery schedule, or both, and shall so modify this Contract. If Buyer changes the Contract delivery date(s) such that Seller is required to work overtime, Buyer shall pay therefore an amount equal only to Seller's actual additional labor costs occasioned by such overtime.
- (b) Buyer's or the Government's engineering and technical personnel may from time to time render assistance or give technical advice or discuss or exchange information with Seller'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.
- (c) Within twenty (20) days from the date of receipt of any written change order, Seller shall submit to Buyer a detailed written estimate of the impact of the change on the Contract Price, the performance or delivery schedule, and the performance capabilities of any Contract Products. Upon receipt of this estimate, Buyer shall begin good faith negotiations with Seller to determine an equitable adjustment to the Contract.

Compliance with Law

Seller 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.

Computation of Time

All periods of time shall be computed by including Saturdays, Sundays and U.S. holidays, except that if such period terminates on a Saturday, Sunday or U.S. holiday, it shall be deemed extended to the U.S. business day next succeeding.

Proprietary Data

This Purchase Order, together with all attachments, whether physically incorporated or incorporated by reference, is considered proprietary to SMS and the Government. As such, the data shall not be reproduced, transmitted in any form, used or disclosed by Seller to any third party without the express written permission of an authorized representative of SMS. In the event the subcontractor shall require the use of proprietary data in the performance of other Government contracts on which the subcontractor is working directly for the Government, the subcontractor shall be allowed to do so. Please note that this allowance does not extend to proprietary data that is owned solely by SMS.

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.

Termination and Default

SMS 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 SMS terminates this Purchase Order for either convenience or default.

Deliveries

Deliveries are to be made both in quantities and at the times specified in this Contract. Buyer accepts no liability for payment for Contract Products delivered which are in excess of the quantity specified unless such excess is agreed upon in advance by Buyer in writing. Except as otherwise provided in this Contract, no payment for extra quantities shall be made unless such extra quantities and the price therefor have been authorized in writing by Buyer.

Disputes

With respect to any claim that may arise between the Seller and SMS for which the government is or may be liable, Seller agrees that it will prepare its claim and will timely present it to SMS 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. Seller agrees to proceed diligently with the performance of the Purchase Order, including any Change Orders, pending resolution of any dispute. Except as may be expressly set forth in this Document with the Government Contracting Officer's express consent, the Seller shall not acquire any direct claim or direct course of action against the US Government. If the Seller desires to pursue action against the Government after expiration of the subcontract/purchase order, then the Seller should feel free to do so.

Export Control Compliance

- If Seller is organized to do business in the United States, Seller 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.
 - The Vessel and the Contract Products are deemed to be "defense articles" under the ITAR. This Contract may require Seller to furnish "defense services" and/or export "technical data" as defined in the ITAR.
 - Seller 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, and Department of State.
 - Technical data and defense services furnished by Buyer to Seller are authorized for use only by Seller and may not be exported or re-exported without a license or other approval from DTC.
 - If Seller desires to authorize Buyer to export technical data directly to, or furnish defense services to, a sub-tier supplier that is a foreign person, Seller shall include Buyer as a third party signatory on any export license or other approval prior to Buyer's exporting technical data to, or furnishing a defense service to, any such foreign person sub-tier supplier.

- Seller shall provide to Buyer, upon request, all licenses or other approvals obtained by Seller in compliance with the above requirements, redacted if Seller desires to prevent the disclosure of any proprietary data.
- If Seller is not organized to do business in the United States, Seller 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. Seller shall execute any documents required by Buyer in order for Buyer to lawfully export defense articles, defense services or technical data, or furnish defense services, to Seller in the performance of this Contract.

Force Majeure

- Any delay or failure of performance by Seller 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 Seller, which by exercise of due diligence, Seller 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, Seller's labor problems (including strikes and slowdowns but excluding lockouts), power failures, and acts of government.
- Seller shall provide notice to Buyer of the occurrence of Force Majeure no later than fifteen (15) days after Seller knows or has reason to know of the existence of the Force Majeure event, and such notice shall include Seller'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 Buyer. Seller 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.

Gratuities and Kickbacks

No gratuities (in the form of entertainment, gifts or otherwise) or kickbacks shall be offered or given by Seller to any employee of Buyer with a view toward securing favorable treatment as a supplier or subcontractor.

Warranties

SELLER AGREES THAT FOR ALL WORK PROVIDED PURSUANT TO THE PURCHASE ORDER, SELLER SHALL GIVE THE WARRANTIES CALLED FOR IN THE PRIME CONTRACT, AND THAT SUCH WARRANTIES SHALL RUN FROM THE LATER OF REDELIVERY OF THE VESSEL(S) TO THE GOVERNMENT OR COMPLETION OF THE WORK. ADDITIONALLY, THE SELLER 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 SELLER'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). SMS SHALL NOT BE DEEMED TO HAVE ACCEPTED ANY WORK FURNISHED BY THE SELLER PURSUANT TO THE PURCHASE ORDER UNTIL THEY HAVE BEEN FINALLY ACCEPTED BY THE GOVERNMENT UNDER THE PRIME CONTRACT AND THE WARRANTY PERIOD HAS EXPIRED. SMS MAY, AT ANY TIME DURING THE WARRANTY PERIOD, REQUIRE THE SELLER TO REMEDY BY REPAIR, CORRECTION, OR REPLACEMENT, WITHOUT COST TO SMS, ANY OF THE WORK PROVIDED BY THE SELLER WHICH FAILS TO COMPLY WITH THE REQUIREMENTS OF THE PURCHASE ORDER, INCLUDING THE ABOVE WARRANTIES, NO MATTER WHAT THE CAUSE.

Insurance and Indemnification

- Seller 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. SMS shall be named as an additional insured under all required policies. Seller shall provide SMS a Certificate of Insurance showing proof of the required coverages. The Seller'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. Seller shall be bound by all terms and conditions of the insurance clauses contained in the Prime Contract.

GENERAL TERMS AND CONDITIONS

- Seller agrees to indemnify, defend, and hold harmless SMS, 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.

General Terms

- 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.
- The relationship between SMS and the Seller pursuant to any Purchase Order shall be that of an independent contractor and Seller is not an employee, servant, joint venture, or agent for SMS.
- 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.

Acceptance

- Title to supplies furnished under this contract shall pass to the Government upon formal acceptance, regardless of when or where SMS (or the eventual customer) takes physical possession, unless the contract/purchase order specifically provides for earlier passage of title.
- Unless the contract specifically provides otherwise, risk of loss of or damage to supplies shall remain with the Supplier until, and shall pass to SMS upon-
 - Delivery of the supplies to a carrier, if transportation is f.o.b. origin; or
 - Acceptance by SMS or delivery of the supplies to the eventual customer at the destination specified in the contract/purchase order, whichever is later, if transportation is f.o.b. destination.
- Paragraph (b) of this clause shall not apply to suppliers that fail to conform to contract requirements as to give a right of rejection. The risk of loss of or damage to such nonconforming supplies remains with the Supplier until cure or acceptance. After cure or acceptance, paragraph (b) of this clause shall apply. Under paragraph (b) of this clause, the Supplier shall not be liable for loss of or damage to supplies caused by the negligence of officers, agents, or employees of SMS acting within the scope of their employment.

- Federal Acquisition Regulation 46.501 is hereby incorporated into this contract/ purchase order and shall govern the acceptance of all supplies/equipment. In the event of conflict between the aforementioned FAR clause and the paragraphs set forth above, the FAR clause shall prevail.

Price and Payment

- The price of this order includes all federal, state and local taxes from which the Seller cannot obtain exemption. The Purchase Order price is set forth in the Purchase Order and shall not be subject to modification, increase or decrease unless so directed in writing by the SMS Buyer.
- After completion of the work and upon submission of a proper invoice, Seller shall be paid the Prices specified after delivery and acceptance of the completed work, less any deductions or other amounts withheld by the government and less amounts previously paid as progress payments. It is, however, expressly agreed that no compensation shall be due Seller until payment is received by SMS from the Sponsor. (c) The date for any cash discount shall commence on the day the material is accepted or the date of receipt of a proper invoice, whichever is later. (d) Unless otherwise agreed in writing, SMS will not pay any charges for packing and crating. (e) All containers, bills of lading and packing slips shall list the Purchase Order number. The F.O.B. point is the place of performance as noted on the Purchase Order unless otherwise specified.

Liens

Seller shall immediately discharge or cause to be discharged any lien or right in rem of any kind, other than in favor of the government, which at any time exists or arises in connection with work done or materials furnished under the Purchase Order with respect to the machinery, fittings, equipment or materials for the Vessel(s). At SMS's request seller shall furnish SMS a formal and full release of rights in rem.

Notices

Notices required by this Contract to be given by Seller or Buyer 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 email (with the time of confirmation of receipt by the addressee); or deposited in the U.S. Mail, first class postage prepaid.

Quality

~~Seller shall provide and maintain a commercially reasonable quality control system that~~

complies with the quality control requirements of this Contract. Records of all quality control inspection work by Seller shall be kept complete and available to Buyer and the Government.

Survival

In the event of completion or termination of this contract/purchase order, the terms and conditions set forth in the Insurance and Indemnification and Proprietary Rights articles shall survive and remain in full force and effect for a period of five (5) years after termination or completion of the contract/order.

Performance Period

TIME IS OF THE ESSENCE IN THIS PURCHASE ORDER. The Seller shall begin performance on the date set forth in the Purchase Order and shall complete all work within the time specified therein. Failure to perform the work within the performance period shall be considered a material breach of this Purchase Order and could result in SMS taking action against the Seller, up to and including termination for default.

Title and Risk of Loss

Title to and risk of loss of all equipment/supplies furnished to or procured by the supplier under the terms of this contract/purchase order shall be governed by FAR Part 45.4, which is incorporated into this contract/purchase order by reference. Where the term Government is used in the FAR citation, this term shall be construed to mean "SMS".

Safety

- The safe conduct of all persons employed by Seller or its subcontractors or vendors shall be the sole responsibility of Seller. Seller shall take all reasonable precautions in the performance of the Contract Work to protect the health and safety of such employees and others and to minimize danger from all hazards to life and property. Seller shall comply with all applicable United States, state, and local health, safety and fire protection laws and regulations, including, but not limited to, the applicable portions of related NAVSEA Standard Items, the Occupational Safety and Health Standards 29 CFR 1910, Occupational Safety and Health Standards for Shipyard Employment 29 CFR 1915 Code Regulations. Seller shall also comply with Buyer's safety policies and procedures. Seller is solely responsible for informing itself of said laws, regulations, policies and procedures. Buyer's Safety Manual and other materials are available at Buyer's Safety Department. In any event where the aforesaid laws, regulations, policies and procedures are in conflict, Seller shall comply with the item providing the greatest safety protection. Any failure by Seller or any of its suppliers to comply with any such safety policies, procedures, laws or regulations shall constitute a default. Under no circumstance shall compliance with Buyer's safety policies and procedures alone be considered complete

satisfaction of the requirements of this subparagraph.

- Seller's occupational health and safety management system shall incorporate measures which reasonably demonstrate that its employees are competent to perform their tasks safely and ensure that, in the performance of this Contract, hazards to health and safety have been eliminated where possible or are being controlled through formal planning methods and procedures.
- Seller shall complete the following prior to commencement of performance of the Contract Work:
 - Provide to Buyer's Safety Department the name, telephone number and title or position of the person who has the authority to correct any safety violations by Seller during the performance of the Contract Work ("Seller's Safety Representative").
 - Seller's Safety Representative, together with equivalent representatives of Seller's suppliers who are expected to perform at Buyer's facilities, shall meet with Buyer's Safety Manager or designee to review applicable safety policies and procedures.
 - Provide to Buyer's Safety Department a copy of Seller's written safety policies and procedures.
 - Provide to Buyer's Safety Department a copy of all Material Safety Data Sheets ("MSDS") for all chemical compounds that Seller anticipates using in performing Contract Work at Buyer's facilities.
 - Seller's Employees are required, if applicable, to complete the Virginia Ship Repair Association (VSRA) Safety Orientation online at <http://otraining.virginiashiprepair.org>.
- Seller represents and warrants that all equipment used by Seller to perform any Contract Work at Buyer's facilities conforms to all federal and state safety standards.
- Seller represents and warrants that Seller's employees and suppliers' employees performing Contract Work at Buyer's facilities are properly trained in all Federal, State, and local health, safety and fire protection laws and regulations and Buyer's safety policies and procedures, applicable to the Contract Work.

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- Seller shall report all recordable occupational injuries or illnesses (as defined in 29 CFR 1904.12(c)) occurring at Buyer's facilities during performance of the Contract Work in accordance with the following procedures:
 - Seller shall make an initial report to Buyer's Safety Department within four hours of the incident. This report shall consist of the name of the injured person, place of occurrence, nature of the injury, and a brief description of the incident.
 - Seller shall submit a written final report in the form of a formal accident investigation report, within 24 hours of the incident, using SMS Form for Supervisor's Injury Analysis available at buyer's Safety Department or any other form which includes all necessary information. This report shall be delivered to buyer's Safety Department in person or by email to SMSAdmin@structural-mechanical.com.
- Seller shall immediately notify Buyer's Safety Department, in writing, upon receiving notice of any inspection from either United States OSHA or local OSHA representatives, of their work area at Buyer's facilities. In the event of such an inspection, Seller shall permit Buyer's personnel to be present at any opening conference, the inspection and any closing conference, and Seller shall provide Buyer with copies of all correspondence, including citations, received from OSHA.
- If, in Buyer's sole opinion, Seller fails to comply with this Safety paragraph, Buyer, may without prejudice to any other legal or contractual rights of Buyer, issue an order stopping all or part of the Contract Work. Seller shall have no claim for extension of time or for compensation or damages by reason of or in connection with such work stoppage.
- Seller shall remove from Buyer's facilities any of Seller's or Seller's suppliers' employees immediately upon Buyer's request based upon (in Buyer's sole opinion) violation of Buyer's safety policies or procedures, or violation of applicable United States, state or local safety laws or regulations.

Security

Seller shall comply with Buyer's security policies and procedures regarding personnel administration, vehicle operations, and general security practices. Seller shall comply with SMS Access Control Procedures. Willful or repeated negligent noncompliance by Seller or any of its subcontractors or vendors with any such security policies or procedures shall constitute a default.

Prime Contract

It is understood and agreed that for the purposes of any Purchase Order issued by SMS Corporation, the term Prime Contract may mean a prime contract issued by a Federal

GENERAL TERMS AND CONDITIONS

Government Agency, a Subcontract issued by a Prime Contractor or any other agreement under which SMS may be authorized to perform work. As an authorized supplier under the prime contract, certain contract provisions and/or Federal Acquisition Regulation (FAR) clauses will be automatically flowed down, all of which the Supplier must adhere to. Accordingly, the prime contract identified in this Purchase Order is hereby incorporated by reference. SMS will make the prime contract available to the Supplier should they require a copy.

FAR & DFAR FLOWDOWN PROVISIONS

PROVISIONS INCORPORATED BY REFERENCE. The 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 SMS's Prime Contract. The full text of a clause may be accessed electronically at this address: <https://www.acquisition.gov/content/regulations>