

Attachment A-1 - NGSS – DDG 1000 SHIPYARD SPECIFIC TERMS AND CONDITIONS**1. ACCESS TO VESSELS BY NON-U.S. CITIZENS**

- (a) No person not known to be a U.S. Citizen shall be eligible for access to naval vessels, work sites and adjacent areas when said vessels are under construction, conversion, overhaul, or repair, except upon a finding by COMNAVSEA or his designated representative that such access should be permitted in the best interest of the United States. The SELLER shall establish procedures to comply with this requirement and NAVSEAINST 5500.3 (series) in effect on the date of this contract or agreement.
- (b) If the SELLER desires to employ non-U.S. citizens in the performance of work under this contract or agreement that requires access as specified in paragraph (a) of this requirement, approval must be obtained prior to access for each contract or agreement where such access is required. To request such approval for non-U.S. citizens of friendly countries, the SELLER shall submit to BUYER, an Access Control Plan (ACP) which shall contain as a minimum, the following information:
 - (1) Badge or Pass oriented identification, access, and movement control system for non-U.S. citizen employees with the badge or pass to be worn or displayed on outer garments at all times while on the BUYER's facilities and when performing work aboard ship.
 - (a) Badges must be of such design and appearance that permits easy recognition to facilitate quick and positive identification.
 - (b) Access authorization and limitations for the bearer must be clearly established and in accordance with applicable security regulation and instructions.
 - (c) A control system, which provides rigid accountability procedures for handling lost, damaged, forgotten or no longer required badges, must be established.
 - (d) A badge or pass check must be performed at all points of entry to the BUYER's facilities or by a site supervisor for work performed on vessels outside the BUYER's plant.
 - (2) SELLER's plan for ascertaining citizenship and for screening employees for security risk.
 - (3) Data reflecting the number, nationality, and positions held by non-U.S. citizen employees, including procedures to update data as non-U.S. citizen employee data changes, and pass to cognizant CAO.
 - (4) SELLER's plan for ensuring subcontractor compliance with the provisions of the SELLER's ACP.
 - (5) These conditions and controls are intended to serve as guidelines representing the minimum requirements of an acceptable ACP. They are not meant to restrict the SELLER in any way from imposing additional controls necessary to tailor these requirements to a specific facility.
- (c) To request approval for non-U.S. citizens of hostile and/or communist- controlled countries (Listed in Department of Defense Industrial Security Manual, COC 5220.22M or available from cognizant CAO), SELLER shall include in the ACP the following employee data: name, place of birth, citizenship (if different from place of birth), date of entry to U.S., extenuating circumstances (if any) concerning immigration to U.S., number of years employed by SELLER, position, and stated intent concerning U.S. citizenship. COMNAVSEA or his designated representative will make individual determinations for desirability of access for above group. Approval of ACP's for access of non-U.S. citizens of friendly countries will not be delayed for approval of non-U.S. citizens of hostile communist-controlled countries. Until approval is received, SELLER must deny access to vessels for employees who are non-U.S. citizens of hostile and/or communist-controlled countries.
- (d) An ACP, which has been approved for specific Master Ship Repair Agreement (MSRA) or Agreement for Boat Repair (ABR) or Basic Ordering Agreement (BOA), is valid and applicable to all job orders awarded under that agreement.
- (e) The SELLER shall fully comply with approved ACPs. Noncompliance by the SELLER or subcontractor serves to cancel any authorization previously granted, in which case the SELLER shall be precluded from the continued use of non-U.S. citizens on this contract or agreement until such time as the compliance with an approved ACP is demonstrated and upon a determination by the CAO that the Government's interests are protected. Further, the Government and BUYER reserve the right to cancel previously granted authority when such cancellation is determined to be in the Government's or BUYER's best interest. Use of non-U.S. citizens, without an approved ACP or when a previous authorization has been canceled, will be considered a violation of security regulations. Upon confirmation by the CAO of such violation, this contract, agreement or any job order issued under this agreement may be terminated.
- (f) SELLER shall have full responsibility for the proper administration of the approved ACP for all work performed under this contract or agreement, regardless of the location of the vessel, and must ensure compliance by all of its subcontractors, technical representatives and other persons granted access to U.S. Navy vessels, adjacent areas, and work sites.
- (g) In the event SELLER does not intend to employ non-U.S. citizens in the performance of the work under this contract, but has non-U.S. citizen employees, such employees must be precluded from access to the vessel and its work site and those shops where work on the vessel's equipment is being performed. The ACP must spell out how non-U.S. citizens are excluded from access to contract work areas.

1. ACCESS TO VESSELS BY NON-U.S. CITIZENS (Continued)

- (h) The same restriction as in paragraph (g) above applies to other than non-U.S. citizens who have access to the BUYER's facilities (e.g., for accomplishing facility improvements, from foreign-crewed vessels within its facility, etc.). ascending levels of ACCESS TO VESSELS BY NON-U.S. CITIZENS.
- (i) No person not known to be a U.S. Citizen shall be eligible for access to naval vessels, work sites and adjacent areas when said vessels are under construction, conversion, overhaul, or repair, except upon a finding by COMNAVSEA or his designated representative that such access should be permitted in the best interest of the United States. The SELLER shall establish procedures to comply with this requirement and NAVSEAINST 5500.3 (series) in effect on the date of this contract or agreement.
- (j) If the SELLER desires to employ non-U.S. citizens in the performance of work under this contract or agreement that requires access as specified in paragraph (a) of this requirement, approval must be obtained prior to access for each contract or agreement where such access is required. To request such approval for non-U.S. citizens of friendly countries, the SELLER shall submit to BUYER, an Access Control Plan (ACP) which shall contain as a minimum, the following information:
 - (1) Badge or Pass oriented identification, access, and movement control system for non-U.S. citizen employees with the badge or pass to be worn or displayed on outer garments at all times while on the BUYER's facilities and when performing work aboard ship.
 - (a) Badges must be of such design and appearance that permits easy recognition to facilitate quick and positive identification.
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 - (c) A control system, which provides rigid accountability procedures for handling lost, damaged, forgotten or no longer required badges, must be established.
 - (d) A badge or pass check must be performed at all points of entry to the BUYER's facilities or by a site supervisor for work performed on vessels outside the BUYER's plant.
 - (2) SELLER's plan for ascertaining citizenship and for screening employees for security risk.
 - (3) Data reflecting the number, nationality, and positions held by non-U.S. citizen employees, including procedures to update data as non-U.S. citizen employee data changes, and pass to cognizant CAO.
 - (4) SELLER's plan for ensuring subcontractor compliance with the provisions of the SELLER's ACP.
 - (5) These conditions and controls are intended to serve as guidelines representing the minimum requirements of an acceptable ACP. They are not meant to restrict the SELLER in any way from imposing additional controls necessary to tailor these requirements to a specific facility.
- (k) To request approval for non-U.S. citizens of hostile and/or communist- controlled countries (Listed in Department of Defense Industrial Security Manual, COC 5220.22M or available from cognizant CAO), SELLER shall include in the ACP the following employee data: name, place of birth, citizenship (if different from place of birth), date of entry to U.S., extenuating circumstances (if any) concerning immigration to U.S., number of years employed by SELLER, position, and stated intent concerning U.S. citizenship. COMNAVSEA or his designated representative will make individual determinations for desirability of access for above group. Approval of ACP's for access of non-U.S. citizens of friendly countries will not be delayed for approval of non-U.S. citizens of hostile communist-controlled countries. Until approval is received, SELLER must deny access to vessels for employees who are non-U.S. citizens of hostile and/or communist-controlled countries.
- (l) An ACP, which has been approved for specific Master Ship Repair Agreement (MSRA) or Agreement for Boat Repair (ABR) or Basic Ordering Agreement (BOA), is valid and applicable to all job orders awarded under that agreement.
- (m) The SELLER shall fully comply with approved ACPs. Noncompliance by the SELLER or subcontractor serves to cancel any authorization previously granted, in which case the SELLER shall be precluded from the continued use of non-U.S. citizens on this contract or agreement until such time as the compliance with an approved ACP is demonstrated and upon a determination by the CAO that the Government's interests are protected. Further, the Government and BUYER reserve the right to cancel previously granted authority when such cancellation is determined to be in the Government's or BUYER's best interest. Use of non-U.S. citizens, without an approved ACP or when a previous authorization has been canceled, will be considered a violation of security regulations. Upon confirmation by the CAO of such violation, this contract, agreement or any job order issued under this agreement may be terminated.
- (n) SELLER shall have full responsibility for the proper administration of the approved ACP for all work performed under this contract or agreement, regardless of the location of the vessel, and must ensure compliance by all of its subcontractors, technical representatives and other persons granted access to U.S. Navy vessels, adjacent areas, and work sites.
- (o) In the event SELLER does not intend to employ non-U.S. citizens in the performance of the work under this contract, but has non-U.S. citizen employees, such employees must be precluded from access to the vessel and its work site and those shops where work on the vessel's equipment is being performed. The ACP must spell out how non-U.S. citizens are excluded from access to contract work areas.

1. ACCESS TO VESSELS BY NON-U.S. CITIZENS (Continued)

- (p) The same restriction as in paragraph (g) above applies to other than non-U.S. citizens who have access to the BUYER's facilities (e.g., for accomplishing facility improvements, from foreign-crewed vessels within its facility, etc.).

2. COMMERCIAL BILL OF LADING NOTATIONS

The SELLER shall insure that the commercial shipping documents are annotated with either of the following notations, as appropriate:

- (a) When the Government is shown as consignor or consignee, the notation:
- (b) "Transportation is for the U. S. Department of Defense and the actual total transportation charges paid to the carrier(s) by the consignor or consignee are assignable to, and shall be reimbursed by, the Government."
- (c) When the Government will not be shown as consignor or consignee, the notation:

"Transportation is for the U. S. Department of Defense, and the actual total transportation charges paid to the carrier(s) by the consignor or consignee shall be reimbursed by the Government pursuant to contract No. N00024- 06-C-2304. This may be confirmed by contracting Supervisor of Shipbuilding, Conversion and Repair, U.S. Navy, Pascagoula, MS 39568-2210."

3. DISPUTES

- 3.1 Any dispute that may arise under or in connection with this SUBCONTRACT and/or DELIVERY ORDER with respect to the rights, duties, or obligations of the Parties shall be reduced to writing and submitted for resolution to management of the respective parties up to the: NGSS Vice President of Procurement, Material Acquisition; and the Seller's equivalent level executive.
- 3.2 If a dispute cannot be resolved by the Parties' mutual satisfaction, after good faith negotiations, within ninety (90) calendar days from the date the written claim is received by the other Party, or such additional time as the Parties agree upon in writing, either Party may bring suit in the Federal or State court only as prescribed in the Clause entitled "Governing Law."
- 3.3 Pending final resolution of any dispute under this SUBCONTRACT and/or DELIVERY ORDER, Seller agrees to proceed diligently with the performance of this SUBCONTRACT and/or DELIVERY ORDER and in accordance with the decision of Buyer.
- 3.4 Pursuant to FAR 52.233-1 Disputes, Buyer is required to assert a claim, request for equitable adjustment, or demand for payment under a ship construction contract within six (6) years from the time the events arose which gave rise to the claim, request or demand. Accordingly, the Buyer shall not be responsible or liable to the Seller for any claim, request for equitable adjustment or demand for payment under this SUBCONTRACT and/or DELIVERY ORDER arising out of events occurring more than seventy (70) months before the submission of the claim, request, or demand if such events would also require a change to the Prime Contract or otherwise be subject to a Final Decision of the Government Contracting Officer under the Clause entitled "Disputes." "Events" shall be defined as any Buyer action, inaction or conduct which the Seller considers would give rise to a claim, request for equitable adjustment, demand for payment, or would constitute or would require a change to this SUBCONTRACT and/or DELIVERY ORDER, the Prime Contract, or any other contract concerning the Government, thereby requiring the issuance of a notice pursuant to the Clause entitled "Notification of Changes."
- 3.5 A claim, request or demand shall be considered to have been "submitted" only when the Seller has provided the Buyer with (i) the certification, by a senior company official, required by Paragraph 9.6 below and (ii) adequate supporting data for the claim, request or demand. "Adequate supporting data" and "certification" shall be defined to include those corresponding requirements identified in FAR Part 15, Subpart 400.
- 3.6 The certification required in Paragraph 9.5 above shall be in the following format:
- "I certify that the claim is made in good faith, that the supporting data are accurate and complete to the best of my knowledge and belief, and that the amount requested accurately reflects the SUBCONTRACT and/or DELIVERY ORDER adjustment for which the Seller believes Buyer is liable. (Senior Company Official)"
- 3.7 In addition to the above, Seller shall comply with the provisions of NAVSEA 5252.233-9107 (AT) and Alternate I (Apr 1999) that specify the content and information related to any claim Seller submits to Buyer under this SUBCONTRACT and/or DELIVERY ORDER.
- 3.8 Notwithstanding the foregoing provisions or any other provisions in the FAR, DFAR, NAVSEA and NAPs clauses incorporated herein, all disputes between Buyer and Seller shall be resolved in accordance with this Clause (3) entitled "Disputes, and will not be passed through to the Navy absent the written agreement and consent of the Buyer.

4. DATA DELIVERY IN INTEGRATED DATA ENVIRONMENT

For technical data not otherwise identified as a Contract or Subcontract Data Requirements List deliverable, the SELLER agrees that upon its inclusion in the DDG 1000 Integrated Data Environment, such data shall be considered as "delivered" to the BUYER and Government for purposes of determining rights to technical data.

5. EXPORT COMPLIANCE

- 5.1 Seller is advised that its performance of this Subcontract may involve the use of or access to articles, technical data or software that is subject to export controls under 22 United States Code 2751 - 2796 (Arms Export Control Act) and 22 Code of Federal Regulations 120-130 (International Traffic in Arms Regulations) or 50 United States Code 2401 - 2420 (Export Administration Act) and 15 Code of Federal Regulations 768 - 799 (Export Administration Regulations) and their successor and supplemental laws and regulations (collectively hereinafter referred to as the "Export Laws and Regulations"). Seller represents and warrants that it is either 1) a U.S. Person as that term is defined in the Export Laws and Regulations, or 2) that it has disclosed to Buyer's Representative in writing the country in which it is incorporated or otherwise organized to do business, or if a natural person, all citizenships and US immigration status. Seller shall comply with any and all Export Laws and Regulations, and any license(s) issued thereunder.
- 5.2 Foreign Personnel. Seller shall not give any Foreign Person access to Technical Data or software as those terms are defined in the applicable Export Laws and Regulations without the prior written consent of Buyer. Any request for such consent must state the intended recipient's citizenship(s), and status under 8 U.S.C. 1101 and 8 U.S.C. 1324 (the "Immigration and Naturalization Act"), and such other information as Buyer may reasonably request. No consent granted by Northrop Grumman Ship Systems in response to Seller's request under this paragraph (d) shall relieve Seller of its obligations to comply with the provisions of paragraph or the Export Laws and Regulations, nor shall any such consent constitute a waiver of the requirements of paragraph , nor constitute consent for Seller to violate any provision of the Export Laws and Regulations.
- 5.3 Indemnification. Seller shall indemnify and save harmless Northrop Grumman Ship Systems from and against any and all damages, liabilities, penalties, fines, costs, and expenses, including attorneys' fees, arising out of claims, suit, allegations or charges of Seller's failure to comply with the provisions of this clause and breach of the warranty set forth in paragraph a. Any failure of Seller to comply with the requirements or any breach of the warranty contained in this clause shall be a material breach of this Subcontract.
- 5.4 Subcontracts. The substance of this clause shall be incorporated into any subcontract entered into by the Seller for the performance of any part of the work under this Subcontract.

6. EXTENSION OF COMMERCIAL WARRANTY (NAVSEA) (NOV 1996)

The SELLER shall extend to the BUYER and Government the full coverage of any standard commercial warranty normally offered in a similar commercial sale, provided that such warranty is available at no additional cost to the BUYER and Government. The SELLER shall provide a copy of the standard commercial warranty with the item, and mark the item with a reference to the specific terms and condition of the warranty to ease the maintainer's ability to understand that the item is under warranty. The standard commercial warranty period shall begin upon the final acceptance of the applicable material or software. Acceptance of the standard commercial warranty does not waive the BUYER's and the Government's rights under the "Inspection" Article, nor does it limit the BUYER and Government's rights with regard to other terms and conditions of the contract. In the event of a conflict, the terms and conditions of the contract shall take precedence over the standard commercial warranty.

7. FOREIGN SHIPYARD CONSTRUCTION PROHIBITION (JAN 1983)

In accordance with H-7 NAVSEA 5252.225-9100, neither the vessel nor the hull, mid-body, nor other major fixed structural component of the vessel shall be constructed in a foreign shipyard.

8. GIFTS OR CONSIDERATIONS

SELLER warrants that it has not and will not offer to make any gift to any employee of BUYER or any of its agents for doing or forbearing to do any act, or for showing any favor or disfavor to any person, with respect to the award of this Order, or any work performed hereunder. BUYER shall have the right to deduct from the contract price the full amount of any such gift made by SELLER in breach of this warranty and may terminate this Order for default for breach of this warranty by SELLER.

9. IDENTIFICATION MARKING OF PARTS (NAVSEA) (NOV 1996)

Identification marking of individual parts within the systems, equipments, assemblies, subassemblies, components, groups, sets or kits, and of spare and repair parts shall be done in accordance with applicable specifications and drawings. To the extent identification marking of such parts is not specified in applicable specifications or drawings, such markings shall be accomplished in accordance with the following:

- (a) Parts shall be marked in accordance with generally accepted commercial practice.
- (b) In cases where parts are so small as not to permit identification marking as provided above, such parts shall be appropriately coded so as to permit ready identification.

10. INTELLECTUAL PROPERTY RIGHTS

10.1 SELLER shall defend, indemnify, and hold BUYER, Buyer's officers, agents, employees, and customers harmless against all claims and liabilities, including costs, for infringement of any United States patent, trademark, or copyright or BUYER trade secret by any Contract Products delivered under this Order, or, at Seller's option and expense, SELLER shall obtain such licenses as are necessary to remove such infringement, provided that SELLER is reasonably notified of such claims and liabilities. Seller's obligation shall not apply to Products manufactured by SELLER pursuant to detailed designs developed by BUYER and furnished to SELLER under an Order which does not require research, development, or design work by SELLER. SELLER's obligation shall also not apply to any infringement arising from the use or sale of Contract Products in combination with items not delivered by SELLER if such infringement would not have occurred from the use or sale of such Contract Products solely for the purpose for which they were designed or sold to BUYER. SELLER's obligation shall extend to the U. S. Government only if and to the extent BUYER has agreed to indemnify the U. S. Government.

11. PROGRESS PAYMENTS

11.1 It is understood and agreed that the materials, apparatus or equipment to be furnished under this subcontract are to be used by the BUYER in the performance of an agreement between the BUYER and the United States of America, represented by the Department of the Navy, Naval Sea Systems Command (hereinafter called the Government) pursuant to which the BUYER may receive payments with respect to progress in the work performed by the SELLER on the contract products as certified by the BUYER even though the SELLER has not made delivery thereof to the plant of the BUYER nor completed the work required of it with respect thereto.

11.2 Payments

- (a) Until such time as the SELLER is fifty percent (50%) complete in the performance of this subcontract, the BUYER upon submission by the SELLER of invoices certified by the SELLER as hereinafter provided, will promptly make payments on account of the total subcontract price of ninety percent (90%) of an amount determined by applying to the total subcontract price, the percentage of the physical progress in the performance of the subcontract as a whole as certified by the SELLER subject to the approval by the BUYER and, when necessary, the Government; provided that no such payment shall be made in an amount which when added to the total of all payments previously made exceeds one hundred percent (100%) of the allowable costs certified by the SELLER on the related invoice to have been incurred by it in the performance of the subcontract.
- (b) After the SELLER's percentage of physical progress in the performance of this subcontract has reached fifty percent (50%) the BUYER upon submission by the SELLER of invoices certified by the SELLER as hereinafter provided, will promptly make payments on account of the total subcontract price of one hundred percent (100%) of an amount determined by multiplying the total subcontract price by the percentage of physical progress in the performance of the subcontract as a whole as certified by the SELLER, subject to the approval by the BUYER and, when necessary the Government, and subtract from that product five percent (5%) of the total subcontract price; provided that no such payments shall be made in the amount which when added to the total of all payments previously made exceeds the allowable costs certified by the SELLER on the related invoice to have been incurred by it in the performance of the subcontract, plus five percent (5%) of such cost.
- (c) Except as provided herein with respect to pension, profit sharing, and employee stock ownership plan contributions, the terms "costs" shall include only those recorded costs which result, at the time of the request for reimbursement, from payment by cash, check, interdivisional notices of payment, or other form of actual payment for items or services purchased directly for the contract, together with (when the SELLER is not delinquent in payment in payment of costs of contract performance in the ordinary course of business) costs incurred, but not necessarily paid, for materials which have been issued from the SELLER's stores inventory and placed in the production process for the use on the contract, for direct labor, for direct travel, for other direct in-house costs, and for properly allocable and allowable indirect costs, as it is shown by records maintained by the SELLER for the purposes of obtaining reimbursement under Government contracts plus the amount of progress payments which have been paid to the SELLER's subcontractors under similar cost standards. In addition, when the aforementioned contributions are paid by the SELLER to the pension, profit sharing, or employee stock ownership plan funds less frequently than quarterly, accrued costs thereafter shall be excluded from indirect costs for payment purposes until such costs are paid. If such contributions are paid on a quarterly or more frequent basis, accruals thereafter may be included in indirect costs for payment purposes provided that they are paid to the fund within thirty (30) days after the close of the period covered. If payments are not made to the fund within such thirty (30) day period, these contributions shall be excluded from indirect costs for payment purposes until payment has been made. The restriction on payment more frequently than semi-monthly and the requirement of prior payment for items or services purchased directly for the contract shall not apply where the SELLER is a small business concern.
- (d) Invoices may be submitted semi-monthly and shall be based upon the total subcontract price as adjusted from time-to-time pursuant to the clause of the subcontract entitled "Changes". No payment will be required to be made under this paragraph upon invoices aggregating less than five thousand dollars (\$5,000), until hardware delivery. After hardware delivery, there is no minimum invoicing requirement.
- (e) Upon delivery of the contract products by the SELLER to the plant of the BUYER or to other place of storage, and upon the submission of properly certified invoices, the BUYER will pay to the SELLER the amount withheld under paragraph (b) above in excess of one and one-half percent (1-1/2%) of the contract product price, adjusted by change orders such one and one half percent (1-1/2%) constituting a performance reserve. If at any time it shall appear to the BUYER that the amount of the performance reserve may be insufficient to meet the cost to the BUYER of the finishing any unfinished work under the subcontract for which SELLER is responsible, or of correcting defects for which the SELLER is responsible during the warranty period, the BUYER may in making payments under this clause, deduct or withhold such additional amounts as it may determine to be necessary to render such reserve adequate pending adjustment of the total subcontract price on account of such additional unfinished work and defects in accordance with the clause of the subcontract entitled "Changes".

11. PROGRESS PAYMENTS (Continued)

- (f) The BUYER may reduce or suspend progress payments whenever the BUYER finds that the SELLER has failed to comply with any material requirement of this subcontract; has so failed to make progress, or is in such unsatisfactory financial condition as to endanger performance of this subcontract; has allocated inventory to this subcontract substantially exceeding reasonable requirements; is delinquent in payment of the costs of performance of this subcontract in the ordinary course of business; has not reached the percentage of physical progress as certified to the BUYER in accordance with paragraph F. "Documents Required to Support Progress Payment Requests."
- (g) The BUYER shall at the end of the contract product guaranty period of pay the SELLER the balance owing to it under the contract promptly after the amount of such balance shall have been determined.
- (h) Notwithstanding any other provisions contained herein, the BUYER shall not pay for the completion of partial milestones.

11.3 Invoices

- (a) An invoice is a written request for payment under this Subcontract/Delivery Order for Supplies or Services provided by the Seller. In order to be properly prepared and valid, an invoice must include (as applicable):
 - (1) invoice date and Seller's invoice number;
 - (2) name of Seller;
 - (3) the Subcontract/Delivery Order number, line item number, description of Supplies and Services, quantity, unit of measure, unit price, and extended total for the Supplies or Services being invoiced;
 - (4) shipment number, date of shipment and shipping point for the Supplies or Services being invoiced;
 - (5) name and address to which payment is to be sent in accordance with the terms specified in this Subcontract/Delivery Order;
 - (6) name, title, phone number and address of person to be notified in the event of a defective invoice;
 - (7) any other information or documentation required by other provisions of the Subcontract/Delivery Order;
 - (8) any prompt payment discounts available; and
 - (9) the invoice amounts for individual Supplies shall be shown separately on any invoice.
- (b) Invoices shall be prepared and submitted in duplicate, unless otherwise specified, and sent to the address below:

NGSS
P. O. Box 149
Pascagoula, MS 39568
Attn: Accounts Payable

- (c) Invoices may not be submitted by facsimile transmission.

11.4 Payments

- (a) Buyer shall pay the Seller, upon the submission of properly prepared and valid invoices, the prices stipulated in this Subcontract/Delivery Order as may be adjusted.
- (b) Seller's valid invoices are payable by Buyer no later than thirty (30) days after receipt thereof. The invoice will be deemed to have been received five (5) days after the invoice date.
- (c) Payment shall be considered to have been made on the date which appears on the payment check.
- (d) Payment shall not be considered as an indication of the acceptability of the Supplies or Services for which payment is made.

12. LIAISON PERSONNEL

The delivery of the items herein in strict accordance with the specifications and delivery schedule is of paramount importance. To assure attainment of this requirement, the parties agree that BUYER may, at its option, assign representatives from Engineering, Manufacturing, Quality Assurance, Procurement, or other specialties as necessary as resident or itinerant representatives to be located at SELLER's plant. SELLER shall at no cost to BUYER, provide adequate office space and equipment for BUYER liaison personnel at its plant during the performance of this Order.

13. LIENS

- (a) Except to the extent that the Government may have title by virtue of its prime contract with the BUYER, title to the contract products and all materials, equipment and other property acquired or allocated to the performance of the subcontract shall vest in the BUYER forthwith upon the making of any progress payment. Said title shall vest in the Government upon delivery to the plant of BUYER or other place of storage selected by BUYER whichever of said events shall first occur. The Government shall have a lien to the extent of its payment upon the making of any progress payment on account thereof to the BUYER.
- (b) SELLER shall immediately discharge any lien, other than the BUYER's or Government's that may arise on the property described above.
- (c) SELLER agrees that no liens or rights of any kind shall lie or attach upon or against the Contract Products, or any part thereof, or against the vessel or vessels or its machinery, fittings, or equipment, for or on account of any work performed on Contract Products furnished by SELLER pursuant to this Order.
- (d) If any lien or encumbrance is asserted against the Contract Products, or any parts thereof, BUYER shall have the right to discharge the same by filing a bond or other security, or in its discretion, by paying the amount of such claim, and in any event, BUYER shall have the right to deduct from the contract price the amount thus paid, or if the contract price has been paid, SELLER shall repay to BUYER the amount thus paid by BUYER for the purpose of discharging such claim, plus all administrative and legal expenses incurred by BUYER in this connection.
- (e) The SELLER, as directed by the BUYER or Government shall clearly identify, by marking or segregating, all property described above on its books and records.
- (f) The SELLER agrees to insert the foregoing provision in all suborders (subcontracts) hereunder.

14. LIABILITY INSURANCE FOR ACCIDENTS OR DAMAGE

- 14.1 When Seller is performing any of its obligations on Buyer's premises or on a vessel in which the Seller's Supplies and Services are being used, Seller shall purchase and maintain such insurance as will protect Buyer from claims which may arise out of or as a result from Seller's operations under this Subcontract/Delivery Order, whether such operations be by Seller or by any of Seller's subcontractors or by anyone directly or indirectly employed by either of them, or by anyone for whose acts they may be liable. Said coverage shall include, but not be limited to any insurance required by State, Federal, and local laws, and contractual coverage and completed operations coverage and: (i) Statutory Workers' Compensation as may be required by the locality where the work is being performed, including Longshoremen's and Harbor Worker's Compensation Act; (ii) Employers' Liability - \$1,000,000 per occurrence; (iii) Commercial General Liability - the minimum limits shall be \$1,000,000/\$2,000,000 Personal & Bodily Injury and Property Damage combined single limit per occurrence; and (iv) Automobile Liability - the minimum limits shall be \$1,000,000/\$2,000,000 Bodily Injury and Property Damage combined single limit per occurrence.
- 14.2 As respects policies under (i) above, the insurance carrier must agree in writing to waive its right to subrogation. Likewise, as respects policies under (iii) and (iv) above, Buyer must be listed as an additional insured. A certificate of insurance evidencing such coverage and conditions must be provided to Buyer prior to the commencement of work and upon renewal of any policies during the course of work. All policies shall provide 30 days advanced written notice of any coverage suspension or material changes, must be written by carriers with A.M. Best's rating of "A-, VII", and licensed to do business in the state where services are to be performed, and shall be primary as respects any coverage which Buyer may carry.

15. MARKING, PACKING, AND PACKAGING

- 15.1 Unless otherwise specified, material must be packaged to meet or exceed American Society for Testing and Materials (ASTM) Designation D3951-98. When shipping on pallets, material or equipment must be adequately secured to meet ASTM Designation D3951-98, Part 5.1.5, Unitization.
- 15.2 All shipments shall be marked with the following information:
 - (a) Buyer Subcontract/Delivery Order number for the product being shipped
 - (b) Buyer line item number for the product being shipped
 - (c) Buyer catalog number (or NSN, if applicable) for the product being shipped
 - (d) Quantity shipped for the product being shipped
 - (e) MSDS # (if applicable) for the product being shipped
 - (f) QPL Source (if applicable) for the product being shipped
 - (g) Shelf Life (if applicable) for the product being shipped

Markings shall be on the face of each container (i.e., crates, boxes, cartons, etc.) or securely tagged to soft-sided containers.

- 15.3 All packing lists shall minimally contain the information in paragraph 3.2. The packing list shall be secured to the external surface of each container, or readily accessible upon entry to each container.

The Seller's commercial shipping document/packing list for Subcontract/Delivery Order items shall include proof that Government Source Inspection has been performed (if required) and the following Procurement Quality Audit (PQA) statement beneath Seller's statement:

"Required PQA of listed items has been performed. (Signature of Auth. Seller Rep.), _____ (date) _____ (Typed name) _____."

15. MARKING, PACKING, AND PACKAGING (Continued)

- 15.4 (a) Tags and labels, when required, shall be Seller's tags or labels conforming to the requirements of the Specification MIL-STD 129. Labels are authorized to be used on metal containers. Supplies requiring special certification shall be annotated on inner and outer container tags or labels indicating special certification compliance. Where the size of the shipping container allows, four address labels must be attached to the containers at the following location: (i) one (1) each on top of container, (ii) one (1) each on each side of the container, and (iii) one (1) each on front of container. For the purposes of this Clause the top, bottom, front and back of the container are not considered sides.
- (b) Within each container, each Buyer catalog number (or NSN, if applicable) shall be segregated (i.e., bagged, boxed, layered or partitioned) and readily identifiable with tags/labels reflecting information stated in paragraph 3.2 above. If multiple loose Supplies are required to fulfill one Buyer catalog number, mark one item per paragraph 3.2 above and mark all remaining Supplies as "part of" the Buyer catalog number.
- (c) Multiple orders shall not be shipped within a single container.
- (d) Multiple shipments to one (1) specified delivery location on any given day shall be consolidated under one (1) Bill of Lading.
- (e) Where different delivery locations are specified by the Buyer, each container shall include only material for one delivery location. Multiple delivery locations require separate Bills of Lading.

15.5 **MARKING AND PACKING LIST(S) (NAVSEA) (NOV 1996)**

- (a) Marking. Shipments, shipping containers and palletized unit loads shall be marked in accordance with best commercial practices.
- (b) Packing List(s). A packing list (DD Form 250 Material Inspection and Receiving Report may be used) identifying the contents of each shipment, shipping container or palletized unit load shall be provided by the SELLER with each shipment. When a contract line item identified under a single stock number includes an assortment of related items such as kit or set components, detached parts or accessories, installation hardware or material, the packing list(s) shall identify the assorted items.

When assortment of related items is included in the shipping container, a packing list identifying the contents shall be furnished.

- (c) Master Packing List. In addition to the requirements in paragraph (b) above, a master packing list shall be prepared where more than one shipment, shipping container or palletized unit load comprise the contract line item being shipped. The master packing list shall be attached to the number one container and so identified.
- (d) Part Identification. All items within the kit, set, installation hardware or material shall be suitably segregated and identified within the unit pack(s) or shipping container by part number and/or national stock number.

16. MSDS Requirements

- (a) General
- (1) The Seller shall provide information for each item of Hazardous Material to be delivered pursuant to this Subcontract/Delivery Order in the form of a current, updated Material Safety Data Sheet (MSDS) in accordance with 29 CFR 1910.1200 Hazard Communication Standard, to the Buyer prior to Subcontract/Delivery Order award and in advance of any shipment. The MSDS Sheet shall include a statement (if applicable) that the product contains a toxic chemical or chemicals, by name, subject to the reporting requirements of EPCRA Section 313 (40CFR372).
- (2) In addition, each Material Safety Data Sheet provided by the Seller must contain specific disposal procedures for hazardous waste pursuant to and in accordance with all Resource Conservation Recovery Act (RCRA) Laws and Environmental Protection Agency/Department of Environmental Protection (EPA/DEP) Regulations.
- (3) Buyer will then provide Seller with an MSDS number. The MSDS Number must appear on all packing slips, containers and packing containers and must be written as: MSDS Number #####
- (4) The use of Buyer provided MSDS Labels (Fluorescent Orange) is mandatory. Labels shall be applied directly to the product.
- (b) Changes: For any change in the product the Seller shall submit a revised/updated MSDS Sheet to Buyer in advance of any shipment.
- (c) Reporting Requirements for 313 Chemicals:
- (1) On an annual basis (not later than 30 September of each calendar year) the Seller must provide either an updated MSDS Sheet with any changes or a Certification Statement that the current MSDS Sheet is accurate and complete.
- (2) At a minimum the following must be included in each annual submittal: Name of each chemical substance, the Chemical Abstracts Service Registry Number (CAS#); and the percentage of weight of each hazardous substance or chemical in the mixture or trade name product.

16. MSDS Requirements (Continued)

- (3) Notification is also required within 30 days of the following events if the Supplier; (1) changes a mixture or trade name product by adding, removing, or changing the percentage by weight of a listed toxic chemical; or (2) discovers that previous notification did not properly identify the toxic chemicals in the mixture or correctly indicate the percentage by weight.
- (4) The reports shall be forwarded to:

Northrop Grumman Ship Systems
1000 St Pe Blvd
Pascagoula, MS 39567
Attn: Safety Department
- (5) The shipment of all material or equipment to Buyer or another Buyer designated destination must comply with the Hazardous Materials Transportation Act (Title CFR 49 Parts 170-178).

17. OFFSETS

Should all or part of the item(s) supplied under this Subcontract/Delivery Order be provided by sources outside the United States or its territories, Seller must inform Buyer of the country of origin and percentage of foreign content. Buyer reserves exclusive right to apply the equivalent value of foreign content in the item(s) provided by the Seller to the Offset Program of the Buyer's choice. Buyer may, at Buyer's discretion, provide written notice waiving its claim to offset credits accruing from this Subcontract/Delivery Order, thereby allowing Seller use and discretionary application of such credits. Seller agrees to assist Buyer in securing Offset Credits from respective foreign government authorities in an amount equal to the value of foreign content in the item(s) provided.

18. PLANS AND SPECIFICATIONS

In performance of the work under this order, SELLER shall comply with the specifications shown or referred to on this order and all plans and all specifications referred to on such plans and in such specifications, all of which shall be deemed to be and are hereby made a part of this order. No omission in the plans and specifications shall relieve SELLER of its obligation to perform fully all work required hereunder, or to deliver the contract products complete in all respects. The plans and specifications are intended to explain each other. If any discrepancy, difference or conflict exists between the provisions hereof and the plans and specifications, or between the plans and specifications, the same shall immediately be brought to the attention of BUYER who will resolve such conflict. SELLER shall not revise the subcontract specifications without prior written approval of BUYER. All revisions to the subcontract specifications shall be identified by date and will be incorporated into the applicable specification in accordance with SELLER's configuration management plan, as approved by BUYER in writing.

19. QUALITY

The SELLER shall provide and maintain a quality system that, at a minimum, adheres to the requirements of ANSI/ASQC Q9001 – 1994 Quality Systems – Model for Quality Assurance in Design/Development, Production, Installation and Servicing. Further information is available on NGSS' website, Oasis.com.

20. SAFETY AND SECURITY

- 20.1 When the Seller is performing any of its obligations on Buyer's premises or on a vessel in Buyer's care or custody, the Seller and its subcontractors shall comply with all Buyer plant rules and regulations and Buyer Safety and Security policies and procedures including, but not limited to, the use of personal protective equipment as required. At a minimum, the Seller and its subcontractors shall have in their possession a suitable hardhat, safety glasses with side shields, hearing protectors, and ANSI Z41 approved steel-toed safety shoes. A copy of Buyer's Environmental, Health and Safety Regulations Handbook outlining said policies and procedures can be located at GDBIW.com; select Purchasing, then Forms/Appendices, then Safety Regulations.
- 20.2 If Seller's personnel are to have access to classified material or classified vessel compartments, such personnel will be required to obtain all necessary security clearances prior to their access to such material or compartments.
- 20.3 Seller shall utilize only U.S. citizens in execution of its obligations on Buyer property or on a vessel in Buyer's care or custody unless specific prior approval from Buyer is obtained.
- 20.4 By accepting this Subcontract/Delivery Order, the Seller acknowledges that the following is applicable to any work performed on this Subcontract/Delivery Order:
 - (a) Only trained authorized personnel will operate or service equipment, and then only in accordance with manufacturer's recommendations,
 - (b) Seller is responsible for properly managing hazardous waste generated by Seller in accordance with applicable Federal, State and local regulations. Disposal of hazardous waste shall be coordinated and approved through the Buyer's Environmental Operations Department, and

20. SAFETY AND SECURITY (Continued)

- (c) Seller has reviewed the Environmental, Health and Safety Regulations Handbook referenced above, and has duly disseminated it to any applicable personnel performing work on Buyer's property or vessels.

21. TAXES

The SELLER shall not collect any Mississippi Sales or Use Taxes inasmuch as the BUYER has Direct Pay Permit No. 57 with the State of Mississippi. SELLER shall pay all other State, Federal and Local taxes, assessments and duties that may be applicable to the Contract Products or SELLER's performance hereunder.

22. MOST FAVORED CUSTOMER ASSURANCE

The SELLER agrees that the prices for the supplies or services furnished under this order are as low or lower than those charged the SELLER's most favored customer for comparable quantities and under similar terms and conditions, in addition to any discount for prompt payment.

23. QUALIFICATION OF CONTRACTOR NONDESTRUCTIVE TESTING (NDT) PERSONNEL (NAVSEA) (APR 2004)

- (a) Any SELLER required to conduct Nondestructive Testing (NDT) shall utilize for the performance of required NDT, only Level I, II and III personnel currently certified in accordance with NAVSEA Technical Publication T9074-AS-GIB-010/271, CAN Notice 1 of 16 Feb 99. Documentation pertaining to the qualification and certification of NDT personnel shall be made available to the BUYER and BUYER'S Contracting Officer for review upon request.
- (b) These requirements do not apply with respect to nuclear propulsion plant systems and other matters under the technical cognizance of SEA 08. Because of health and safety considerations, such matters will continue to be handled as directed by SEA 08.

24. COST-PLUS-A-PERCENTAGE-OF-COST AND FEE LIMITATIONS

No subcontract or modification thereof placed under this order shall provide for payment on a cost-plus-a-percentage-of-cost basis, and any cost-reimbursement-type subcontracts issued by SELLER under this Order shall not exceed the fee limitations in FAR 15.404-4(c)(4)(i).

25. DELIVERY

Time is of the essence in the performance of this order.

26. COMPLETE AGREEMENT

This Order, including all attachments, forms and clauses referenced in this Order, is the complete and exclusive statement of the terms of the agreement between SELLER and BUYER, and all prior or contemporaneous agreements or understandings about the subject matter of this Order are merged herein.

EXHIBIT A

NGSS Program Milestone Plan & Progress Report

Description/Purpose:

Program milestones consistent with the Subcontract/Delivery Order schedule will be identified by the Seller with the proposal or within thirty (30) days after award of the Subcontract/Delivery Order as mutually agreed to by the Seller and Buyer. The milestones will represent events which are physically measurable and completion of which is clearly verifiable. A percentage will be assigned to each milestone based on the labor, material, and other resources required to achieve the milestone. If provided before Subcontract/Delivery Order award, these percentages may be adjusted to reflect the results of negotiations between NGSS and the Seller. The milestones and/or percentages may be revised to reflect the effects of scope changes in the Subcontract/Delivery Order.

The Program Milestone Plan & Progress Report (Exhibit A) is to be submitted either with the Seller's proposal or within thirty (30) days after award of the Subcontract/Delivery Order, as well as with each request for progress payments.

Preparation Instructions for Exhibit A-NGSS Program Milestone Plan & Progress Report:

- Item 1 and 1a.*** Provide a brief description of the Product(s) being procured (include Procurement Specification number if applicable).
- Item 2. Seller:*** Enter the company name of the Seller.
- Item 3. Subcontract/Delivery Order:*** Enter the Subcontract/Delivery Order number.
- Item 4a. NGSS Hull Number:*** Enter the BIW hull number the milestones are applicable to. A separate plan and progress report must be submitted for each ship.
- Item 4b. Current Total Value:*** Enter the current value of this Subcontract/Delivery Order.
- Item 5. Milestone Description:*** Enter a short description of the milestone.
- Item 6. Milestone Percentage of Contract:*** Identify the progress percentage that each milestone represents. The sum of all milestones should equal 100%.
- Item 7. Cumulative Milestone Percentage:*** This is the cumulative total of the individual milestone percentages listed in item 6.
- Item 8. Milestone Planned Completion Date:*** Enter the date the milestone is scheduled to be complete.
- Item 9. Actual Milestone Completion Date:*** Enter the date the milestone was actually completed.
- Item 10 Milestone Planned Invoice Date:*** Enter the date the invoice is scheduled to be submitted.
- Item 11 Actual Milestone Invoice Date:*** Enter the date the invoice was actually submitted.
- Item 12. Dollar Value of Milestone:*** Identify the dollar value of the milestone. This is computed by multiplying the milestone percentage value in item 6 by the "Current Total Value" found in Item 4b.
- Item 13. Cumulative Dollar Value of Milestones:*** This is the cumulative total of the individual milestone dollar values listed in item 12.
- Item 14. Invoice Dollar Value of Milestone:*** Identify the dollar value of the invoice to be submitted. (90% of the value of milestone(s) achieved or the incurred cost, whichever is less.)
- Item 15. Cumulative Invoice Dollar Value of Milestones:*** This is the cumulative total of the individual invoice dollar values listed in item 14.

NGSS Program Milestone Plan & Progress Report

1. Product:	1a. Specification
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3. Subcontract/Delivery Order:

2. Seller:

4a. NGSS Hull Number:

4b. Current Total Value:

REF. NO.	5. Milestone Description	6. Milestone Percentage of Subcontract/Delivery Order	7. Cumulative Milestone Percentage	8. Milestone Planned Completion Date	9. Actual Milestone Completion Date	10. Milestone Planned Invoice Date	11. Actual Milestone Invoice Date	12. Dollar Value of Milestone	13. Cumulative Dollar Value of Milestones	14. Invoice Dollar Value of Milestone	15. Cumulative Invoice Dollar Value of Milestones
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EXHIBIT B

NGSS Progress Payment Request

Description/ Purpose:

Requests for progress payments based on progress made against the milestones on the Program Milestone Plan.

Preparation Instructions for Exhibit B- NGSS Progress Payment Request:

Item 1. Product: Provide a brief description of the Product(s) being procured (include Procurement Specification number if applicable).

Item 2. Request Period: Enter the period for which progress payments are being requested.

Item 3. Seller: Enter the company name of the Seller.

Item 4. Request Date: Enter the date of this request.

Item 5. Subcontract/Delivery Order Number: Enter the Subcontract/Delivery Order number.

Item 6. Request Number: Enter the number of this request. The request number should be the same as the cumulative number of progress payments requested to date for the Subcontract/Delivery Order.

Item 7. Current Total Value: Enter the current total value of the Subcontract/Delivery Order.

Item 8. Total Not Subject to Progress Payments: Enter the total value of any Products/Services, included in the Subcontract/Delivery Order, which are not subject to progress payments (ex., data).

Item 9. Total Subject to Progress Payments: Subtract Item 8 from Item 7. This is the total amount of the Subcontract/Delivery Order that is subject to progress payments.

Item 10. Percent Value Earned: Enter the cumulative percentage of completion as shown on Exhibit A, Item 7.

Item 11. Cumulative Dollar Value of Milestones Earned: Enter the cumulative dollar value of completed milestones as shown on Exhibit A, Item 13.

Item 12. 90% of Earned Value: Enter 90% Item 11 above.

Item 13. Cumulative Incurred Cost: Enter the cumulative cost incurred to date on the Subcontract/Delivery Order for Products/Services subject to progress payments.

Item 14. Amount Eligible for Billing: Enter the lesser of Items 12 and 13.

Item 15. Cumulative Previous Progress Payments to Date: Enter the cumulative dollar value of all previous progress payments applied for prior to this request.

Item 16. Value of Present Request: Subtract Item 15 from Item 14 and enter the results here.

Item 17. Certificate of Inspection: Must be executed by an Officer of the Seller.

Item 18. Release of Claims: Must be properly prepared, endorsed and submitted with Seller's final invoice, Exhibit C.

EXHIBIT B

NGSS Progress Payment Request

1.	Product:	2.	Request Period:
3.	Seller:	4.	Request Date:
5.	Subcontract / Delivery Order Number:	6.	Request Number:
7.	Current Total Value: \$		
8.	Total Not Subject To Progress Payments: \$		
9.	Total Subject To Progress Payments: \$		
10.	Percent Value Earned: \$		
11.	Cumulative Dollar Value Milestones Earned: \$		
12.	90% Of Earned Value: \$		
13.	Cumulative Incurred Cost: \$		
14.	Amount Eligible For Billing: \$		
15.	Cumulative Progress Payments To Date: \$		
16.	Value Of Present Request: \$		
17.	Certificate of Inspection:		
	I certify that I am familiar with the construction of the _____ and that the above bill is correct and reasonable and that payment thereof has not been received and that this bill is presented with the knowledge that the amount paid hereunder will become the basis for a charge against the United States Government for costs incurred under prime contracts with the Government.		
18.	Release of Claims (Exhibit C) For Final Payment Only.		

Company Name

Company Officer

EXHIBIT C

RELEASE OF CLAIMS

Progress Payment Invoice #: _____ Subcontract/Delivery Order #: _____

Seller _____

Assignee (if applicable) _____ Date _____

AFFIDAVIT OF NO LIEN

_____, being duly sworn, deposes and says:

That he/she is _____(position/title) of _____(Seller's Name), contractor for furnishing of the _____ . It is his/her duty to know, and he/she does know and is thoroughly familiar with (a) the conduct of the business of said company, (b) its financial condition and the stature of its business transactions, and (c) the provisions of the Subcontract/Delivery Order identified above.

That in connection with Invoice No. _____ made by the Seller for partial payment under said Subcontract/Delivery Order, he/she has made due and diligent personal inquiry and has ascertained that there are no liens or rights in rem of any kind whatsoever against said _____ (work or equipment furnished), or material construction thereof, other than claims and liens of the _____.

That no laborer or mechanic in the employ of said contractor has been permitted or required to work upon any part of the _____(work or equipment furnished) in violation of the provisions of the Subcontract/Delivery Order identified above.

That title to all material and equipment included as part of the value of work done and delivered to the Seller on which payments are made shall immediately be vested in BUYER (BIW or NGSS) and that all other conditions of said Subcontract/Delivery Order are being observed by the Seller in the prosecution of said Subcontract/Delivery Order.

Signature