



STANDARD COMMERCIAL TERMS & CONDITIONS

Effective: March 10, 2015 – February 29, 2016

Applicable Law

United States law will apply to resolve any claim in respect to this Contract.

Disputes

Any dispute relating to the interpretation or application of this Contract shall, unless amicably settled, be subject to arbitration by a third party, mutually agreed upon by MSH and the Contractor. The determination of that third party shall not be subject to further dispute. The Contractor shall proceed diligently with performance of this Contract, pending final resolution of any dispute arising under the Contract. In the event that the parties are unable to reach an agreement on the third part arbitrator within 30 days of the date that the dispute was first raised the dispute shall be subject to litigation in accordance with the Applicable Law clause of this Contract.

Severability

If any provision of this Contract shall be determined by any court of competent jurisdiction to be invalid or unenforceable, the remainder of the provisions, other than the portions determined to be invalid or unenforceable, shall not be affected thereby, and each valid provision hereof shall be enforced to the fullest extent permitted by law.

Termination for Convenience

MSH reserves the right to terminate this Contract, or any part thereof, for its sole convenience via issuance of written notice to the Contractor. Upon receipt of such notice the Contractor shall, unless the notice directs otherwise, immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. In the event that the Contract is terminated for convenience MSH shall pay the Contractor for those costs incurred in direct relation to the work being performed, at the rate(s) agreed to in the Contract, up to the date of termination less the amount of any payments made to Contractor prior to the date of the termination. The Contractor shall not be paid for any work performed or costs incurred which reasonably could have been avoided, nor for any orders for materials or supplies placed after written notice of termination was issued by MSH. The Contractor shall not be entitled to any claim or claim of lien against MSH for any additional compensation or damages in the event of such termination and payment.

Termination for Cause/Breach of Contract

MSH reserves the right to terminate this Contract, or any part thereof, for cause in the event that the Contractor defaults, fails to perform, fails to comply with any of the contract terms and conditions, or prevents any other party to the Contract from being able to perform its obligations, via issuance of written notice to the Contractor. Upon receipt of such notice the Contractor shall, unless the notice directs otherwise, immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. In the event that the Contract is terminated for cause MSH shall not be liable to pay the Contractor any amount for supplies or services that had not yet been accepted by MSH at the time written notice was issued. In addition MSH may seek damages adequate to cover economic losses resulting from the breach of contract and the Contractor shall be liable to MSH for any and all rights and remedies provided by law. If it is determined that MSH improperly terminated this Contract for default, such termination shall be deemed a termination for convenience.

Changes

This Contract may only be changed or amended via issuance of a written amendment signed by an authorized MSH staff member.

Assignment of Rights

Neither party may assign its rights or responsibilities under this Contract without the prior written consent of the other party.

Indemnification

The Contractor shall indemnify, defend, save and hold MSH and each of its affiliates, officers, directors, employees and agents harmless from and against any and all losses in connection with any and all actions resulting from, or arising out of, the following:

- a) any material breach of any representation or warranty made therein or material non-fulfillment or material non-performance by the Contractor of any covenant or obligation existing under the Contract;
- b) any bodily injury, death, damage to property, actual or alleged infringement or violation of any patent, trademark or copyright, or other trade secret or proprietary rights arising from or relating to any Products purchased or deliverables created under the Contract;
- c) The Contractor's negligence, fraud, criminal conduct, or non-compliance with any applicable laws and regulations including but not limited to:
 - i. labor standards with respect to the Contractor's employees
 - ii. any acts or omissions of any of the Contractors subcontractors or agents

Relationship

It is understood and agreed that the Contractor is furnishing the goods and/or services under this Contract as an independent entity, and nothing contained in this Contract will create any association, partnership, joint venture, employer-employee or agent-principle relationship. The relationship established by this Contract shall be solely between MSH and the Contractor; with the Contractor retaining full and complete liability for the actions or inactions of any subcontractors or agents.

Insurance

In addition to any other insurance coverage required by Law, the Contractor shall, at all times during the period of performance of this Contract, carry and maintain adequate insurance to cover any and all claims, losses or damages arising from activities conducted for the purposes of this Contract.

Inspection and Acceptance

The Contractor shall only tender for acceptance those items that conform to the requirements of this Contract. Acceptance of goods/deliverables is understood to take place either upon signature of a goods received note by an authorized MSH employee, or upon detailed written email confirmation sent by an authorized MSH employee. MSH reserves the right to inspect or test any supplies or services that have been tendered for acceptance. MSH may require repair or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in Contract price. If repair/replacement or reperformance will not correct the defects or is not possible, MSH may seek an equitable price reduction or adequate consideration for acceptance of nonconforming supplies or services.

Payment Terms

Payment terms for this Contract are as specified. For Net 30 Days payment shall be made within 30 days from receipt; inspection and acceptance of all delivered items pending receipt by MSH of a final invoice from the Contractor along with confirmation of acceptance by an appropriately authorized individual (see Inspection and Acceptance above). For Payment on Delivery payment shall be made upon receipt; inspection and acceptance of all delivered items pending receipt by MSH of a final invoice from the contractor along with confirmation of acceptance by an appropriately authorized individual (see Inspection and Acceptance above). For Partial Prepayment a portion of the total cost shall be

paid in advance of delivery/completion as agreed with MSH. In order to make any payment MSH must have the payee's current W9, W8 or other tax form(s) as required by local law, as well as all information needed to effect payment. MSH will make all payments electronically unless an exception can be documented. Upon receipt of accelerated payments from the U.S. Government MSH shall make accelerated payments to any contractor's qualifying as small businesses, to the maximum extent practicable.

Eligibility to Receive Funding or Payment from MSH

By signing this Contract the Contractor certifies that neither it, nor any of its principals:

- a) are presently debarred, suspended, proposed for debarment, or otherwise declared ineligible for the award of contracts by any applicable authority or institution; including but not limited to the US Federal Government.
- b) have been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; commission of any other offense indicating a lack of business
- c) are presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated above d.
- d) have had one or more public transactions (Federal, State, or local) terminated for cause or default within the preceding three years.
- e) will knowingly enter into any subagreements or subcontracts under this Contract with a person or entity that is debarred, suspended, proposed for debarment, or otherwise declared ineligible for the award of contracts by any applicable authority or institution; including but not limited to the US Federal Government.

MSH shall not be responsible for any costs incurred in connection with the work of any Contractor or subcontractor that cannot certify all of the above or that falsely certifies the above

Executive Order on Terrorism Financing

U.S. laws prohibit transactions with, and the provision of resources and support to, individuals and organizations associated with terrorism. It is the legal responsibility of the Contractor to ensure compliance with those Executive Orders and Laws by ensuring that any and all potential subcontractors are checked against the applicable watch lists to verify that they are not associated with any terrorist organizations prior to issuing any subcontract. This provision must be included in any lower-tiered contracting instruments issued under this Contract.

Trafficking in Persons/ Prohibited Labor

MSH has a zero tolerance policy regarding all forms of trafficking in persons, including but not limited to: forced labor, sex trafficking, bonded labor, debt bondage among migrant laborers, involuntary domestic servitude, forced or indentured child labor, and child soldiers. Contractors and employees of the Contractor shall not engage in any form of trafficking in persons during the period of performance of this Contract and must comply with all applicable US and international laws in this regard. If MSH learns of any violation of the foregoing human trafficking requirements, it may immediately terminate this Contract for default, and will report such violation to the appropriate governmental authorities. Additional information can be found at <http://www.state.gov/j/tip/>

Anti-Bribery/ Kickback /Lobbying Certification

By signing this Contract the Contractor hereby certifies that the Contractor or any agents thereof:

- a) have not and will not pay, offer to pay, or authorize the payment directly or indirectly of any monies or things of value to any government official or employee, or to any political party or candidate for political office for the purpose of influencing any act or decision of such official or of the Government
- b) are not and will not become an official or employee of the Government during the term of this Contract

- c) have not and will not solicit or attempt to solicit any additional personal compensation, credit, gift, gratuity, or thing of value directly or indirectly, from any MSH employee in order to obtain or retain business or direct business to any person
- d) have not and will not include, directly or indirectly, the amount of any bribes or kickbacks in the price of this Contract.
- e) will notify MSH immediately if any MSH staff member requests any form of gift, commission, or personal discount

The Contractor shall notify MSH in writing immediately of any change in circumstances that renders any representation or warranty made in this section inaccurate or incomplete. In no event shall MSH be obligated under this Contract to take any action or omit to take any action which MSH believes in good faith would cause it to be in violation of any laws, including without limitation the U.S. Foreign Corrupt Practices Act.

Other Compliance

The Contractor shall comply with all applicable Federal, State, and local laws, executive orders, rules and regulations applicable to its performance under this Contract and shall be responsible for ensuring that all subcontractors and/or agents performing work under this contract also comply. These Federal, State, and local laws, executive orders, rules and regulations include, but are not limited to:

- a) Equal Opportunity - specifically E.O. 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR Chapter 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," to the extent required
- b) Affirmative Action for Workers with Disabilities,
- c) The Prohibition of Segregated Facilities,
- d) Service Contract Act of 1965
- e) The anti-boycott laws administered by the U.S. Commerce and Treasury Departments
- f) Any proclamation, Executive order, or statute administered by the Office of Foreign Asset Control (OFAC), and OFAC's implementing regulations at 31 CFR chapter V
- g) International Traffic in Arms Regulations, 22 C.F.R. Parts 120 et seq.; the Export Administration Regulations, 15 C.F.R. Parts 730 et seq.; and the Foreign Asset Control Regulations, 31 C.F.R. Chapter V
- h) All applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.).
- i) The Cargo Preference Act of 1954 (46 U.S.C. App. 1241(b))
- j) 49 U.S.C. 40118, the "Fly America Act"
- k) 31 U.S.C. 1352 relating to limitations on the use of appropriated funds to influence certain Federal contracts;
- l) 18 U.S.C. 431 relating to officials not to benefit
- m) 40 U.S.C. chapter 37, Contract Work Hours and Safety Standards
- n) 41 U.S.C. chapter 87, Kickbacks
- o) 41 U.S.C. 4712 and 10 U.S.C. 2409 relating to whistleblower protections
- p) Minimum wage laws under Executive Order 13658; and
- q) 41 U.S.C. chapter 21 relating to procurement integrity

Taxes

As a registered international non-profit corporation MSH is exempt from Sales tax, Value Added Taxes and most other duties and levies. The Contractor shall exclude any such charges from the Contract price and shall not bill MSH for any taxes/duties/levies from which it is exempt.

Work Product/intellectual Property

"Work Product" shall consist of all Deliverables and other data, information, designs, know-how, software, inventions, and other material and intellectual property in all media and forms now known or hereafter developed or prepared in

the course of, or resulting from, the performance of this Contract and modifications to the Contract. By accepting this Contract the Contractor acknowledges that:

- a) MSH, or such party as MSH may designate, shall retain all title to and all rights in any Work Product provided under this Contract.
- b) Work Product shall be the sole and exclusive royalty-free property of MSH, or any party that MSH designates, and shall be deemed to be a "work made for hire" in the course performance hereunder. This shall include intellectual property not first developed in the course of, or resulting from, the performance of this Contract, but which is incorporated in any Deliverable provided by the Contractor to MSH hereunder.
- c) If title to any Work Product may not, by operation of law, vest in MSH all title to and rights and interest therein are hereby irrevocably assigned by the Contractor to MSH, or such party as MSH may designate.
- d) The Contractor agrees take all such other actions as may be reasonably requested by MSH to carry into effect the provisions of this Work Product/intellectual property requirement, including, without limitation, the execution of assignments, copyright registrations, and patent applications.

The Contractor further represents and warrants that:

- e) the Work Product delivered to MSH does not infringe the rights of any other party
- f) the Contractor is the sole proprietor of the Work Product with full power and authority to enter into this Contract
- g) the Work Product has not been previously published anywhere and no rights have been granted with respect to it
- h) the Work Product does not violate, either in whole or in part, any copyright or other contract, and does not contain anything libelous or slanderous in character, or violate the right of privacy of any person.

Bankruptcy or Administration

In the event the Contractor enters into proceedings relating to bankruptcy or administration, whether voluntary or involuntary, the Contractor agrees to furnish written notification of the bankruptcy or administration to MSH immediately upon the initiation of any proceedings relating to that bankruptcy or administration. This notification shall include the date on which the bankruptcy or administration petition was filed, the identity of the court in which the bankruptcy or administration petition was filed, and a listing of all Contracts and/or Orders against which final payment has not been made. This obligation remains in effect until final payment under this Contract

Confidentiality and Disclosure of Information

As used herein, the term "Confidential Information" means any data or information disclosed by or for MSH to the Contractor in connection with this Contract that is not generally known to the public, and is clearly identified as confidential or, by its nature, should be reasonably considered confidential, including

- a) the terms and conditions of this Contract (excluding the existence of this contract);
- b) information about MSH's services, finances, operations, customer relationships, customer profiles and pricing estimates;
- c) any computer software (in source code or object code form) or computer database, and
- d) any specifications, data, reports, formulae, data models, data formats, field or record layouts, or improvements related thereto.

The Contractor shall hold the Confidential Information of MSH in confidence and protect the same with at least the same degree of care, but no less than reasonable care, with which it protects its own most sensitive confidential information. The Contractor shall use the Confidential Information of MSH solely in connection with the performance of its obligations under this contract, and shall restrict disclosure of and access to the Confidential Information of MSH to Contractor's employees who require access to such Confidential Information in connection with performance of this Contract. The Contractor shall require its employees and authorized subcontractors to comply with the obligations of confidentiality set forth herein and shall be liable for their failure to so comply.

Liquidated Damages

If the Contractor fails to deliver the supplies or perform the services within the time specified in this Contract, the Contractor shall pay liquidated damages of 1% of the total Contract price, per calendar day of delay, to MSH. If MSH

terminates this Contract in whole or in part under the Termination for Cause/Breach of Contract clause, the Contractor shall be liable for liquidated damages accruing until MSH reasonably obtains delivery or performance of similar supplies or services. These liquidated damages are in addition to excess costs of repurchase under the Termination clause. The Contractor will not be charged with liquidated damages when the delay in delivery or performance is beyond the control and without the fault or negligence of the Contractor as defined in the Delays clause in this Contract.

Monitoring and Site Inspection

MSH reserves the right to inspect the services provided by the Contractor at any time and at any location it deems necessary to ensure full compliance with the terms and conditions of this Contract. The Contractor shall provide full and open access to all its facilities, vehicles, records and personnel involved in or related to the services to be provided under this Contract.

Title and Risk of Loss

Title and Risk of loss or damage to the Product(s) provided under this Contract shall remain with the Contractor until MSH or its designee, consignee, or agent receives delivery of and accepts the Product(s) at the destination specified in the Contract. Title and Risk of loss or damage shall pass to MSH only upon MSH's final acceptance of the Product(s) regardless of when or where MSH takes physical possession.

Option to extend

MSH may, at its sole discretion, choose to extend the period of performance of this Contract via issuance of a written modification.

Delays

The Contractor shall promptly notify MSH in writing of any factor, occurrence, condition or event that may adversely affect or delay proper and timely completion of the Work and/or the ability of the Contractor to perform its obligations specified herein. The Contractor acknowledges that time is of the essence with respect to the Work. The Contractor shall be liable for default for any material failure to perform in accordance with the terms of this Contract unless such non-performance is caused by an occurrence beyond the Contractor's reasonable control and without the Contractor's fault or negligence, including acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather.

Survival

The respective rights and obligations set forth in the clauses pertaining to Confidentiality, Limitation of Liability, Warranties, Indemnification, and Insurance as well as this clause (Survival) shall indefinitely survive the expiration or termination of this Contract.

Warranty

The Contractor represents and warrants that

- a) it has full power and authority and has taken all corporate action necessary to enter into and perform this contract;
- b) all items delivered hereunder will be merchantable and fit for use for the particular purpose described in this contract;
- c) the execution and performance by it of its obligations hereunder will not constitute a breach of, or conflict with, any other agreement, contract, or arrangement, whether written or oral, by which it is bound;
- d) its Services shall be performed in a good and workmanlike manner;
- e) the Work shall meet or exceed Contractor's normal levels of quality and quality assurance standards;
- f) the Work will not infringe or misappropriate any copyright, patent, trade secret, trademark, or other proprietary right held by any third party; and
- g) the Work performed by the Contractor under this contract will be in compliance with all applicable laws and regulations

Personal Conflict of Interest

The Contractor shall not engage in conflicting activities, i.e. activities that conflict with interests of MSH or the Contractor's obligations under this contract. The Contractor shall not engage in any activity that creates a financial or material interest that would compromise or appear to compromise its impartiality in performing the work required by this Contract. This Contract is not exclusive and the parties are free to engage in other relationships of a similar nature with other parties

Organizational Conflict of Interest

The Contractor shall not engage in any activities or relationships that would affect the Contractor's objectivity in performing the work by rendering it unable or potentially unable to provide impartial assistance or advice to MSH, that would create an unfair competitive, or any form of organizational conflict of interest for MSH.

Prohibited Goods

The Contractor must not, under any circumstances, procure any of the following under this Contract:

(i) Military equipment, (ii) Surveillance equipment, (iii) Commodities and services for support of police or other law enforcement activities, (iv) Abortion equipment and services, (v) Luxury goods and gambling equipment, (vi) Weather modification equipment, (vii) Any goods or services obtained from firms or individuals that are debarred, suspended, proposed for debarment, or otherwise declared ineligible for the award of contracts by any applicable authority or institution; including but not limited to the US Federal Government, (viii) Any goods produced using the labor of any person undergoing a sentence of imprisonment or any forced or indentured child labor, or (ix) Any goods shipped from, or services provided by citizens or legal residents of, any of the prohibited source countries listed in mandatory reference ADS 310 mac. Guidance on the eligibility of specific commodities and services may be obtained from MSH. If MSH determines that the Contractor has procured any commodities or services under this Contract contrary to the requirements of this clause, and has received payment for such purposes, MSH will require the Contractor to refund the entire amount of the purchase.

Entire Agreement

This Contract constitutes the entire agreement and understanding of the parties with respect to its subject matter and supersedes all oral communications and prior writings with respect there to.