

CTM PURCHASE ORDER TERMS AND CONDITIONS 07/23/12

A. GENERAL PROVISIONS APPLICABLE TO ALL GOODS AND SERVICES.

Crowley Technical Management, Inc. ("Buyer" or "CTM") reserves the right to award a Purchase Order to Seller, on a firm-fixed-price basis offering "best value" and covering all or any part of the materials/services mentioned in the Purchase Order. Buyer has the right to reject any and all quotations or to waive any irregularities therein. It is understood and agreed that these terms and conditions are applicable to both the sale of goods/materials and/or the supply of services to Buyer, its vessels, equipment and/or other property. Buyer warrants that no apparent organizational conflict of interest or improper affiliations exist between it and its subcontractors and Seller in turn warrant same. Payment terms are 30 days, upon receipt of valid invoice. **GOVERNMENT SUBCONTRACT:** This Contract is entered into by Buyer and Seller in support of a U.S. Government contract, with Buyer as "Ship Manager" for the U.S. Government/Maritime Administration ("MARAD").

1. Definitions:

1. "Best Value" Per FAR 2.101 means the expected outcome of an acquisition that, in the Governments estimation, provides the greatest overall benefit in response to the requirement.
2. "Buyer" means Crowley Technical Management, Inc. (CTM) a subsidiary of Crowley Maritime Corporation (Crowley).
3. "Commercial Item" means a commercial item as defined in FAR 2.101.
4. "Contract" means this Contract.
5. "Contractor" means Seller as used in this document, acting as the immediate (first-tier) subcontractor to Buyer.
6. "Flow Down clauses" means those clauses per FAR 52.252.2 below. In each clause so incorporated, substitute "Buyer", for "Government" and "Contracting Agency", and "Buyers Procurement Representative" for "Contracting Officer" and "Contractor" means Seller throughout.
7. "Goods/Materials" means personal property of every type, kind and description, as specifically described in the Purchase Order and/or work specification.
8. "Owner" means the ultimate consumer or MARAD and all rights, benefits and remedies conferred upon Buyer by this contract shall also accrue to and be available to and are for the express benefit of Buyer and Owner.
9. "Prime Contract" means the contract between Buyer and MARAD or between Buyer and its higher-tier contractor in support of a contract with the U.S. Government.
10. "Property" means the vessel, its appurtenances and any equipment and/or other items of Owner or Buyer for which Seller is to provide goods or services.
11. "Services" means all design, delivery, installation, inspection and testing specified or required to furnish the goods and/or provide the repair, improvement, and/or other work as specifically described in the Purchase Order and/or work specification.
12. "Subcontract" means any contract placed by Buyer with Seller or their lower-tier subcontractors under this contract and includes a transfer of commercial items between divisions, subsidiaries, or affiliates of the parties or between subcontractors at any tier.

2. Entire Agreement: This contract and any attachments hereto or referred to specifically herein constitute the entire agreement between the parties with respect to the subject matter hereof. Sellers acceptance of any Order is limited to the terms and conditions hereof. Any written confirmation, or any oral understanding upon which this contract may be based, containing proposals or terms additional to or different from those set forth herein are not binding on Buyer unless expressly agreed to in writing.

3. Changes in Order: Buyer shall have the right to order changes from time to time in the performance required of Seller and Seller shall without delay conform to any such change order. In the event of any such changes, the prices or times of performance, or both, shall be adjusted

within reasonable and appropriate limits; provided, however, that Buyer shall have no obligation to pay, and the right to refuse payment of any claim by Seller for increase in price, or time of performance required which is not received by Buyer in writing within ten (10) calendar days after the date the change is ordered. No change shall be made by Seller in the performance required by this Order except such change as specified in writing and signed by an authorized representative of Buyer.

4. Acceptance of Shipments and Inspection: All goods and services covered by this Order are subject to inspection by Buyer at any time or place and may be rejected if not strictly in accordance with all terms, conditions and provisions herein contained or attached or required by class. Payment for shipments and/or progress payments for work in progress shall not constitute acceptance thereof, and defective shipments or performance and/or shipments not in accordance with this Order will, at Buyer's option, be held for Seller's instructions at Seller's risk, or will be returned to Seller. Seller will be responsible for transportation charges on returned shipments both ways. Any prior payment made by Buyer on such rejected goods or services shall be immediately refunded, and the rejected goods or services shall not be replaced or re-performed without a new Order from Buyer. At Buyer's option, inspection and tests before delivery may be made by Buyer or Buyer's customers at Seller's premises or elsewhere, at reasonable times and places, and Seller will provide sufficient safe and proper facilities for such inspection or testing; but, notwithstanding such inspection and tests, or inspections and tests made prior to the issuance of this Order, the goods and services covered by this Order are subject to rejection upon final test, inspection and use upon delivery to the premises of Buyer and Owner. Buyer's count shall be accepted as final on all shipments whether or not accompanied by a packing list.

5. Permits and Approvals: All necessary permits, bonds, testing, inspection and approval of materials or workmanship by the proper authorities is to be provided and arranged by Seller at no additional cost to Buyer unless authorized herein.

6. Performance and Waivers: Any waiver by Buyer of strict performance with regard to any of the terms, conditions or provisions of this Order must be in writing, executed by Buyer to be effective, and such waiver shall not be deemed a waiver of Buyer's rights to insist upon strict performance of all portions of this Order not waived, and strict performance thereafter of provisions presently waived.

7. Default: Buyer reserves the right to cancel this Order in its entirety, or in part, on account of defects in materials, workmanship or quality, or if the Seller fails to comply with or perform any of the terms and conditions, provisions, promises or warranties of this Order. Seller shall also be liable for all damages and costs of Buyer resulting from such default, regardless of any action taken or not taken by Buyer to cancel this Order entirely or in part.

8. Compliance with Laws: Seller shall comply with all applicable laws and regulations of government authorities, including among other things, Executive Order 11246, as amended, 38 USC 2012 on the Vietnam Era Veterans Readjustment Assistance Act of 1974, Section 503 of the Rehabilitation Act of 1973, as amended, and the regulations at 41 CFR Part 60-1 through 60-60, 60-250, and 60-741, matters involving the Civil Rights Act of 1964, wages, hours, materials, race, color, sex and creed of workmen, price regulations and renegotiation provision, and other matters, whether or not specifically mentioned herein. Seller shall comply with the provisions of the Occupational Safety and Health Act of 1970, the standards and regulations issued there under and all pertinent State occupational safety and health laws such as "Right-to-Know" Regulations. Hazard communication information such as complete Material Safety Data Sheets (MSDS) shall be supplied to Buyer for all hazardous material. Seller further agrees to indemnify and hold harmless Buyer for any loss, damage, fine, penalty or any expense whatsoever as a result of Seller's failure to comply with such laws and regulations. CERTIFICATIONS AND REPRESENTATIONS. Seller makes certain certifications and representations that are material representations of fact upon which Buyer will rely in making awards to Seller. By submitting its written offer, or providing oral offers/quotations at the request of Buyer, or accepting any

Contract, Seller certifies to the representations and certifications as set forth herein. These certifications and representations shall apply whenever these terms and conditions are incorporated by reference in any Order, agreement, other contractual document or any quotation, request for quotation (oral or written), request for proposal or solicitation (oral or written), issued by Buyer, Seller shall immediately notify Buyer of any change of status with regard to these certifications and representations. Seller represents and warrants that the Work provided under this Contract constitutes a "Commercial Item" as defined in FAR 2.101.

FAR 52.252.2: This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, CTM will make their full text available. Also, the full text of a clause may be accessed electronically at this address: <https://www.acquisition.gov/far/current/html/FARTOCP52.html#wp372482>

Flow Down Clauses Incorporated in all Contracts::

FAR 16.102 Policies

FAR 52.202-01 Definitions

FAR 52.203-13 Contractor Code of Business Ethics and Conduct

FAR 52.204-2 Security Requirements

FAR 52.222-26 Equal Opportunity (E.O. 11246)

FAR 52.222-35 Affirmative Action for Special Disabled and Vietnam Era Veterans
(38 U.S.C. 4212(A))

FAR 52.222-36 Affirmative Action for Workers with Disabilities (29 U.S.C. 793)

FAR 52.222-40 Notification of Employee Rights Under NLRA

FAR 52.222-41 Service Contract Act of 1965 and U.S. Department of Labor Wage Determinations can be found at <http://www.wdol.gov/sca.aspx#0>

FAR 52.222-43 Fair Labor Standards Act and Service Contract Act—Price Adjustment

FAR 52.222-50 Combating Trafficking in Persons

FAR 52.222-54 Employment Eligibility Verification

FAR 52.225-01 Buy American Act-Supplies

FAR 52.225-02 Buy American Act - Certificate

FAR 52.225-13 Restrictions on Certain Foreign Purchases

FAR 52.232-01 Payments

FAR 52.244-06 Subcontracts for Commercial Items

FAR 52.249-02 Termination for Convenience of the Government (Fixed-Price)

FAR 52.249-04 Termination for Convenience of the Government (Services) (Short Form)

Flow Down Clauses Incorporated in Contracts greater than \$10K:

FAR 52.204-07 Central Contractor Registration

FAR 52.219-01 Small Business Program Representations

FAR 52.244-06 Subcontracts for Commercial Items

FAR 52.247-64 Preference for Privately Owned U.S.-Flag Commercial Vessels

Flow Down Clauses Incorporated in Contracts greater than \$30K::

FAR 52.209-06 Protecting the Governments Interest When Subcontracting With Contractors Debarred, Suspended or Proposed for Debarment

Flow Down Clauses Incorporated in Contracts greater than \$100K::

FAR 52.203-05 Covenant against Contingent Fees

FAR 52.203-06 Restrictions on Subcontractor Sales to the Government

FAR 52.203-10 Price or Fee Adjustment for Illegal or Improper Activity

FAR 52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions

FAR 52.215-02 Audit and Records-Negotiation

FAR 52.219-08 Utilization of Small Business Concerns

FAR 52.222-37 Employment Reports Veterans

FAR 52.222-39 Notification of Employee Rights Concerning Payment of Union

Dues or Fees (45 U.S.C. 151-188))

FAR 52.223-09 Estimate of Percentage of Recovered Material Content for EPA-Designated Items

FAR 52.223-13 Certification of Toxic Chemical Release Reporting

FAR 52.223-14 Toxic Chemical Release Reporting

FAR 52.227-01 Authorization and Consent

FAR 52.227-03 Patent Indemnity

FAR 52.248-01 Value Engineering

Flow Down Clauses Incorporated in Contracts greater than \$150K::

FAR 52.203-07 Anti-kickback Procedures. Gratuities and Kickbacks- (a) No gratuities (in the form of entertainment, gifts, or otherwise) or kickbacks shall be offered or given by SELLER to any employee of CTM with a view toward securing favorable treatment as a supplier, (b) By accepting this Contract, SELLER certifies and represents that it has not made or solicited and will not make or solicit kickbacks in violation of FAR 52.203-7 or the Anti-Kickback Act of 1986 (41 USC 51- 58), both of which are incorporated herein by this specific reference, except that paragraph (c)(1) of FAR 52.203-7 shall not apply.

FAR 52.203-12 Limitation on Payments to Influence Certain Federal Transactions

FAR 52.223-01 Biobased Product Certification

FAR 52.223-02 Affirmative Procurement of Biobased Products Under Service and Construction Contracts

FAR 52.223-03 Hazardous Material Identification and Material Safety Data

FAR 52.223-04 Recovered Material Certification

Flow Down Clauses Incorporated in Contracts greater than \$550K::

FAR 52.219-09 Small Business Subcontracting Plan

Flow Down Clauses Incorporated in Contracts greater than \$650K::

FAR 52.215-10 Price Reduction for Defective Certified Cost or Pricing Data

FAR 52.215-11 Price Reduction for Defective Certified Cost or Pricing Data—Modifications

FAR 52.230-02 Cost Accounting Standards

FAR 52.230-03 Disclosure and Consistency of Cost Accounting Practices

FAR 52.230-06 Administration of Cost Accounting Standards

Flow Down Clauses Incorporated as applicable::

FAR 52.203-03 Gratuities

FAR 52.203-05 Covenant Against Contingent Fees

FAR 52.203-06 Restriction of Contractor Sales to the Government

FAR 52.203-08 Cancellation, Rescission and Recovery of Funds for Illegal or Improper Activity

FAR 52.204-09 Personal Identity Verification of Contractor Personnel

FAR 52.204-04 Printed or Copied Double-Sided on Recycled Paper

FAR 52.204-05 Women-Owned Business (Other than Small Business)

FAR 52.207-04 Economic Purchase Quantity-Supplies

FAR 52.211-05 Material Requirements

FAR 52.212-01 Instructions to Offerors-Commercial Items

FAR 52.212-02 Evaluation-Commercial Items

FAR 52.212-03 Offeror Representations and Certifications-Commercial Items

FAR 52.212-04 Contract Terms and Conditions-Commercial Items

FAR 52.212-05 Contract Terms and Conditions Required to Implement Statutes or Executive Orders-Commercial Items

FAR 52.215-08 Order of Precedence-Uniform Contract Format

FAR 52.215-14 Integrity of Unit Prices

FAR 52.216-23 Execution and Commencement of Work

FAR 52.216-24 Limitation of Government Liability

FAR 52.216-25 Contract Definitization

FAR 52.217-08 Option to Extend Services

FAR 52.217-09 Option to Extend the Terms of the Contract

FAR 52.222-01 Notice to the Government of Labor Disputes

FAR 52.222-03 Convict Labor

FAR 52.222-04 Contract Work Hours and Safety Standards Act-Overtime Compensation

FAR 52.222-19 Child Labor-Cooperation with Authorities and Remedies

FAR 52.222-21 Prohibition of Segregated Facilities

FAR 52.222-22 Previous Contracts and Compliance Reports

FAR 52.223-05 Pollution Prevention and Right-to-Know Information

FAR 52.223-06 Drug Free Workplace

FAR 52.223-10 Waste Reduction Program

FAR 52.223-11 Ozone-Depleting Substances

FAR 52.223-12 Refrigeration Equipment and Air Conditioners
FAR 52.223-15 Energy Efficiency in Energy-Consuming Products
FAR 52.223-16 IEEE 1680 Standard for the Environmental Assessment of Personal Computer Products

FAR 52.223-17 Affirmative Procurement of EPA-designated Items in Service and Construction Contracts

FAR 52.223-18 Contractor Policy to Ban Text Messaging While Driving
FAR 52.228-05 Insurance-Work on a Government Installation
FAR 52.228-14 Irrevocable Letter of Credit
FAR 52.229-03 Federal State and Local taxes
FAR 52.232-08 Discounts for Prompt Payment
FAR 52.232-11 Extras
FAR 52.232-17 Interest
FAR 52.232-18 Availability of Funds
FAR 52.232-19 Availability of Funds for the Next Fiscal Year
FAR 52.232-23 Assignment of Claims
FAR 52.232-25 Prompt Payment
FAR 52.232-32 Performance-Based Payments
FAR 52.232-33 Payment by EFT-Central Contractor Registration
FAR 52.233-01 Disputes
FAR 52.233-02 Service of Protest
FAR 52.233-03 Protest after Award
FAR 52.237-02 Protection of Government Buildings, Equipment, and Vegetation
FAR 52.237-03 Continuity of Services
FAR 52.239-01 Privacy or Security Safeguards
FAR 52.242-13 Bankruptcy
FAR 52.242-15 Stop Work Order
FAR 52.243-01 Changes-Fixed Price
FAR 52.243-07 Notification of Changes
FAR 52.244-02 Subcontracts (Cost-reimbursement and Letter Contracts)
FAR 52.244-05 Competition in Subcontracting
FAR 52.245-02 Government Property Installation Operation Services
FAR 52.245-04 Government-Furnished Property (Short Form)
FAR 52.246-04 Inspection of Services-Fixed Price
FAR 52.246-25 Limitation of Liability- Services
FAR 52.247-34 F.O.B. Destination
FAR 52.247-63 Preference for U.S. Flag Air Carriers

FAR 52.247-66 Returnable Cylinders

FAR 52.249-08 Default (Fixed-Price Supply and Service)

FAR 52.251-01 Government Supply Source

FAR 52.253-01 Computer Generated Forms

The seller/subcontractor shall include the terms of all relevant clauses, including this paragraph, in subcontracts awarded under this contract.

9. Time: Time is hereby declared to be as of the essence of this contract.

10. Drawings: Seller shall furnish for the approval of Buyer all shop drawings as Buyer may require, and all workmanship and materials shall be in strict accordance with the approved drawings. All plans, specifications and drawings provided by Buyer to Seller in connection with this Order or provided by Seller especially for performance hereunder shall be the property of Buyer and may not be used at any time for any other purpose by Seller.

11. Assignment and/or Subcontracting: Seller may not assign or subcontract any portion of its obligations under this Order nor assign or otherwise transfer any monies due or to become due hereunder, without first obtaining the written consent of Buyer. In any event, Seller to remain fully responsible for the performance of any and all subcontractors or assigns.

12. Advertising: Seller shall not, without first obtaining the written consent of the Buyer, in any manner advertise or publish the fact that Seller has either contracted to furnish or has sold to Buyer the goods or services herein mentioned.

13. Indemnity: To the extent permitted under law, Seller shall indemnify, save harmless and defend Buyer from and against any and all suits, legal proceedings, claims, demands, damages, costs and expenses of whatsoever kind or character (including, but not limited to, reasonable attorney's fees and expenses) arising out of any injury (including death) or damage to any persons or property in any manner, caused or occasioned by any defect in the goods or services or any act, omission, fault, negligence or default of any person, firm, corporation or other entity (including but not limited to, Seller, Buyer or anyone acting on their respective behalf's), in connection with or incident to this Order or work to be performed hereunder, even if the same be, or is alleged to be, due to the sole active negligence of Buyer or anyone acting on its behalf. Indemnification for Defective Pricing – If Buyer is subject to any liability as a result of a failure of the Seller to comply with the requirements of FAR 52.215-12 and 52.215-13, Seller agrees to indemnify and hold harmless Buyer, to the full extent of any amount claimed by the Government, from and against any loss, damage, liability or expense (including reasonable attorneys' fees), resulting from such failure. Furthermore, Seller agrees that in any action brought hereunder, the Federal Statute of Limitations shall apply.

14. Termination: Buyer may terminate this Order, in whole or in part at any time by written or telegraphic notice, stating the extent and effective date of such termination. Upon receipt of notice Seller will, as and to the extent directed by Buyer, stop work under this Order and the placement of further orders or subcontracts hereunder, terminate work under orders and subcontracts outstanding hereunder, and take any necessary action to protect property in Seller's possession in which Buyer has or may acquire any interest. Buyer's sole liability to Seller in case of termination shall be reimbursement of Seller's expenses incurred up to and including the date and time of termination. Similarly, due to Government activation requirements Buyer may have to postpone or interrupt service or delivery in which event, the terms of this clause and 20 below will apply.

15. Consequential Damages: In no event shall Buyer be responsible for indirect or special damages including without limitation extra expense, loss of use of property, delay or damages consequential upon loss of use, whether resulting from negligence or breach or otherwise, even if the possibility of such damages is foreseeable by Buyer.

16. Taxes: Unless otherwise expressly provided on the face of this Order, all taxes, duties, tolls, fees, import charges or other governmental exactions shall be deemed included in the quoted price, and Buyer shall have no liability to pay Seller any amount in excess of the said price specified herein.

17. Extension of Benefits: All exceptions, exemptions, defenses, immunities, limitations of liability, privileges and conditions granted or provided by this order to the benefit of Buyer shall also apply to and be for the benefit of Owner and all corporations parent of, subsidiary to, affiliated with or under the same management as Buyer, as well as all directors, employees and agents of said entities.

18. Security Requirements: All Sellers and subcontractor personnel must hold Federal TWIC cards for any and all employees that require access to the Port or vessels. Personnel who do not have TWIC cards will face delays or be denied access beyond Buyers control and responsibility. Any such security delays or expense will be borne by the Seller. The following link will provide information on how to obtain these cards which are valid countrywide for a period of five years at an approximate cost of \$132. [http://www.tsa.gov/what we do/layers/twic/index.shtm](http://www.tsa.gov/what_we_do/layers/twic/index.shtm)

CTM vessel security plan requirements as approved by US Coast Guard Washington DC, necessitates that non-TWIC holders will be escorted by TWIC holding individuals at a ratio of one (holding) to five (non-holding). TWIC holders accomplishing escort duties will be supervisory management or lead trade representatives of contracted vendor organization.

Contractors shall comply with Department of Homeland Security Federal Law Enforcement Training Center (FLETC) access and control procedures as follows: Partner Agency staff and contractors will submit a badge application form SEM-17 through the sponsoring agency with a photo copy of a government issued photo identification card. The application will be processed and a National Criminal Information Check (NCIC) will be conducted. Upon successful completion of the NCIC check the staff member/contractor will be issued a Federal Complex access badge. A vehicle pass will be issued with verification of drivers license, vehicle registration and proof of insurance. Vendors/delivery personnel will be required to go through the Vehicle Inspection Point before entry unto the complex. Non-Citizens should apply 30 days in advance. Additional information and access support may be obtained by contacting Buyers corporate office at telephone 904-727-2200 prior to the commencement of shipboard work and/or attending the vessel. All costs associated with these actions will be borne by Seller. Note: All parties who require access to DOT facilities, sensitive information, information systems or other resources must comply with U.S. DEPARTMENT OF TRANSPORTATION (DOT) CONTRACTOR PERSONNEL SECURITY AND AGENCY ACCESS (NOVEMBER 2011) which may be accessed online at http://www.dot.gov/ost/m60/DOT_policy_letters/apl12_01.pdf

19. Law and Jurisdiction: INTENT: It is hereby specifically agreed that the parties hereto shall make a concerted effort to minimize the possibility of disputes or claims arising either during the execution of a contract or after completion. However, should a dispute arise it will be dealt with in the following manner:

- Negotiation
- Mediation
- Arbitration
- Legal remedies

Only when the previous method of compromise fails to be successful will the next step be considered.

1. (a) All disputes arising from or related to this Contract, which are not disposed of by mutual agreement within 6 months may be decided by recourse to Mediation/Arbitration or an action at law or in equity in accordance with subparagraph (b). Until final resolution of any dispute hereunder, Seller shall diligently proceed with the performance of this Contract if so directed by Buyer:

(b) Buyer and Seller agree to timely notify each other of any claim, dispute or cause of action arising from or related to this Contract, and to negotiate in good faith to resolve any such claim, dispute or cause of action in accordance with the intent set out above. To the extent that such negotiations fail, then this Contract shall be governed by and construed in accordance with Title 9 of the United States Code and the Maritime Law of the United States, except that any provision in this Contract that is (i) incorporated in full text or by reference from the Federal Acquisition Regulations (FAR); or (ii) incorporated in full text or by reference from any agency regulation that implements or supplements the FAR; or (iii) that is substantially based on any such agency regulation or FAR provision, shall be construed and interpreted according to the federal common law of government contracts as enunciated and applied by federal judicial bodies, boards of contract appeals, and quasi-judicial agencies of the federal Government. Any dispute arising out of or in connection with this Contract shall be referred to three persons at New York, one to be appointed by each of the parties hereto, and the third by the two so chosen; their decision or that of any two of them shall be final, and for the purposes of enforcing any award, judgment may be entered on an award by any court of competent jurisdiction. The proceedings shall be conducted in accordance with the rules of the Society of Maritime Arbitrators, Inc. In cases where neither the claim nor any counterclaim exceeds the sum of US\$50,000 (or such other sum as the parties may agree) the arbitration shall be conducted in accordance with the Shortened Arbitration Procedure of the Society of Maritime Arbitrators, Inc. current at the time when the arbitration proceedings are commenced. Notwithstanding the foregoing, the parties may agree at any time to refer to mediation any difference and/or dispute arising out of or in connection with this Contract. Should one party fail or refuse to Arbitrate, the other shall have the right to file suit in the Courts of the Southern District of New York to seek legal redress.

In the case of a dispute in respect of which arbitration has been commenced, the following shall apply:

- (i) Either party may at any time and from time to time elect to refer the dispute or part of the dispute to mediation by service on the other party of a written notice (the "Mediation Notice") calling on the other party to agree to mediation.
- (ii) The other party shall thereupon within 14 calendar days of receipt of the Mediation Notice confirm that they agree to mediation, in which case the parties shall thereafter agree a mediator within a further 14 calendar days, failing which on the application of either party a mediator will be appointed promptly by the Arbitration Tribunal ("the Tribunal") or such person as the Tribunal may designate for that purpose. The mediation shall be conducted in such place and in accordance with such procedure and on such terms as the parties may agree or, in the event of disagreement, as may be set by the mediator.
- (iii) If the other party does not agree to mediate, that fact may be brought to the attention of the Tribunal and may be taken into account by the Tribunal when allocating the costs of the arbitration as between the parties.
- (iv) The mediation shall not affect the right of either party to seek such relief or take such steps as it considers necessary to protect its interest. Either party may advise the Tribunal that they have agreed to mediation. The arbitration procedure shall continue during the conduct of the mediation but the Tribunal may take the mediation timetable into account when setting the timetable for steps in the arbitration.
- (v) Unless otherwise agreed or specified in the mediation terms, each party shall bear its own costs incurred in the mediation and the parties shall share equally the mediator's costs and expenses.
- (vi) The mediation process shall be without prejudice and confidential and no information or documents disclosed during it shall be revealed to the Tribunal except to the extent that they are disclosable under the law and procedure governing the arbitration.

20. Force Majeure: Buyer shall not be liable for default or delay caused by any occurrence beyond its control including, but not limited to, acts of God, preparation for war, war, naval or military intervention, intervention of naval or military executives or other agencies of government, terrorism, blockade, sabotage, vandalism, insurrection, floods, earthquakes, fires, strikes, delays of common carriers, and requisitioning of the Vessel by any government or agency thereof (including Turbo or other activations). In the event the Seller is delayed in, or prevented from completing the Work, or any portion thereof, by reason of any of the foregoing occurrences, the Buyer shall have no liability for any expenses or loss incurred by the Seller by reason thereof.

B. PROVISIONS APPLICABLE ONLY TO GOODS:

In addition to Part A above, the following terms and conditions shall apply to contracts for the supply or provision of goods and/or materials hereunder:

1. Title: Title and risk of loss to the goods shall pass to Buyer upon Buyer's acceptance of delivery at the vessel or place specified. Shipping tickets and/or packing slips must show in detail any goods shipped and must accompany all deliveries, which must be signed for by the Master, Chief or Port Engineer.

2. Crating, Cartage, Storage: No charges will be accepted by the Buyer for crating, boxing, cartage, storage or like services, unless specifically agreed to in writing prior to shipment of the goods hereunder.

3. Warranties: Seller warrants clear and merchantable title to the goods free of any security interest, lien or encumbrance and agrees to indemnify Buyer against all liability for patent, copyright or other infringement on account of sale and use of the goods. Seller further warrants that the goods shall be of merchantable quality and as specified, and shall be fit for the purpose intended. All implied warranties of the Uniform Commercial Code and warranties implied by usage of trade are reserved by Buyer and incorporated herein.

4. Transportation Costs: Seller warrants that any transportation costs included in the price will not exceed actual transportation costs paid by Seller. If this Order calls for payment of any transportation costs by Buyer, Buyer shall in no event be liable or accountable for any amount in excess of the actual costs of transportation. Seller shall be accountable for and shall pay any excess transportation costs arising from Seller's failure to make delivery to the FOB point or to follow shipping instructions furnished by Buyer.

5. Invoices: NOTE: Due to government funds expiry all invoices must be received within 6 months of performance to be processed for payment and Buyer expressly reserves the right to refuse to pay any stale or invalid invoices. Expediting of the invoicing process will not be used as an excuse to accept less than adequate invoices. Partial payments may be made on a case by case basis in Buyer's sole discretion. Goods and/or Material invoices shall be submitted immediately, with proof of delivery to: CROWLEY TECHNICAL MANAGEMENT, INC., 9487 REGENCY SQUARE BLVD., JACKSONVILLE, FL 32225, ATT: MARAD ACCOUNTS PAYABLE

C. PROVISIONS APPLICABLE ONLY TO SERVICES:

In addition to Part A above, the following terms and conditions shall apply to the provision of services hereunder.

1. Manner and Materials: Seller shall perform any and all services for the Buyer and to the property in a workmanlike manner and in compliance with CTM Purchase Orders and CTM Contractor Safety document, at the location designated by Buyer in accordance with the specifications of Buyer and/or Class. All plans, drawings, materials, machinery,

equipment, outfitting and workmanship involved in performance of the services shall be supplied by Seller and shall be of a quality conforming to the best commercial practice for property of this type. If there should be any conflict between the provisions of any of the aforesaid documents and the Specification, the Specification will prevail.

2. Warranties:

- a) Seller shall keep the property free and clear of all liens, security interests, encumbrances and claims of every nature, including statutory and maritime liens in favor of workman, materialmen, subcontractors, or others arising by, through or under Seller. Seller shall discharge all such liens and other claims at once. Seller hereby waives all liens, whether possessory or otherwise, in its favor which would otherwise attach to the property. U.S. Public vessels are immune to liens.
- b) Seller shall correct to the satisfaction of Buyer all defects in workmanship or in materials furnished by Seller hereunder, which developed within a period of one year or other longer period as may be specified by manufacturer, after completion of the services.

3. Care of the Property: At all times during the term of this contract, Seller shall protect the property from any and all damage. At all times while the property is on Seller's premises, Seller shall assume all risk of damage to or loss of the property (or of any machinery, equipment, materials and outfitting obtained or intended for the property) from any cause whatsoever except acts of God or the sole negligence of Buyer.

4. Insurance Requirements: Seller, at its sole cost and expense (including the cost of all deductibles), shall procure and maintain in force during the term of this Agreement the following insurance coverages to protect Government property and the Buyer when performing Services onboard any MARAD vessel or on Buyers premises under this Agreement. TABLE OF COVERAGE TYPES and TABLE OF MINIMUM LIABILITY LIMITS REQUIRED based on risk considerations:

COVERAGE	DESCRIPTION
Workmen's Compensation, including Longshoremen & Harbor Worker's Act coverage	Always Required - no minimum
Employers Liability	E bodily injury by accident, each accident - E bodily injury by disease each accident - E bodily injury by disease in the aggregate
Maritime Employers Liability (Jones Act)	M each person per occurrence - M in the aggregate
Comprehensive General Liability	C combined single per occurrence limit for bodily injury and property damage - C in the aggregate
Ship Repairers Legal Liability	S per vessel, per occurrence
Pollution Liability	P per occurrence
	T applies to dead-ship tow

RISK

Note: See TABLE OF MINIMUM LIABILITY LIMITS REQUIRED for values of variables E M C S P or T

COVERAGE	DESCRIPTION
Workmen's Compensation, including Longshoremen & Harbor Worker's Act coverage Employers Liability	Always Required - no minimum E bodily injury by accident, each accident - E bodily injury by disease each accident - E bodily injury by disease in the aggregate
Maritime Employers Liability (Jones Act)	M each person per occurrence - M in the aggregate
Comprehensive General Liability	C combined single per occurrence limit for bodily injury and property damage - C in the aggregate
Ship Repairers Legal Liability	S per vessel, per occurrence

a) Automobile Liability insurance, including liability insurance coverage on vehicles used in connection with this Agreement with limits of liability not less than \$1,000,000 any one occurrence.

b) Should this Agreement require consulting services, Professional Liability insurance, with limits of liability not less than \$1,000,000 any one occurrence, covering services to be performed by Seller or Subcontractor under this Agreement.

c) Should the Services supplied under this Agreement include delivery of fuel or other hazardous products, or waste disposal, Pollution insurance or Environmental Impairment insurance, with limits of liability not less than \$5,000,000 per occurrence, and any other public liability or other environmental impairment coverage required by Federal, State or local regulatory authorities.

d) Should the Services supplied under this Agreement include the use of vessels, Protection and Indemnity or other Marine Liability insurance, with limits of liability not less than \$1,000,000 per occurrence.

e) Should the Services supplied under this Agreement include use of aircraft, Aircraft Liability insurance, with limits of liability not less than \$5,000,000 per occurrence.

The Workers' Compensation / Employers Liability insurance Policy shall be endorsed to waive all rights of subrogation against the United States of America, and any company or entity, parent of, subsidiary to or affiliate of Buyer.

All policies shall be endorsed to name the United States of America/MARAD and any company or entity, parent of, subsidiary to or affiliate of Buyer, as additional insureds and shall be endorsed to waive all rights of subrogation against all such entities and Property. Additionally, Seller's Certificate of Insurance must state:

"It is further understood that (1) there shall be no recourse against the United States of America for the payment of premiums or commissions; (2) if such policies provide for payment of Club

Calls, assessments or advances, there shall be no recourse against the United States of America for the payment thereof”.

If Seller maintains insurance limits higher than the limits listed above, then Buyer and the United States of America shall benefit from those higher limits on the same terms and conditions as provided by this Agreement.

Seller shall require all subcontractors performing services under this Agreement to maintain in force insurance of the types and amounts specified in this Agreement. Seller and all subcontractors shall have issued certificates of insurance identifying the United States of America and Buyer as a Certificate Holder and shall ensure that indemnification agreement extends to the United States of America/MARAD.

All insurance policies maintained by the Seller shall contain a cross liability provision which provides that, in the event of one of the insureds incurring liability to any other of the insureds, the policy shall cover the insured against whom claim is made or may be made in the same manner as if separate policies had been issued to each insured. All policies of Seller shall be primary insurance as to any insurance provided or carried by Buyer, and shall not contain any "benefit of insurance/other insurance" clauses or other contractual provisions which in any way lessen or diminish the full amount of insurance provided to Buyer by the Seller. The coverages afforded to such additional insureds shall at least, be equal to the coverages afforded the Seller under such policies and shall in all respects include coverages for the obligations of Seller under this Agreement.

The aforesaid policies will be endorsed to provide Buyer, at the address given below, and the United States of America Maritime Administration, Division of Marine Insurance, MAR-780, W23-453, 1200 New Jersey Ave., SE, Washington, D.C. 20590, with thirty (30) days written notice prior to cancellation or reduction in any coverage required by this Agreement. The insurance policies shall be issued by insurance companies with a Best's rating of at least "B" or equivalent, and shall be subject to Buyer's approval, which shall not be unreasonably withheld. Seller shall provide Buyer with certificates of insurance prior to the supply of Services and/or Goods under this Agreement. Commencement of this Agreement without receipt of the aforesaid certificates shall not constitute a waiver of the obligation of the Seller to obtain and maintain the required insurance coverages and to provide Buyer with the aforesaid certificates. Upon request, Seller shall supply a copy of all original insurance policies within 5 calendar days.

Should Seller fail to procure or maintain any of the aforesaid insurance coverages, or by any act or omission, vitiate or invalidate any of the aforesaid insurance coverages, Seller shall indemnify Buyer, the United States of America and the other beneficiaries of said insurance to the extent they or any of them suffers or incurs loss, damage, liability or expense in consequence of such failure, act or omission.

It is expressly understood that the Seller shall notify Buyer's Risk Management Department immediately of all accidents and any accident involving the Property, advising names of parties involved, location of accident, witnesses, and confirmation of prompt reporting to the responsible insurance agent of the Seller, as identified on the Seller's certificate of insurance.

Certificates of Insurance should be sent to:

Crowley Maritime Corporation
Risk Management Department
9487 Regency Square Blvd.
Jacksonville, FL 32225

Fax: (904) 805-1639

Email: vendor.insurance@crowley.com

Kimberly.stotler@crowley.com or

Julie.haines@crowley.com

5. Independent Contractor: Seller shall determine the manner and method of performing the services and shall operate as an independent contractor and not as an agent or employee of Buyer or Owner.

6. Nature of Work: The nature and location of the services and all conditions which may affect its completion have been carefully inspected and considered by Seller, who assumes all risk of loss and unanticipated expense, however, caused and whether or not foreseeable.

7. Safety, Health and Environmental: Provisions of CTM Safety, Quality & Operations Manual and Crowley Safety & Health Manual, are incorporated and made a part hereof.
<http://www.crowley.com/Safety-and-Environment/Safety-as-a-Core-Value>

8. Time and Material Service Orders: Normally any and all Orders will be issued as firm fixed price items on a "best value" basis. If agreed and the purchase order states "Time and Material work" the contractor is to provide the following with their invoice:

- a) Time Sheets signed by the Chief Engineer for hours worked.
- b) Itemized list of material used or provided.
- c) If allowed, travel expenses shall be fully supported by receipts and cannot exceed the minimum per diem rates listed on website: <http://www.gsa.gov>. NO MARKUPS ARE ALLOWED.
- d) Sign off from the Chief Engineer that the work has been completed to his/her satisfaction.
- e) No markup of material, services, or travel expenses are allowed. Note that FAR 16.102 prohibits cost-plus-a-percentage-of-cost system of contracting.

9. Invoices: NOTE: Due to government funds expiry all invoices must be received within 6 months of performance to be processed for payment and Buyer expressly reserves the right to refuse to pay any stale or invalid invoices. Expediting of the invoicing process will not be used as an excuse to accept less than adequate invoices. Partial payments may be made on a case by case basis in Buyers sole discretion. Service invoices shall be submitted immediately upon completion of work to: Crowley Maritime Corporation, 9487 Regency Square Blvd, Jacksonville, FL 32225, Attn: Accounts Payable or via email at apinvoicesbak@crowley.com.

10. Security and Agency Access Clause – For Contractors and their employees going onboard Marad RRF vessels, they must comply with the U.S. Department of Transportation (DOT) – Contractor Personnel Security and Agency Access (November 2011) policy, which can be found at:

http://www.dot.gov/sites/dot.dev/files/docs/apl12_01.pdf.