

SAFETY MANAGEMENT SERVICES, INC.

GENERAL CLAUSES AND PROVISIONS

THIS AGREEMENT entered into by and between Safety Management Services, Inc. (SMS) and (CONTRACTOR)

1. CONTRACT DEFINITIONS

As used throughout this Contract (Purchase Order), the following terms shall have the meaning set forth below unless otherwise indicated:

(a) “SMS” means Safety Management Service, Inc. acting through its duly authorized Procurement Representative.

(b) “CONTRACTOR” means the individual partnership, corporation, or association contracting to furnish the described article(s).

(c) “Articles” refers to the goods, products, supplies, parts, assemblies, technical data, drawings, services, or other items constituting the subject matter of this Contract which are to be furnished by CONTRACTOR to SMS.

(d) “Subcontract,” except as otherwise provided in this Contract, means all contracts placed by the CONTRACTOR or lower tier Subcontractors for the specific purpose of performing any portion of work under this Contract, and includes, but is not limited to, purchase orders, changes and modifications thereto.

(e) “Contract” means all applicable General Clauses & Provisions, Special Provisions, drawings, technical data, specifications, purchase authorizations, quality clauses, and all other documents and terms and conditions incorporated herein.

(f) As used in this Contract, the terms “written order,” “notification of change,” “supplement,” “alteration,” or “amendment” shall mean a formal written order describing the change to be made, issued and signed by an authorized SMS Procurement Representative.

(g) “Supplies,” “services,” and equivalent phrases, when used in conjunction with provisions containing Federal Acquisition Regulation (FAR) references, shall mean “Articles” as defined above.

2. PRECEDENCE

All documents and clauses in this Contract

shall be read, to the extent practical so as to be consistent. In the event of conflict, the order of precedence for the documents in this Contract are:

- (a) The typed requirements on the face of the Purchase Order,
- (b) The Special Provisions (if applicable),
- (c) These General Clauses & Provisions,
- (d) The Statement of Work (if applicable),
- (e) Any other documents specifically incorporated herein either by actuality or by reference.

3. INVOICES AND PAYMENT

(a) CONTRACTOR shall submit a separate invoice for each delivery and shall not submit any invoice prior to the Contract schedule date, whichever is later.

(b) Payment due date including discount periods, will be based on (1) the date articles are received or services completed; or (2) the date a correct invoice is received whichever is later. Payment will be deemed to have been made when deposited in the mail.

(c) SMS shall be entitled at all times to offset any amounts owed by CONTRACTOR to SMS against any amount payable by SMS to CONTRACTOR.

4. PACKING, MARKING, AND SHIPPING

Unless otherwise specified in this Contract:

(a) All articles shall be packed, marked and shipped in accordance with good commercial practices to assure protection in shipment and storage. Any expense incurred by SMS as a result of improper preservation, packaging, packing, marking or method of shipment shall be reimbursed by CONTRACTOR.

(b) CONTRACTOR shall strictly comply with the delivery requirements of this Contract. In the event of CONTRACTOR’S failure to comply with the delivery requirements, SMS may, in addition to all other remedies, require CONTRACTOR at CONTRACTOR’S

expense, to ship articles via air freight or expedited routing to avoid or minimize delay.

5. NOTICE OF POTENTIAL DELAY

Whenever **CONTRACTOR** has knowledge of any actual or potential delay or threatened delay in the timely performance of this Contract, the **CONTRACTOR** shall immediately give notice thereof, confirmed in writing, including all relevant information with respect thereto, to **SMS**. The **CONTRACTOR** agrees to insert the substance of this provision, including this sentence, in any Subcontract hereunder, except that each such Subcontract shall require the Subcontractor to notify his next higher tier Contractor of all relevant information with respect to such delays. Such notice is for informational purposes only and shall not be construed to relieve the **CONTRACTOR** of **CONTRACTOR'S** obligation to comply with the Contract delivery requirements.

6. ANTICIPATED REQUIREMENTS/ EARLY DELIVERIES

Unless otherwise agreed in writing, **CONTRACTOR** shall not make material commitments or production arrangements in excess of the amount or in advance of the time required to meet **SMS'S** delivery schedule. It is **CONTRACTOR'S** responsibility to comply with this schedule, but not to anticipate **SMS'S** requirements. Articles delivered to **SMS** more than thirty (30) days of advance of the schedule set forth herein may be returned at **CONTRACTOR'S** expense and without any obligation whatsoever to **SMS**.

7. EXTRAS

Except as otherwise provided in this Contract, no payment for extras shall be made unless such extras and the price thereof have been authorized in writing by an authorized Procurement Representative of **SMS**.

8. CHANGES

(a) **SMS** may at any time, by a written order, and without notice to the sureties, if any, make changes within the general scope of this Contract in any one or more of the following:

- (1) Technical requirements and descriptions, statements of work, drawings, designs or specifications,
- (2) Method of shipment or packing,
- (3) Place of delivery, inspection, Acceptance or performance,
- (4) Reasonable adjustments in quantities, delivery schedules, or both.

(b) If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of the work under this Contract, whether or not changed by the order, **SMS** shall make an equitable adjustment in the Contract price, the delivery schedule, or both, and shall modify the Contract to reflect such adjustment.

(c) The **CONTRACTOR** must submit any "Proposal for Adjustment" (hereafter referred to as proposal) under this clause within thirty (30) days from the date of receipt of the written order. However, if **SMS** decides that the circumstances justify it, **SMS** may receive and act upon a proposal submitted after the thirty (30) days but before final payment of the Contract.

(d) If the **CONTRACTOR'S** proposal includes the cost of property made obsolete or excess by the change, **SMS** shall have the right to prescribe the manner of the disposition of the property.

(e) Failure to agree to any adjustment shall be a dispute under the "DISPUTES" clause. However, nothing in this clause shall excuse the **CONTRACTOR** from proceeding with the Contract as changed.

9. TECHNICAL ASSISTANCE

SMS'S engineering and technical personnel may, from time to time, render assistance or give technical advice to, or effect an exchange of information with **CONTRACTOR'S** personnel in a liaison effort concerning the articles to be furnished hereunder. However, such exchange of information or advice shall not authorize **CONTRACTOR** to change the article hereunder or the provisions of the Contract. No change shall be made without the prior written consent of a duly authorized **SMS** Procurement Representative.

10. INSPECTION

(a) Any articles purchased hereunder shall be subject to inspection and testing by **SMS** to the extent practicable at all times and places, including the period of manufacture and, in any event, prior to final acceptance. **SMS** may inspect at all reasonable times the manufacturing facilities and operation of the **CONTRACTOR** or of any of its Subcontractors engaged in the performance of work as a result of this Contract. If any inspection or test is made by **SMS** on the premises of the **CONTRACTOR**, the **CONTRACTOR**, without additional charge, shall provide all reasonable data, facilities, access, and assistance for **SMS'S** inspectors in the performance of their duties. All inspections

and tests shall be performed in such a manner as not to unduly delay the work. **CONTRACTOR** shall inform the authorized **SMS** inspector when the work is ready for inspection. No inspection or test made prior to final inspection and acceptance shall relieve the **CONTRACTOR** from responsibility for defect or other failure to meet the requirements of this Contract.

(b) In case any article or lot of articles is defective in material or workmanship, or otherwise not in strict conformance with the requirements of this Contract, **SMS** shall have the right either to reject it, require its correction, or accept it with an equitable adjustment in price. Any article which as been rejected or required to be corrected may be returned to and shall be replaced or corrected by and at the expense of the **CONTRACTOR**, including transportation charges, promptly after notice. If, after being requested by **SMS**, the **CONTRACTOR** fails to promptly replace or correct any defective article within the contractual delivery schedule, **SMS** may: (1) by contract or otherwise, place or correct such article and charge to the **CONTRACTOR** the cost occasioned **SMS** thereby; (2) without further notice terminate this Contract for default, in accordance with the clause hereof titled "DEFAULT TERMINATION", or (3) require a reduction in price which is equitable under the circumstances.

(c) The **CONTRACTOR** shall provide and maintain an inspection system in accordance with sound business practices and as otherwise provided in this Contract. Records of all inspection work by the **CONTRACTOR** shall be kept complete and available to **SMS** during the performance of this Contract and for three (3) years after final payment, and in such manner as may be specified elsewhere in the Contract.

11. WARRANTY

(a) **CONTRACTOR** warrants for a period of one (1) year from the date of final acceptance by **SMS** that all articles furnished hereunder shall be free from all defect in materials and workmanship; shall strictly conform in all aspects with all of the requirements of this Contract and any drawings or specifications incorporated herein, regardless of any prior course of dealing between **SMS** and the **CONTRACTOR**; and where design is **CONTRACTOR'S** responsibility, be free from defects in design and fit for the intended purpose. The foregoing warranties are in addition to all other warranties, whether expressed or implied, and shall survive any delivery to, or inspection,

acceptance, or payment by **SMS**, for the articles furnished hereunder.

(b) If any article delivered hereunder does not meet the warranties or requirements specified herein, **SMS** may, at its election:

(1) require the **CONTRACTOR** to correct, at no cost to **SMS**, any defective or nonconforming article by repair or replacement;

(2) return such defective or nonconforming article to the **CONTRACTOR** and recover from the **CONTRACTOR** the contract price thereof, plus transportation charges; or

(3) submit a claim to the **CONTRACTOR** for damages (including consequential damages) caused by the defective or nonconforming article. The foregoing remedies are in addition to all other remedies at law or under this Contract and shall not be deemed to be exclusive. All warranties shall run to **SMS** and its customers.

(c) If the articles delivered under this Contract will be incorporated in any end item to be delivered to **SMS'S** customer; **CONTRACTOR'S** obligation under this clause shall be extended to one (1) year after delivery of the end item to the customer.

12. STOP-WORK ORDER

(a) **SMS** may, at any time, by written order to the **CONTRACTOR**, require the **CONTRACTOR** to stop all, or any part, of the work called for by this Contract for a period of ninety (90) days after the order is delivered to the **CONTRACTOR**, and for any further period to which the parties may agree. The order shall be specifically identified as a Stop-Work Order issued pursuant to this clause. Upon receipt of such an order, the **CONTRACTOR** shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs (including stand-by costs) allocable to the work covered by the order during the period of work stoppage. Within a period of ninety (90) days after a Stop-Work Order is delivered to the **CONTRACTOR**, or within any extension of that period to which the parties shall have agreed, **SMS** shall either:

(1) cancel the Stop-Work Order; or

(2) terminate the work covered by such order as provided in the "DEFAULT TERMINATION" or the "TERMINATION FOR CONVENIENCE" clauses of this Contract.

(b) If a Stop-Work Order issued under this clause is canceled or the period of the order or any extension thereof expires, the

CONTRACTOR shall resume work. **SMS** shall make an equitable adjustment in the delivery schedule or Contract price, or both, and in any other provisions of the Contract that may be affected, and the Contract shall be modified, in writing, accordingly, if:

(1) the Stop-Work Order results in an increase in the time required for, or in the **CONTRACTOR'S** cost properly allocable to, the performance of any part of this Contract; and

(2) the **CONTRACTOR** asserts a claim for the adjustment within twenty (20) days after the end of the period of work stoppage; provided, that, if **SMS** decides the facts justify the action, **SMS** may receive and act upon the claim asserted at any time before final payment under this Contract.

(c) If a Stop-Work Order is not canceled and the work covered by such order is terminated, pursuant to the "**TERMINATION FOR CONVENIENCE**" clause herein, **SMS** shall allow reasonable costs resulting from the Stop-Work Order in arriving at the termination settlement.

(d) If the Stop-Work Order is not canceled and the work covered by the order is terminated for default, **SMS** shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the Stop-Work Order.

13. TERMINATION FOR CONVENIENCE

(a) **SMS** may, by written notice, terminate this Contract, in whole or in part, when it is the interest of **SMS** to so terminate this Contract. If this Contract is so terminated, **SMS** shall be liable only for payment as set forth below.

(b) After receipt of a Notice of Termination, the **CONTRACTOR** shall immediately proceed with the following obligations:

(1) Stop work as specified in the Notice of Termination.

(2) Place no further subcontracts or orders except as necessary to complete the nonterminated portion of this Contract.

(3) Complete performance of the work not terminated.

(4) Comply with the instructions by **SMS** in the Notice of Termination and any subsequent written instructions.

(c) After termination, **CONTRACTOR** shall submit a final termination settlement proposal within ninety (90) days of the Notice of Termination or any **SMS** approved extension form and with the certifications prescribed by **SMS**.

(d) Subject to paragraph (c) above, the

CONTRACTOR and **SMS** may agree upon the whole or any part of the amount to be paid because of the termination for convenience. The amount of any settlement may include a reasonable allowance for profit on work completed on the terminated portion but no anticipatory profit of the work terminated shall be allowed. No settlement agreed upon may exceed the total Contract price as reduced by (1) the amount previously paid and (2) the Contract price of work not terminated. The Contract shall be amended and the **CONTRACTOR** paid the agreed amount.

(e) If the **CONTRACTOR** and **SMS** fail to agree on the entire amount to be paid because of the termination of work **SMS** may pay the **CONTRACTOR** the amounts determined by **SMS** to be due the **CONTRACTOR**.

(f) If the **CONTRACTOR** fails to submit the termination settlement proposal within the time provided in paragraph (c) above and failed to request a time extension, the determination of an equitable adjustment by **SMS** under paragraph (e) above shall be conclusive. If **SMS** has made a determination of the amount due under paragraph (e) above, **SMS** shall pay the **CONTRACTOR** the amount determined by **SMS**. A dispute on the equitable adjustment of the terminated portion of the Contract shall not excuse continued performance on the nonterminated portion of this Contract.

14. DEFAULT TERMINATION

(a) (1) **SMS** may, subject to paragraphs (c) and (d) below, by written notice of default to the **CONTRACTOR**, terminate this Contract in whole or in part if the **CONTRACTOR** fails to:

(i) deliver the articles or to perform the services within the time specified in this Contract or any extension;

(ii) make progress, so as to endanger performance of this Contract (but see subparagraph (a)(2) below); or

(iii) perform any of the other provisions of this Contract (but see subparagraph (a)(2) below).

(2) **SMS'S** right to terminate this contract under subdivisions (a)(1)(ii) and (a)(1)(iii) above, may be exercised if the **CONTRACTOR** does not cure such failure within 10 days (or more if authorized in writing by **SMS**) after receipt of the notice from **SMS** specifying the failure.

(b) If **SMS** terminates this Contract in

whole or in part, it may acquire, under the terms and in the manner **SMS** considers appropriate, articles or services similar to those terminated, and the **CONTRACTOR** will be liable to **SMS** for any excess costs of those articles or services. However, the **CONTRACTOR** shall continue the work not terminated.

(c) Except for defaults of Subcontractors at any tier, the **CONTRACTOR** shall not be liable for any excess costs if the failure to perform the Contract arises from causes beyond the control and without the fault or negligence of the **CONTRACTOR**. Examples of such causes include (1) acts of God or of the public enemy, (2) acts of the Federal Government in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) freight embargoes, and (9) unusually severe weather. In each instance the failure to perform must be beyond the control and without the fault or negligence of the **CONTRACTOR**.

(d) If the failure to perform is caused by the default of a Subcontractor at any tier, and if the cause of the default is beyond the control of both the **CONTRACTOR** and Subcontractor, and without the fault or negligence of either, the **CONTRACTOR** shall not be liable for any excess costs for failure to perform, unless the Subcontracted articles or services were obtainable from other sources in sufficient time for the **CONTRACTOR** to meet the required delivery schedule.

(e) If this Contract is terminated for default, **SMS** may require the **CONTRACTOR** to transfer title and deliver to **SMS**, as directed by **SMS**, any (1) completed supplies, and (2) partially completed supplies and materials, parts, tools, dies, jogs, fixtures, plans, drawings, information, and contract rights (collectively referred to as "manufacturing materials" in this clause) that the **CONTRACTOR** has specifically produced or acquired for the terminated portion of this Contract. Upon direction of **SMS**, the **CONTRACTOR** shall also protect and preserve property in its possession in which **SMS** has an interest.

(f) **SMS** shall pay contract price for completed supplies delivered and accepted. The **CONTRACTOR** and **SMS** shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property. Failure to agree will be a dispute under the "DISPUTES" clause. **SMS** may withhold from these amounts any sum **SMS** determines to be necessary to protect **SMS**

against loss because of outstanding liens or claims of former lien holders.

(g) If after termination, it is determined that the **CONTRACTOR** was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of **SMS**.

(h) **CONTRACTOR** agrees that any assistance given them by **SMS** on this Contract or any acceptance of delinquent or nonconforming items will be solely for the purpose of mitigating damages and it is not the intention of **SMS** to condone any delinquency, waive any defect, or waive any rights **SMS** has under this Contract.

(i) The rights and remedies of **SMS** in this Clause are in addition to any other rights and remedies provided by law or under this Contract.

15. ASSIGNMENT AND SUBCONTRACTING

(a) Neither this Contract nor the rights, duties or interest therein may be delegated, assigned or otherwise transferred in any manner without the prior written consent of **SMS**.

(b) None of the articles to be delivered under this Contract shall be acquired by **CONTRACTOR** from a Subcontractor or third party in completed or substantially completed form without the prior written consent of **SMS**. This limitation shall not apply to **CONTRACTOR'S** purchases of standard commercial supplies or raw materials.

(c) The **CONTRACTOR** agrees that no Subcontract issued under this Contract shall provide for payment on a cost-plus-a-percentage-of-cost basis.

16. BANKRUPTCY

(a) In the event of the appointment of a trustee, receiver, or liquidator for all or a portion of **CONTRACTOR'S** property, or for any act of bankruptcy by the **CONTRACTOR** as defined in the Bankruptcy Act, Title 11, United States Code, as amended, or any voluntary petition in bankruptcy by the **CONTRACTOR**, **SMS** may terminate the right of the **CONTRACTOR** to proceed with the further performance of this Contract without further obligation except that **SMS** shall be obliged to pay for any article **accepted** prior to any of the foregoing occurrences at the prices specified herein.

(b) During the performance of this Contract, the **CONTRACTOR** shall submit financial information at such times and in such content and form as **SMS** may reasonably

require. This Contract may be terminated by **SMS** whenever the **CONTRACTOR'S** financial condition may jeopardize performance of this Contract.

17. SMS PROPERTY

(a) Unless otherwise provided herein, the **CONTRACTOR**, upon receipt by the **CONTRACTOR** of any **SMS** owned property, assumes the risk of and shall be responsible for any loss, damage, or destruction thereof except for reasonable wear and tear, and except to the extent that such property is consumed in the performance of this Contract.

(b) Unless otherwise provided herein, the property furnished herein, shall be used only for the performance of this Contract.

(c) Upon completion of this Contract or at such earlier date as may be fixed by **SMS**, the **CONTRACTOR** shall submit, in a form acceptable to **SMS**, inventory lists covering all items of **SMS**-owned property not consumed herein or not theretofore delivered, and shall deliver or make such other disposal of such property as may be directed or authorized by **SMS**. The net proceeds of such disposal (including sale of scrap) shall be credited to the Contract price.

(d) **SMS** shall have access at all reasonable times to the premises in which **SMS**-owned property is located for the purpose of inspecting the property.

(e) In the event that **SMS**-owned property is received by the **CONTRACTOR** in a condition not suitable for the intended use, the **CONTRACTOR** shall, upon receipt thereof, notify **SMS** of such fact and, as directed in writing by **SMS**, either:

- (1) return such property at **SMS'S** expense or otherwise dispose of the property; or
- (2) effect repairs or modifications.

(f) Upon receipt of **SMS**-furnished property from a source other than **SMS**, the **CONTRACTOR** shall forward to **SMS**, a signed packing slip receipt, together with such other forms as may be required by **SMS**, evidencing that certain material has been received. These documents shall show the total amount of material received in any one shipment, the amount accepted, the amount rejected, and such other information as **SMS** shall request.

(g) Title to **SMS** owned property shall not be affected by the incorporation or attachment thereof to any other property, nor shall such property, or any part thereof, be or become a

fixture or lose its identity as personal property by reason of affixation of any realty.

(h) In the event **SMS** fails to deliver articles or, are not delivered in accordance with the time, quantity, or specification requirements of this Contract, such failure shall be subject to an equitable adjustment pursuant to the "CHANGES" clause of this Contract and not a Breach of Contract or Default by **SMS**.

(i) The **CONTRACTOR** shall be responsible and accountable for all **SMS** property provided under this Contract and shall establish and maintain a program for the use, maintenance, repair, protection, and preservation of **SMS** property in accordance with sound business practices and the applicable provisions to the same extent as if the **SMS** property were Government property.

18. EXPORT OF TECHNICAL DATA

(a) The **CONTRACTOR** represents and warrants that no technical data furnished to it by **SMS** or developed by the **CONTRACTOR** during performance of this Contract shall be disclosed to any foreign national, firm, or country, including foreign nationals employed by or associated with the United States, without first complying with all requirements of the International Traffic in Arms Regulation, 22 C.F.R. Section 120 *et. Seq.*, the Export Administration Act 28 U.S.C., Section 1778 *et. Seq.*, and DOD Directive 5230.25, "Withholding of Unclassified Technical Data From Public Disclosure," 32 C.F.R. Section 250, including the requirement for obtaining any export license, if applicable.

(b) The **CONTRACTOR** shall first obtain the written consent of **SMS** prior to submitting any request for authority to export any such technical data.

(c) The **CONTRACTOR** shall indemnify and hold **SMS** harmless for all claims, demands, damages, costs, fines, penalties, attorney fees and all other expenses arising from the **CONTRACTOR'S** failure to comply with this clause and stated statutes and regulations.

19. CONTRACTOR EMPLOYEES

(a) It is understood that the **CONTRACTOR** and **CONTRACTOR'S** employees are not employees of **SMS** and are not entitled to any **SMS** employee benefits or privileges.

(b) All employees of the **CONTRACTOR** shall however, be subject to the applicable rules and regulations governing **SMS** employees, while on **SMS** premises.

(c) The **CONTRACTOR** shall be responsible for requiring each employee engaged in work on premises owned, occupied or under the control of **SMS** to display such identification as may be approved and directed by **SMS**.

20. INSURANCE

(a) If in the performance of this Contract the **CONTRACTOR** or any of its Subcontractors perform any work on premises owned, leased, occupied or controlled by **SMS**, **CONTRACTOR** shall procure and maintain, and shall require such Subcontractors to procure and maintain for the entire period of performance of this Contract, insurance of at least the kinds and minimum amounts set forth on the face of this Contract, or if not so stated, insurance in an amount not less than the price or amount of this Contract. Prior to the commencement of any work hereunder, **CONTRACTOR** shall furnish to **SMS**, a "Certificate of Insurance" covering such insurance. Policies evidencing required insurance shall contain an endorsement to the effect that cancellation or any material change in the policies adversely affecting the interest of **SMS** or its customers shall not become effective for such period as may be prescribed by the laws of the state in which this Contract calls for performance and in no event, less than thirty (30) days after written notice thereof to **SMS**.

(b) Failure on the part of the **CONTRACTOR** to furnish such certificates prior to the commencement of work or to continue to maintain such insurance during the performance of this Contract shall be cause for the **CONTRACTOR** to be declared in default under this Contract.

21. INDEMNIFICATION

CONTRACTOR hereby agrees to indemnify and hold **SMS**, its officers, employees, agents and representatives, harmless from any and all claims, liabilities, losses, damages, costs, or expenses (including reasonable attorney's fees) by reason of property damage or personal injury, including death, of whatever kind or nature arising out of, as a result of, or in connection with **CONTRACTOR'S** employees, agents, subcontractors, and lower-tier subcontractors performance pursuant to this Contract.

22. RECORDS

CONTRACTOR agrees that **SMS** or any of its duly authorized representatives shall, until the expiration of three years after final payment under this Contract, have access to and the right

to examine any directly pertinent books, documents, papers, and records of the **CONTRACTOR** involving transactions related to this Contract.

23. WAIVERS/APPROVALS

(a) No waiver, alteration, or modification of any of the provisions of this Contract shall be binding on **SMS** unless evidenced by a written change signed by a Procurement Representative of **SMS**. **SMS'S** failure to insist on performance of any of the terms or conditions herein, the exercise of any right or privilege or **SMS'S** waiver of any breach hereunder shall not thereafter waive any other terms, conditions, rights, privileges, or breaches, whether they are of the same or similar type.

(b) **SMS'S** approval of the **CONTRACTOR'S** design or material shall not relieve the **CONTRACTOR** of the warranties or any other requirements of this Contract; nor shall waiver by **SMS** of any drawings or specification requirements for one or more articles constitute a waiver of such requirements for the remaining articles to be delivered hereunder unless so stated by **SMS** in writing. The provisions of this clause shall not limit or affect the rights of **SMS** under the "INSPECTION" clause hereof.

24. DISPUTES

In the event of any dispute or disagreement arising under or relating to this Contract, the parties agree to make diligent and reasonable attempts to resolve through negotiations, all such disputes or disagreements prior to resorting to any remedy available in law or equity. Notwithstanding a disagreement or dispute and pending final resolution thereof, **CONTRACTOR** agrees to proceed with the performance of this Contract to the extent directed by **SMS**.

25. RELEASE OF INFORMATION

(a) No release of any information, or confirmation or denial of same, with respect to this Contract or other **SMS** projects, obtained in the performance of this Contract, will be made without the prior coordination and express written approval of **SMS**. This includes but is not limited to advertisements, brochures, new releases (including photographs, films, public announcements or denial or confirmation of the same, or interviews with news media representatives) and the like, but does not include the release of information necessary to enable **CONTRACTOR** to successfully perform the contractual obligations. This provision shall

apply equally to Subcontractors and **CONTRACTOR** shall include the substance of this provision, including this sentence, in all Subcontracts. Any information submitted for approval of release to the public in accordance with the "Industrial Security Manual for 5220.22-M (or any successor regulation) will be submitted through **SMS**. This provision does not apply to information which is reportable to the U.S. Government pursuant to Public Laws or Regulations.

(b) **CONTRACTOR** hereby agrees not to disclose at any time except as **CONTRACTOR'S** duties under this Contract may be required, either during or subsequent to performance of this Contract, the terms of this contract, any information, knowledge, or data of **SMS** which **CONTRACTOR** may receive during the course of this Contract, relating to business, technical, financial, or other information which are of a proprietary or trade secret nature.

26. INTELLECTUAL PROPERTY RIGHTS

THIS PROVISION SHALL NOT BE APPLICABLE IN THE EVENT THIS CONTRACT IS PLACED UNDER OR PURSUANT TO A GOVERNMENT PRIME CONTRACT.

(a) As used in this provision, the following terms shall have the meaning set forth below:

(1) "Subject Data" means all data developed under or resulting from the **CONTRACTOR'S** or its Subcontractor's performance of this Contract.

(2) "Subject Invention" means any invention, improvement, or discovery conceived or first actually reduced to practice in the performance of the work under this contract.

(b) **CONTRACTOR** shall make and maintain adequate and current written records of all such Subject Data Inventions, in the form of notes, sketches, drawings, and report relating thereto, which records shall be and remain the property of and available to **SMS**.

(c) **CONTRACTOR** shall promptly deliver to **SMS** full disclosures of all Subject Data and Subject Inventions. Such disclosures shall be made or deemed to have been made with complete and exclusive grant to **SMS** of all right, title, and interest in and to any such disclosures and the Subject Data and Subject Inventions disclosed therein.

(d) Upon request, **CONTRACTOR** shall assist **SMS**, during and subsequent to the term of this Contract, in every reasonable way, to obtain for **SMS**, all intellectual property rights relating

to the disclosures, Subject Data and Subject Inventions, including, but not limited to, copyright in work-for-hire and patents.

27. APPLICABLE LAWS

Irrespective of the place of performance, this Contract shall be governed by and construed according to the laws of the State from which it is issued except that when Federal common law of Government contracts exists on substantive matters requiring construction under the Contract, such Federal common law shall apply in lieu of state law. The **CONTRACTOR** shall comply with all applicable Federal, State and Local laws in the performance of this Contract.

28. TERMS AND CONDITIONS

No terms or conditions other than the terms and conditions set forth in this Contract, including terms and conditions in any document attached to or incorporated by reference in this Contract, shall be binding upon **SMS** unless accepted by **SMS** in writing. Terms and conditions contained in any acknowledgment of this Contract which are different from or in addition to the terms and conditions of this Contract shall not be binding on **SMS** whether or not they would materially alter this Contract and **SMS** hereby objects thereto. **CONTRACTOR** will be deemed to have assented to all terms and conditions contained herein if **CONTRACTOR** undertakes performance of this Contract.

29. INTEGRATED CONTRACT

This contract integrates, merges, supersedes, and contains all prior oral and written offers, negotiations, and agreements concerning the subject matter herein and constitutes the entire intended agreement between the parties.

ACCEPTED AND AGREED TO:

SAFETY MANAGEMENT SERVICES, INC.

By: _____

Date: _____

CONTRACTOR:

By: _____
Contractor Representative

Date: _____