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## CONSTRUCTION GENERAL PROVISIONS – DESIGN BUILD SUPPLEMENT

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### CLAUSES INCORPORATED BY REFERENCE

The Federal Acquisition Regulations (FAR) and Department of Energy Acquisition Regulations (DEAR) identified below are incorporated by reference to the extent applicable. Articles incorporated by reference shall apply with the same force and effect as if set forth herein in full. The articles are modified by changing the words “Contracting Officer” or “Administrative Contracting Officer” to “Buyer” or “Bechtel Marine Propulsion Corporation,” as appropriate, changing the term “Contractor” to “Subcontractor,” and changing the word “Contract” to “Subcontract.” The Seller shall include the articles listed below in its subcontracts at any tier for any items to the extent applicable.

FAR 52.236-23 Responsibility of the Architect-Engineer Contractor (Apr 1984)

FAR 52.236-24 Work Oversight in Architect-Engineer Contracts (Apr 1984)

FAR 52.236-25 Requirements for Registration of Designers (June 2003)

DEAR 952.236-71 Inspection in Architect-Engineer Contracts (Apr 1994)

### RIGHTS IN DATA - SPECIAL WORKS

#### a. Definitions

"Data," as used in this clause, means recorded information regardless of form or the medium on which it may be recorded. The term includes technical data and computer software. The term does not include information incidental to contract administration, such as financial, administrative, cost or pricing or management information.

"Unlimited rights," as used in this clause, means the right of BMPC to use, disclose, reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, in any manner and for any purpose whatsoever, and to have or permit others to do so.

#### b. Allocation of Rights

##### (1) BMPC shall have -

- (i) Unlimited rights in all data delivered under this contract, and in all data first produced in the performance of this contract, except as provided in paragraph (c) of this clause for copyright.
- (ii) The right to limit exercise of claim to copyright in data first produced in the performance of this contract, and to obtain assignment of copyright in such data, in accordance with paragraph (c)(1) of this clause.
- (iii) The right to limit the release and use of certain data in accordance with paragraph (d) of this clause.

- (2) The Seller shall have, to the extent permission is granted in accordance with paragraph (c)(1) of this clause, the right to establish claim to copyright subsisting in data first produced in the performance of this contract.

#### c. Copyright

##### (1) Data first produced in the performance of this contract.

- (i) The Seller agrees not to assert, establish, or authorize others to assert or establish, any claim to copyright subsisting in any data first produced in the performance of this contract without prior written permission of the Contract Administrator. When claim to copyright is made, the Contactor shall affix the appropriate copyright notice of 17 U.S.C. 401 or 402 and acknowledgement of BMPC sponsorship (including contract number) to such data when delivered to BMPC, as well as when the data are published or deposited for registration as a published work in the U.S. Copyright Office. The Seller grants to BMPC and others acting on its behalf, a paid-up nonexclusive, irrevocable, worldwide license for all such data to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, by or on behalf of the Contract Administrator.
- (ii) If BMPC desires to obtain copyright in data first produced in the performance of this contract and permission has not been granted as set forth in subdivision (c) (1) (i) of this clause, the Contract Administrator may direct the Seller to establish, or authorize the establishment of, claim to copyright in such data and to assign, or obtain the assignment of such copyright to BMPC or its designated assignee.

- (2) Data not first produced in the performance of this contract. The Seller shall not, without prior written permission of the Contract Administrator, incorporate in data delivered under this contract any data not first produced in the performance of this contract and which contain the copyright notice of 17 U.S.C. 401 or 02, unless the Seller identifies such data and grants to BMPC, or acquires on its behalf, a license of the same scope as set forth in paragraph (c) (1) of this clause.
- d. Release and use restrictions. Except as otherwise specifically provided for in this contract, the Seller shall not use for purposes other than the performance of this contract, nor shall the Seller release, reproduce, distribute, or publish any data first produced in the performance of this contract, nor authorize others to do so, without written permission of the Contract Administrator.
- e. Indemnity. the Seller shall indemnify the Government and its officers, agents, and employees acting for BMPC against any liability, including costs and expenses, incurred as the result o the violation of trade secrets, copyrights, or right of privacy or publicity, arising out of the creation, delivery, publication, or use of any data furnished under this contract; or any data furnished under this contract; or any libelous or other unlawful matter contained in such data. The provisions of this paragraph do not apply unless BMPC provides notice to the Seller as soon as practicable of any claim or suit, affords the Contract an opportunity under applicable laws, rules, or regulations to participate in the defense thereof, and obtains the Seller's consent to the settlement of any suit or claim other than as required by final decree or a court of competent jurisdiction; nor do these provisions apply to material furnished to the Seller by BMPC and incorporated in data to which this clause applies.
- f. The Buyer recognizes that should the drawings, designs, specifications, notes and other work developed in the performance of this Subcontract be used in a different location other than that specified in this Subcontract, the Buyer will be responsible for any associated risks for that differing use.

**PHYSICAL DATA**

Data and information furnished to the Subcontractor is for the Subcontractor's information. The Buyer shall not be responsible for any interpretation of, or conclusion drawn from, the data or information by the Subcontractor.