Contract No. MA-14199

CONTRACT
BETWEEN THE UNITED STATES OF AMERICA
AND
ESCO MARINE INC.
16200 Joe Garza Sr. Rd
Brownsville, TX 78521

FOR THE SALE OF THE OBSOLETE VESSEL M/V WABASH

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16200 Joe Garza Sr. Rd
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FOR THE SALE OF THE OBSOLETE VESSEL M/V WABASH

This CONTRACT ("Contract ") entered into as of October 1, 2012, by and between UNITED STATES OF AMERICA (herein called the "Government"), represented by the SECRETARY OF TRANSPORTATION, acting by and through the MARITIME ADMINISTRATOR (herein called the "Administrator") who has designated the Director, Office of Ship Disposal Programs, Maritime Administration, as the Contracting Officer (herein called the "Contracting Officer" or referred to as the "Maritime Administration" or "MARAD"), and ESCO MARINE, INC, (herein called the "Buyer"). See ARTICLE XXXVII for the Definitions applicable to this Contract.

INTRODUCTION

1. Authority for Sale of Obsolete Vessel.

Pursuant to the authority of 16 U.S.C. § 5405(c), § 3502 of Public Law 106-398, and 46 U.S.C. § 57102, the Government wishes to sell and the Buyer wishes to purchase, the Obsolete Vessel described herein, and the Contracting Officer and the Buyer have entered into this Sales Contract, subject to the terms and conditions hereinafter set forth.

2. No Warranty of Size or Description.

The Buyer acknowledges and agrees that the Government does not warrant or guarantee, by expression or implication, the size, tonnage, or other descriptions of the Obsolete Vessel. The Buyer relies solely on its own inspection with respect to the particulars of the Obsolete Vessel.

3. Recycling of the Obsolete Vessel.

The Buyer will enter into this contract for the sole purpose to dismantle the Obsolete Vessel and recycle and remediate all hazardous materials, equipment and components on or attached to the Obsolete Vessel including the superstructure and hull at the recycler's facility.

NOW, THEREFORE, in consideration of the premises and the mutual promises hereinafter set forth, and of other good and valuable considerations, the receipt and sufficiency of which the parties hereby acknowledge the parties hereby agree as follows:

ARTICLE I. CONVEYANCE OF TITLE

1. Transfer of Title.

The Contracting Officer, by Bill of Sale for the Obsolete Vessel, the form of which is attached hereto as Exhibit 1, conveys title to, sells and transfers the whole of the Obsolete Vessel to the Buyer, "AS IS," as of the date and hour the Obsolete Vessel arrives at and is secured at the place where it will be dismantled, with warranties of title and freedom from all liens and encumbrances arising out of its acts or inaction, other than statutory and contractual restrictions running in favor of the UNITED STATES OF AMERICA. The Buyer agrees to make the Maritime Administration an assured under its marine insurance policy in conformance with ARTICLE X of this Contract to cover the period of time from when the Obsolete Vessel is removed from the site where the Obsolete Vessel is located, as specified in Exhibit 1, to such time that title is transferred by Bill of Sale to the Buyer at the location where the Obsolete Vessel will be dismantled. The Buyer agrees to the aforementioned conveyance and acknowledges that from the date and hour of such transfer, it will hold title to the Obsolete Vessel.

2. Agreement to Insure.

The Buyer agrees to make the Maritime Administration an assured under its marine insurance policy in conformance with ARTICLE X of this Contract to cover the period of time from when the Obsolete Vessel is removed from the site where the Obsolete Vessel is located, as specified in Exhibit 1, to such time that title is transferred by Bill of Sale to the Buyer at the location where the Obsolete Vessel will be dismantled.

ARTICLE II. PAYMENT FOR THE OBSOLETE VESSEL

As consideration for the conveyance, sale and transfer of the Obsolete Vessel, the Buyer has paid to the Government, prior to removal of the Obsolete Vessel from the site where the Obsolete Vessel are located, the sum of **$2,026,726.00**. The payment of this sum is consideration for the Obsolete Vessel, exclusive of towing the same to the place of dismantling, the receipt of which is hereby acknowledged by the Contracting Officer.

ARTICLE III. CONTRACTING OFFICER'S TECHNICAL REPRESENTATIVE

1. Contracting Officer's Technical Representative.

The Contracting Officer shall designate a Contracting Officer's Technical Representative (COTR) to act on behalf of the Contracting Officer to manage and oversee all technical aspects of this contract. The COTR will advise the Buyer on all technical matters relating to the contract. The Buyer shall submit all reports and status updates to the COTR. The Buyer shall submit all contract issues, including but not limited to requests for schedule extensions and changes to the TCP, to both the COTR and the Contracting Officer. Note: While the COTR represents the Contracting Officer on technical matters, the Contracting Officer retains all other authorities under this contract including the exclusive authority to enter into and sign all contract modifications.

2. Environmental Consultants.

The Contracting Officer may hire a third party Environmental Health and Safety (ES&H) professional to act as the on-site monitor for project performance with regard to hazardous material remediation activities, production methodologies and compliance with the Buyer's accepted Technical Compliance Plan. The Buyer shall allow the ES&H monitor reasonable access to the facility and all records relating to the dismantlement and disposal of the Obsolete Vessel, on a daily basis, as determined by the Government.

ARTICLE IV. TERMS OF THE SALE.

This Sales Contract is subject to the conditions set forth in the Articles herein. The violation of such conditions by the Buyer or its successors and assigns shall be considered a breach by the Contracting Officer and may result in termination, forfeiture of posted bonds, liability for any and all costs associated with the breach or other remedies that the Contracting Officer may seek.

ARTICLE V. PERIOD OF PERFORMANCE

The Contract Period of Performance is **203** calendar days from the undocking date of the vessel at the Shipyard set forth on page 28 of the Contract. All work required under this contract from the undocking date of the vessel at the Shipyard shall be completed within the Contract Performance Period. The Performance Schedules in ARTICLE XV, below, shall not exceed this Contract Period of Performance unless a time extension is authorized by the Contracting Officer under ARTICLE XVII, DELAY.

ARTICLE VI. COMPLIANCE WITH TECHNICAL COMPLIANCE PLAN AND CONTRACT PROVISIONS

1. Technical Compliance Plan (TCP).

The Buyer shall, as part of this Contract, implement the submitted and accepted Technical Compliance Plan. The Buyer shall at all times comply with the TCP in the performance of hazardous material remediation and Obsolete Vessel dismantling operations. The TCP shall serve as the baseline technical guidance document for the dismantlement and remediation of the Obsolete Vessel.

2. Changes to the Technical Compliance Plan.

The Buyer shall not modify, alter, change, deviate from or subvert the TCP without first submitting in writing an update through the Virtual Office of Acquisition (VOA) for review and approval by the Contracting Officer. Buyer shall promptly submit modifications, changes or updates to the TCP in writing to the Contracting Officer and the COTR. Until approved by the Contracting Officer in writing, the Buyer must continue to perform in accordance with the previously approved TCP.

3. Non-compliance with the TCP or Other Contract Provisions.

MARAD shall document the Buyer's deviation from or non-compliance with the government-approved TCP or other contract provisions by various means including, but not limited to, an informal email notice of a deficiency or a written quality deficiency notice (QDN) presented by MARAD to the Buyer requiring immediate cure of the deficiency to the satisfaction of the Government. The Buyer's failure to follow and or adhere to the requirements of the TCP and/or any other contract provision or to resolve any resulting deficiency notifications will be considered in MARAD's evaluation of the Buyer's performance under the contract. That performance will be taken into consideration when evaluating past performance for future solicitations for sales or dismantlement service contracts.

ARTICLE VII. DISPOSITION OF SCRAP

With respect to the material resulting from the dismantling of the Obsolete Vessel and any items removed from the Obsolete Vessel for reuse, such as engines, machinery and equipment, the Buyer agrees to the following:

1. Electric Cables.

Electric cables shall not be exported to be stripped of their recyclable metal content.

2. Export Controls.

That Buyer agrees that all sales of scrap or any materials removed from Obsolete Vessel shall be in compliance with U.S. export control laws and regulations, including the International Traffic in Arms Regulations (ITAR), 22 CFR Parts 120 through 130, and the Export Administration Regulations (EAR), 15 CFR Parts 730 through 799.

3. Import Back into the U.S.

In the event that any items removed from the Obsolete Vessel are exported from the United States for reuse, such as engines, machinery and equipment, the items shall not be imported back into the United States of America, unless the Secretary of Commerce determines that importation of such property, or any items thereof, would relieve domestic shortages or otherwise be beneficial to the economy of the United States, and the sale is made expressly subject to this condition. Application for such determination should be submitted to the Foreign Excess Property Officer, Statutory Import Programs Staff, Industry and Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230.

ARTICLE VIII. RESTRICTIONS ON USE OF OBSOLETE VESSEL

The Buyer shall not at any time operate the Obsolete Vessel, or cause or permit the same to be operated, and shall not carry on the Obsolete Vessel, or cause or permit to be carried on the same, any cargo or passengers for its own account or for the account of others, or use the Obsolete Vessel's hull, superstructures or any part thereof, or cause or permit the same to be used for any commercial purpose whatsoever, while moving the Obsolete Vessel from its present location to the plant or yard at which the Obsolete Vessel is to be dismantled, or at any other time.

ARTICLE IX. PERFORMANCE BOND

The Buyer must furnish to the Contracting Officer a performance bond to secure the faithful performance and observance of all the agreements, covenants and conditions to be performed and observed by the Buyer hereunder. The aforesaid bond may be in the form of a United States commercial surety company bond on Standard Form 25, U.S. Government securities, irrevocable letter of credit issued by a U.S. citizen financial institution, the written guaranty of the Government of which the Buyer is a National, or other form of United States security satisfactory to the Contracting Officer. Such bond shall be in the amount of **$150,000.00** and shall be valid until the Buyer completes performance and submits evidence to the Contracting Officer to satisfactorily establish full and complete performance and observance of all the terms and conditions set forth in this contract.

ARTICLE X. INSURANCE

1. Types of Required Insurance.

The Buyer shall at its expense, provide and maintain the following types of insurance and minimum coverage throughout the dismantlement of the Obsolete Vessel:

(A) Insurance Certificates for Workmen's Compensation, including Longshoremen & Harbor Worker's Act coverage. Covering all agents, servants, borrowed servants, statutory employees of Buyer for all compensation and other benefits required by applicable state and federal law or by governmental authority on account of injury, death, sickness or disease - Statutory - no minimum.

(B) Employers Liability, to cover both injury and death resulting from accident, sickness or disease

- $5 million bodily injury by accident, each accident.
- $5 million bodily injury by disease each accident.
- $5 million bodily injury by disease in the aggregate.

(C) Maritime Employers Liability (Jones Act) to cover both injury and death resulting from accident, sickness or disease

-$5 million for each person per occurrence
-$5 million in the aggregate.

(D) Comprehensive General Liability to include coverage for (but not limited to) products and completed operations liability, property damage liability and contractual liability

- $5 million combined single per occurrence limit for bodily injury and property damage
- $5 million in the aggregate.

(E) Pollution - Sudden and accidental liability. This coverage shall be provided by the Buyer (3) days prior to vessel departure from the fleet.

- $5 Million per occurrence.

(F) Lead Abatement Liability Policy with a minimum limit of

- $2 Million per occurrence. Verification of coverage is for the company that will conduct the abatement.

(G) Asbestos Abatement Liability Policy with a minimum limit of

- $2 Million per occurrence. Verification of coverage is for the company that will conduct the abatement.

2. Towing Insurance.

The coverage below must be in effect while the Obsolete Vessel are being towed:

(A) Tower's Liability: When the Obsolete Vessel is being moved it must have full form tower's liability with the United States of America being named and waived. -Minimum Coverage Requirements: $5 million limit.

(B) Hull and Machinery, Minimum Coverage Requirements: The Buyer shall ensure that any tower of the Obsolete Vessel shall maintain broad form collision tower's liability with a limit of $5 million. The tower shall also insure each tug performing under this contract with Protection and Indemnity Insurance with a minimum limit of $5 million and Hull & Machinery Insurance covering the value of each tug.

(C) Marine Protection and Indemnity (P&I), including, but not limited to, pollution liability, full collision liability, and removal of wreck. This coverage shall include insurance for damage to third parties however caused arising out of movement of the Obsolete Vessel. Minimum Coverage Requirements: $10 million per occurrence

3. MARAD Approval.

All insurance certificates submitted in sections 1 and 2 to MARAD shall include the name of the Obsolete Vessel being insured. Insurance certificates shall be submitted to the COTR and approved by the Division of Marine Insurance. Insurance certificates required in Section 1 shall be due to the COTR not later than 10 days after contract award. Towers insurance required in section 2 shall be due to the COTR and shall be approved by Division of Marine Insurance not later than five (5) days prior to the departure of the Obsolete Vessel from the Reserve Fleet. Any delay or additional costs of the tow resulting from non-compliance with the required insurance requirements shall be the responsibility of the Buyer. Said certificates shall be subject to the approval of the Division of Marine Insurance, Maritime Administration, and will contain thirty (30) calendar days advance notice of cancellation (without disclaimer) or of any non-renewal which is the option of the insurer, said notice to be provided to the U.S. Department of Transportation, Maritime Administration, Office of Marine Insurance, MAR-780, 1200 New Jersey Avenue, SE, W23-453, Washington, DC 20590.

4. Form of Confirmation.

All insurance coverage required by this contract must meet the following requirements:

(A) Pollution Insurance. The pollution insurance may be a separate policy or part of the Comprehensive General Liability policy, but the coverage must be specifically shown on the required confirmation of insurance. Excess liability and

umbrella liability policies may be used in the excess of primary policies to meet the minimum limit requirements. The United States of America shall be an additional assured in the Comprehensive General Liability Policy and Pollution Policy. All policies shall contain a clause statement that there is no recourse against the United States of America for payment of premium.

(B) Certificate Of Insurance. The Buyer shall have its insurance broker provide a detailed certificate of insurance, cover note or policy confirming the above-required coverage. The confirmation shall name the Buyer and United States of America as assureds and confirm the types of coverage, policy forms, policy periods, deductibles (if any) and underwriters with their percentage of participation. The N.Y. Suable Clause or Service of Suit USA Clause must be confirmed for any foreign underwriter placements. The policy amounts, terms and conditions, deductibles and underwriters shall at all times be satisfactory to the Maritime Administration. The Buyer shall insert the substance of this clause in subcontracts under this contract that require work on a Government installation.

(C) United States of America named as assured. The above policies shall name the United States of America as an assured and shall provide that all losses shall be payable to the Secretary of Transportation acting by and through the Maritime Administrator. The policies shall also provide no recourse against the United States of America for payment of premium and a 10 day prior written notice of cancellation or material change in the policy to the Department of Transportation, Maritime Administration, Director, Office of Marine Insurance, MAR-780, 1200 New Jersey Ave., SE, W23-453, Washington, DC 20590. The amounts, limits, terms and conditions, deductibles and underwriters in all the above policies shall be satisfactory to the Maritime Administration.

ARTICLE XI. TOWING REQUIREMENTS

1. The Buyer Responsible for Towage.

The Buyer is responsible for acquiring the towing services for the towage of the obsolete vessel from a shipyard TBD in the San Francisco area (the "Shipyard") upon completion of the undocking of the vessel. The Shipyard shall tow the vessel from the Suisun Bay Reserve Fleet to the Shipyard and shall dry-dock the vessel upon its arrival.

The Buyer is responsible for the coordination of all activities related to the preparation of the vessel for inland and ocean towing including ballasting and trimming the vessel for dry-docking, all Panama Canal transit requirements and towing of the vessel from the Shipyard to the Buyers recycling facility. The Buyer shall not use the existing vessel mooring lines for the tow or berthing of the vessel and shall ensure there are sufficient mooring lines on the vessel to safely secure the vessel in the wet berth at the Shipyard after un-docking.

The Shipyard shall be responsible for procuring the tugs, pilots, line handlers as necessary to remove the vessel from the Reserve Fleet and deliver it to their dry-dock and for undocking and shifting the vessel to the wet berth at their facility.

2. Selection of Tower.

Whenever possible, towing contracts should be awarded to towing companies whose towing vessels are either: a) inspected by the United States Coast Guard, b) classed by a Coast Guard recognized Classification Society, or c) have a safety management certification from an industry-recognized certification program (such as that provided by International Standards Organization (ISO) 9000 series certification, or the American Waterways Operators (AWO) Responsible Carrier Program.) Where international tows are concerned, towing contracts shall be awarded to towing companies that comply with the International Safety Management (ISM) Code.

3. Buyer is Responsible for all Tow Preparations.

The Buyer is responsible for arranging and bearing the expense for all of the required Obsolete Vessel's tow preparations including but not limited to:

(A) Marine Surveyor. The Buyer is responsible for hiring a qualified Marine Surveyor to survey the Obsolete Vessel and provide requisite trip in tow preparations in accordance with applicable USCG requirements and accepted marine practice.

(B) Tow Recommendation. The Buyer shall submit a copy of the Marine Surveyors initial trip in tow recommendation report within 5 days after the issuance of the official notice to proceed.

(C) Ballasting and Trimming the Vessel. The Buyer is responsible for ballasting and trimming the vessel in accordance with the Shipyard requirements to accomplish a safe docking and undocking of the vessel.

(D) Panama Canal Requirements. The Buyer shall prepare the vessel for safe transit of the Panama Canal in accordance with all Canal Authority requirements.

(E) Buyer's Insurance Underwriting Company surveyor. The hiring of the Buyer's Insurance Underwriting Company surveyor to accomplish the Insurance Company surveys related to insuring the Obsolete Vessel for tow. The Buyer will coordinate all surveys and resulting tow preparation efforts so as to minimize the impact upon any Reserve Fleet operations and support required. Obsolete Vessel tow preparations shall begin only after all required surveys have been accomplished and one final listing of tow preparations has been published and the required meeting with the Fleet Program Manager has taken place.

(F) Emergency Oil Spill response plan. The Buyer shall be responsible for having an Emergency Oil Spill response plan or obtain the services of a Spill Management Company (SMC) for all phases of the towing evolution. This plan shall have available, during all the Obsolete Vessel towing operations, a Qualified Individual (QI) who shall be available 24 hours a day, 7 days a week to act on the Buyer's behalf to provide contingency planning and organized response in case of an oil spill during tow operations. The Buyer shall provide the COTR the name of the SMC and the QI not later than 10 days after the contract start date. The Buyer's responsibility will start the moment the Buyer's tugs accept and have operational control of the Obsolete Vessel for tow. In addition, the Buyer shall submit not later than 10 days after the contract start date the completed MARAD form "MARAD Dead Ship Oil Contingency Plan Emergency Contact Notification List." The MARAD COTR shall make the MARAD form available to the Buyer at the time of Contract award.

4. Coast Guard (USCG) Towing and Transfer Requirements.

(A) The Buyer is responsible for ensuring all United States Coast Guard (USCG) towing and transfer requirements including, but not limited to, towing preparations, (both inland and ocean going), notifications, inspections, insurance, emergency response and procedures are met for the Obsolete Vessel upon departure from the Suisun Bay Reserve Fleet and for the departure of the vessel from the Shipyard.

(B) For informational purposes, known USCG towing requirements that may be in force for the towing of the Obsolete Vessel are posted in the Ship Disposal Program Library in the Virtual Office of Acquisition. The Buyer remains responsible for compliance with any and all applicable USCG towing requirements.

5. Coordination.

The Buyer shall actively manage and perform daily coordination in the form of teleconferences and/or Situation reports (SITREPS) between the Buyer, the Shipyard, and MARAD officials as required until the vessel is on its way via ocean tow to the Buyer's recycling facility. The Buyer shall be prepared to conduct that coordination necessary or as determined by MARAD, to successfully accomplish the towing of the vessel to the recycling facility.

6. Towing Plans/Surveys.

Towing plans and submittals must be in compliance with all applicable United States Federal requirements. The Buyer is responsible to ensure all tow surveys, insurance surveys, and any other inspections have commenced not later than 5 days after the contract start date so as to not delay the towing of the Obsolete Vessel or impact the operations of the Reserve Fleet.

7. Meeting with Fleet Program Manager.

The Buyer is required to meet with the Fleet Program Manager upon completion of all required surveys and inspections to discuss actions and plans resulting from surveys and inspections.

8. Liquid Loading Plan.

The Buyer shall provide a liquid loading plan that will cover the methodology to safely transfer any liquids on board the Obsolete Vessel and or ballasting the Obsolete Vessel to the required trim and stability resulting from an authorized Marine Surveyor's trip in tow survey or Shipyard dry-docking requirement. The liquid loading plan and the trip in tow survey shall be submitted to the COTR, with a copy to the Fleet Program Manager, prior to commencement of the transfer of liquids on the Obsolete Vessel and or ballasting of the Obsolete Vessel for trim and stability. The liquid loading plan shall address all aspects of liquid transfer on board the Obsolete Vessel and or ballasting the Obsolete Vessel, in detail, including electrical power requirements, pumps, tank opening and closing plan, liquid transfer plan and emergency response actions. The liquid loading plan must be compliant with the trip in tow survey and/or Shipyard dry-docking requirement and shall include the appropriate safety requirements necessary to secure the Obsolete Vessel at the end of each work shift. The transfer of all liquids on board the Obsolete Vessel, regardless of the source and the destination, shall be part of the liquid loading plan. Under no circumstances will liquids be discharged overboard from the Obsolete Vessel without first consulting with the Fleet Program Manager and obtaining all required approvals.

9. Inspection of the Vessels' Hull in Dry-dock.

The Buyer shall make available their Marine Surveyor to participate in a joint vessel hull inspection and survey with the MARAD COTR and the Shipyard project manager within 4 hours after the completion of the underwater hull cleaning. The joint inspection and survey shall be conducted during daylight hours for the purpose of identifying any areas of concern by attending parties on the underwater hull that may require repair prior to undocking. The Buyer will submit a written post dry-dock *Hull Inspection Report*, 4 hours after completion of the inspection, detailing the recommended repairs and hull blanks identified during the course of the inspection.

10. Government Delivery of the Vessel for Towing.

The Government shall deliver to the Buyer or its agent the obsolete vessel "AS IS WHERE IS" afloat and free of moorings at a shipyard TBD in the San Francisco area (the "Shipyard") upon completion of hull work and undocking of the vessel. The Government shall convey custody of the vessel for towing to the Buyers recycling facility for the sole purpose to dismantle the vessel and recycle and remediate all hazardous materials, equipment and components on or attached to the Obsolete Vessel including the superstructure and hull. Prior to the transfer of custody and through separate MARAD contracting actions, the vessel will be dry-

docked for paint remediation and underwater hull cleaning at the Shipyard. Upon undocking the vessel will be moored in a wet berth at the Shipyard where the Buyer shall complete all required ocean tow preparations prior to the vessels' departure to the Buyers recycling facility.

11. Vessel Departure from the Shipyard.

The Buyer shall coordinate all activities and tugs to ensure the vessel departs the San Francisco Bay area within 3 days after undocking (written notice of the undocking date shall be provided to the Buyer) but not later than 5 days after undocking.

12. Vessel General Permit.

The Buyer is responsible to ensure that the vessel is in compliance with the National Pollution Discharge Elimination System (NPDES), Vessel General Permit, during the vessel towing evolution, that portion under the Buyer's control, from the Shipyard to the Buyers recycling facility. The Shipyard shall be responsible for the towing portion from the Reserve Fleet to the dry-dock and from the dry-dock to the wet berth. The Buyer shall comply with all inspections, record keeping and reporting requirements under the NPDES Vessel General Permit, with the exception of filing the Notices of Intent and Termination, which will be filed by MARAD.

13. Towing Delays/Service Disruption.

If after acquiring tug service to move the vessel from the Shipyard or at any time during the transit of the vessel from the Shipyard to the Buyer's recycling facility the tug towing the vessel is taken out of service for more than three consecutive calendar days the Buyer shall contract for additional towing services to continue to transit the vessel to the Buyer's recycling facility. Any additional cost for procurement of other towing assets shall be at the expense of the buyer. The Buyer shall immediately notify the COTR of the actions taken to minimize disruption of the transit of the vessel.

14. Daily Situation Report.

The Buyer shall provide the COTR, a daily situation report, due to the COTR not later than 10:00am EST, for each tow that will identify the date, report time, location of the tow (Latitude and Longitude), current and forecasted weather and sea conditions, estimated time of arrival, a brief description of the tow situation and proposed action in the face of inclement weather.

15. Afloat Monitoring Plan.

Upon arrival at the Buyer's dismantlement facility the Obsolete Vessel will be safely moored and continuously monitored by the Buyer while afloat and prior to being moored in the

dismantling slip and during the dismantling process if the Obsolete Vessel remains afloat. The safe mooring of the Obsolete Vessel shall include:

(A) provisions for heavy weather protection and containment equipment in the event of oil discharging from the Obsolete Vessel;

(B) local and remote audible and visual alarms in the event of flooding and on-site security watches to monitor for oil discharges, mooring security and Obsolete Vessel trim and stability; and

(C) the Buyer shall provide to the COTR an Obsolete Vessel Afloat Monitoring Plan that addresses details of the above requirements including discharge, flooding and mooring response plans. The Plan must be comprehensive enough to provide summary information encompassing systematic mooring/monitoring operation for Obsolete Vessel being dismantled. Each Obsolete Vessel shall have an individual afloat monitoring plan that shall be incorporated into the master Obsolete Vessel Afloat Monitoring plan. The Obsolete Vessel Afloat Monitoring Plan shall be submitted to the COTR within 10 days after contract award but no later than 3 days prior to the departure of the Obsolete Vessel from the Reserve Fleet.

ARTICLE XII. AQUATIC INVASIVE SPECIES

1. National Invasive Species Act.

The National Invasive Species Act ("NISA") requires entities to mitigate the transmission of non-indigenous aquatic species. 16 U.S.C. § 4701, et seq. To this end, MARAD will under a separate contracting action, dry-dock the Obsolete Vessel departing the Suisun Bay Reserve Fleet for the purpose of cleaning the aquatic hull fouling from the underwater surfaces of the vessel prior to the vessels' departure from San Francisco Bay.

2. Biological Sampling

Underwater biological sampling of the marine hull fouling on the Obsolete Vessel is not required and shall not be performed by the Buyer unless authorized by the Contracting Officer in writing. If MARAD determines there is a requirement for conducting biological sampling after the award of the sales contract for the recycling of the vessel the cost for the performance of the sampling activity will be contracted separately by the Contracting Officer.

ARTICLE XIII. DELIVERY OF THE OBSOLETE VESSEL

1. AS IS, WHERE IS.

The Buyer agrees to accept delivery of the Obsolete Vessel, “AS IS, WHERE IS” at the Suisun Bay Reserve Fleet in the condition as of the date and hour of this Contract for the purpose of preparation of the vessel for inland and ocean tow and for dry-docking at a local San Francisco, California Shipyard. Thereafter, the Buyer shall not be entitled to make or assert any claim against the Government or the Administrator, on account of any agreements, representations, or warranties, expressed or implied, with respect to the condition of such Obsolete Vessel. The delivery of the Obsolete Vessel by the Government and the acceptance thereof by the Buyer shall constitute full performance by the Government of all obligations under this ARTICLE VIII with respect to such obsolete vessel.

2. Supplies, Equipment or Spare Parts.

The Government shall not be responsible for furnishing any stores, supplies, equipment or spare parts over and above those on board the Obsolete Vessel at the time of delivery; provided, however, that all rectifiers, rheostats, junction boxes, switches, fenders, mooring gear, and electric cable used in the National Defense Reserve Fleet's cathodic protection system, and demountable crosswalks, if any on board the Obsolete Vessel at the time of delivery, shall remain the property of the Government.

3. Normal Deterioration.

The purchase price of the Obsolete Vessel shall be based upon the condition of the Obsolete Vessel “AS IS, WHERE IS” on the date the Buyer's proposal is submitted. Any material changes in the Obsolete Vessel resulting from normal deterioration after the Buyer's proposal was submitted and prior to the transfer of title shall be at the risk of the Buyer. The Government reserves the right to perform any work on the Obsolete Vessel or affect any material change to the Obsolete Vessel or its contents deemed necessary by the Contracting Officer to protect the environment or to maintain the Obsolete Vessel in a safe and seaworthy condition at no cost to the Buyer. The Buyer shall not be entitled to assert any claim against the Government or the Administrator with respect to such modifications. Risk of loss of the Obsolete Vessel shall be with the Buyer from the moment title to said Obsolete Vessel vests in the Buyer as provided in the Bill of Sale referred to in ARTICLE I of this Contract. The Buyer agrees to hold the Government and the Maritime Administration, its officers, employees, agents, attorneys, heirs, successors and assigns free and harmless from and against any and all claims and to indemnify, protect, and defend the Government and MARAD against any claims in excess of the insurance coverage provided for under ARTICLE X of this Contract.

4. Delivery of the Vessel.

The Government will, without cost or expense to the Buyer, but at the risk of the Buyer, render the Obsolete Vessel free of moorings at the Shipyard, and make such Obsolete Vessel available for towing at such location for delivery to the Buyer pursuant to this Contract. The Obsolete Vessel will be available for delivery to the Buyer on the date of undocking at the Shipyard, however, that the Government shall not be liable for delay in making any Obsolete Vessel available for delivery due to conditions beyond its control or conditions, which by the

exercise of reasonable diligence it was unable to prevent. The Government shall not be obligated to deliver any Obsolete Vessel on Saturdays, Sundays, or federal holidays.

5. Time of Delivery.

The Buyer is obligated to accept delivery of the Obsolete Vessel at the Shipyard once the vessel is undocked and safely moored at the wet berth. Provided further, however, that in the event the Buyer is delayed in accepting delivery beyond the specified time and the Contracting Officer is satisfied that such delay has been caused by conditions which, by the exercise of reasonable diligence, the Buyer was unable to prevent, then the Contracting Officer may grant the Buyer a written extension of time for accepting delivery for such period as in the judgment of the Contracting Officer shall be just, reasonable, and proper. The decision of the Contracting Officer as to the existence of the cause or causes of such delay, and also as to the extension of time, which shall be granted, shall be final and conclusive upon the Buyer. Application for extension of time shall be filed in writing with the Contracting Officer not less than five (5) days from the time delivery is otherwise required to be accepted, unless the Contracting Officer shall extend the time in writing for the filing of such application

6. Failure to Accept Delivery.

The Buyer hereby agrees that if the Buyer fails to accept delivery within the time specified in paragraph (5) hereof, or any extension thereof, the Buyer will pay to the government as liquidated damages, and not as a penalty, the sum of $500 per day, in addition to any other actual damages, for each day it fails to accept delivery of the vessel. The Buyer shall be liable for the amount thereof, provided, however, that in the event of such default or failure of the Buyer in accepting delivery, the Contracting Officer shall also have the right, upon giving ten (10) days written notice to the Buyer (a) to store the Obsolete Vessel for the account and at the risk and expense of the Buyer, or (b) to resell such Obsolete Vessel for the account of the Buyer upon such terms and conditions as the Contracting Officer may deem proper, charging against the Buyer in either of such cases any excess cost occasioned the Government thereby, together with any liquidated damages accrued on account of such default or failure. The exercise by the Contracting Officer of one or more of the rights herein specified will not preclude the Contracting Officer from exercising any other rights the Contracting Officer may have against the Buyer.

7. Buyer’s Liability for Damages to Government Property during Delivery

The Buyer shall be liable for any physical damage to the Government's property, and expenses incidental thereto, caused by and occurring during any part of the removal operations by the Buyer. The Buyer shall repair the damage, or have the damage repaired to the condition of the government property prior to the caused damage. Repairs shall be in accordance with accepted Marine practice and to the satisfaction of the Contracting Officer; or, the Buyer shall pay to the Contracting Officer an amount of money sufficient to cover the entire cost of the damage and all expenses incident thereto, as determined by the Contracting Officer. The

Contracting Officer shall have the sole and exclusive right to determine whether the Buyer will be allowed to repair the damage or pay the Contracting Officer for such repairs as aforesaid.

8. Buyer's Liability for Failure to Depart San Francisco on Time

The Buyer shall coordinate all tow preparations for the vessel's departure so that the vessel departs from the San Francisco Bay area within 3 but not later than 5 calendar days after the undocking of the vessel at the Shipyard. At the maximum, the vessel shall depart the San Francisco Bay area not later than 14 calendar days after undocking. If the vessel does not depart within the maximum 14 days after undocking the vessel will be re-dry-docked to have the underwater hull re-cleaned of aquatic marine growth. In the event the Obsolete Vessel has to be re-dry-docked as a result of the Buyer's failure to remove the vessel within the prescribed time limits the Buyer shall be responsible for all actual costs associated with having to re-dry-dock and re-clean the vessel's underwater hull including but not limited to the dry-docking, wet berth charges, lay days on dock, hull cleaning charges, tugs, pilots, vessel berthing, reporting, tug demurrage, travel and per diem.

ARTICLE XIV. DEMILITARIZATION OF ORDNANCE EQUIPMENT.

1. Demilitarization.

The Buyer shall, at its own expense, demilitarize Ordnance Equipment (Military Equipment) aboard the Obsolete Vessel described in Exhibit 6 (List of Ordnance Equipment) hereof, and any other property classified as Ordnance Equipment (Military Equipment) not specifically designated but which requires demilitarization, not later than the end of the Contract Period of Performance, or any extension thereof under ARTICLE XVII.

2. Place of Demilitarization.

The Buyer agrees that such demilitarization will be accomplished within the United States of America. Prior to demilitarization, the Buyer shall notify the Contracting Officer in writing of the location at which the demilitarization operation will be performed.

3. Ordnance Equipment.

With respect to Ordnance Equipment (Military Equipment), the key points to be demilitarized are: all tubes and gun barrels, launching rails, receivers, breech blocks, breech rigs, trunnion blocks, firing mechanisms, equilibrators and recoil mechanisms, as applicable.

4. Manner of Demilitarization.

The Buyer shall accomplish demilitarization of Ordnance Equipment (Military Equipment) in the following manner:

(A) Artillery tubes and gun barrels will be cut in two at a point approximately one third tube length from the breech face of the tube.

(B) Mortar tubes and rocket launchers, including launching rails, will be cut, crushed or broken to render them non-reclaimable.

(C) Receivers, trunnion block bodies or frames, breech blocks and firing mechanisms, as applicable, will be cut, battered or crushed to render them non-reclaimable.

(D) Breech rings will be cut into two or more pieces.

5. Demilitarization of equilibrators and recoil mechanisms.

Demilitarization of equilibrators and recoil mechanisms must be accomplished by technically qualified personnel only.

6. Demilitarization Report.

Upon completion of the required demilitarization, if any, the resultant material shall be retained by the Buyer as Ordnance scrap. The Buyer agrees to furnish the Contracting Officer a certificate, in form satisfactory to the Contracting Officer, indicating that the Ordnance Equipment covered by this ARTICLE and Exhibit 6 has in fact been demilitarized by the Buyer in accordance with the terms hereof. The Government reserves the right, however, to perform additional mutilation of the demilitarized items, as deemed necessary, by its own personnel, or otherwise, at no cost to the Buyer.

7. Failure to Demilitarize.

In the event the Buyer shall fail, neglect or refuse to demilitarize the Ordnance Equipment listed in Exhibit VI, as applicable to the Obsolete Vessel purchased, in the manner and to the extent herein required, the Government, upon a ten (10) day written notice of default to the Buyer (calculated from date of mailing), shall have the right to enter the premises of the Buyer and, either with its own personnel or by contract personnel, complete demilitarization of the aforesaid Ordnance Equipment. In the event the Government exercises this option, the Buyer shall be liable to the Government for all direct and indirect costs incurred in the completion of the demilitarization and, in no event, will any part of the purchase price of any Obsolete Vessel be refunded to the Buyer by reason of the exercise of this option.

ARTICLE XV. PERFORMANCE SCHEDULES

1. Master Performance Schedule.

The Buyer shall prepare a master performance schedule, which incorporates all summary

project information, requirements and reporting related to the dismantlement of the Obsolete Vessel. The master performance schedule shall address all tasks necessary for the successful completion of the overall project including but not limited to:

(A) All work identified under the Technical Compliance Plan.

(B) Tow preparations and towing.

(C) Subcontracted work and activities.

(D) Performance Schedule Milestones.

(E) Deliverables.

(F) Insurance and Bonding.

(G) Permits Licenses and Certifications.

(H) Surveys and Inspections.

(I) Reporting Requirements.

The Performance Schedules in this ARTICLE XV shall not exceed this Contract Period of Performance in ARTICLE V, unless a time extension is authorized by the Contracting Officer under ARTICLE XVII, DELAYS.

2. Vessel Performance Schedule

The Buyer shall prepare for each Obsolete Vessel its own performance schedule, which shall be integrated into the master performance schedule. Schedules shall be consistent with all Contract requirements. Seasonal weather patterns and conditions shall be considered and included in the planning and scheduling of all work to ensure completion of the total work package within the Contract performance period. Seasonal weather patterns and conditions shall be determined by assessment of average historical climatic conditions based upon the preceding ten (10) year records published by the National Oceanic and Atmospheric Administration (NOAA) for the locality nearest to the project site, unless agreed otherwise. Each Obsolete Vessel's performance schedule will address all tasks required for ship dismantling including but not limited to:

(A) Performance Schedule Milestones.

(B) A separate towing schedule and related tow preparation activities.

(C) Subcontracted work and activities.

(D) Deliverables.

(E) Cost elements from the Obsolete Vessel worksheets.

(F) Preparation and towing of the Obsolete Vessel.

(G) Acquiring of necessary specific permits, licensees, certificates.

(H) Acquiring of appropriate bonding and insurance.

(I) Arrival survey and tank sounding verification.

(J) Identification, sampling and safe removal and disposal of hazardous

(K) Ship dismantling.

(L) Stripping of Government property.

(M) Sale of reusable/recyclable materials and equipment.

(N) Submission of required reports.

(O) Insurance and Bonding.

(P) Permits Licenses and Certifications.

(Q) Surveys and Inspections.

3. Time to Submit the Baseline Performance Schedule.

The Buyer shall prepare and submit to the Contracting Officer a finalized baseline performance schedule within seven (7) days after the Contract start date. The baseline performance schedule shall incorporate the latest revisions to all tasks and shall take into account all other work in the Buyer's facility or scheduled to arrive at the facility that directly impacts the Obsolete Vessel performance schedule. The Buyer shall include a narrative report addressing all constraints to the Obsolete Vessel performance schedule incurred as a direct result of all other work in the Buyer's facility. Upon acceptance of the finalized baseline schedule by the Contracting Officer the Buyer shall manage the project under this schedule. The baseline schedule shall be used for the development of the required reports, progressing methodology and determining progress payments if necessary. The baseline schedule shall not be altered or changed during the performance period.

4. Other Requirements.

The baseline schedule shall include planned start and completion dates and timeline for each phase of the dismantlement and hazardous material remediation process. Identification of all project and individual Obsolete Vessel work items considered to be on the critical path to completion will also be identified. All Obsolete Vessel performance schedules, once integrated into the master performance schedule shall be linked at the activity level where necessary to the degree that any schedule impact to one Obsolete Vessel performance schedule can be readily evaluated for the downstream effect on any and all other Obsolete Vessel performance schedules and the entire critical path of the project.

5. Reporting Requirements.

The performance schedule shall be updated to coincide with the bi-weekly reporting requirements and shall at all times be maintained in an accurate and updated condition to support the physical progress of the Obsolete Vessel dismantlement and hazardous material remediation.

6. Performance Schedule Components.

The Performance Schedule shall be comprised of:

(A) Critical Path Method. A time-sequenced Critical Path Method (CPM) generated Gantt chart that contains the following:

- Scheduled key project events, milestones, all worksheet cost elements and items as listed above.

- Critical Path and Controlling Work Items for the overall project and each Obsolete Vessel shall be clearly indicated with interdependent relationships to other critical path tasks clearly identified.

- Scheduled start and completion date of the production work for each activity.

- The original schedule baseline shall be retained and progress shall be shown on the Schedule as completed activities and shall be comparable to the baseline schedule.

(B) Activity duration. Activity duration shall be in working days unless reviewed and accepted by the COTR. Identify all activities not on a 5-day workweek calendar, and all planned holidays and other periods of shutdown. Identify overtime and multiple shift work.

(C) Completion dates. Activities shall include actual start and completion dates, the remaining duration, the percentage of physical work complete. This percentage will be used to calculate the "earned value" progress for each activity. For the measure of

percentage complete, standardized percentages may be used for each step of routine evolutions, however, separate activities for each specified step shall appear as a schedule activity. The Buyer shall clearly identify the unit of measure, tons, and work zones used to develop the earned value. The Buyer shall not use workdays as the unit of measure.

(D) Sequence and interdependence. Linked items and activities shall be used to show the sequence and interdependence of the items and activities and the effects thereof, including Work Items that interrelate with Controlling Work Items that are on the Critical Path.

(E) Realism. All Schedules prepared by the Buyer must be realistic and cannot contain logic that has been overridden (and thus not identified) by time, sequence, or resource constraints. If constraints exist, the Buyer shall identify them by type of constraint.

(F) Gantt chart. The following data shall also be included in tabular format with the Gantt chart for each activity of Critical Path activities:

- Original duration in calendar days.
- Remaining duration in calendar days.
- Percent (%) complete.
- Total float based on a five-day workweek.
- Original start date.
- Original finish date.
- Revised start date.
- Revised finish date.
- Actual start date.
- Actual finish date.

(F) Schedule progress. The contractor shall prepare an activity weighted average report that apportions a dollar amount for each activity in the performance schedule ("AWA Report"). An AWA Report shall be prepared by the contractor and submitted to the COTR in conjunction with the Performance Schedule (7) days after contract award.

(G) Apportioned dollar amount. The apportioned dollar amount for each activity shall be divided into the total contract amount to determine the weighted dollar amount for each activity and the weighted average percentage for each activity in the performance

schedule. The performance schedule shall be progressed by measuring the physical accomplishment of each activity as identified in the performance schedule through on-site ES&H monitoring, dismantlement inspections, bi-weekly reports and meetings all of which shall determine the actual percentage complete for each activity.

(H) Earned Value. Physical progress completed for each activity shall be reported by percentage at each bi-weekly meeting and shall be the basis for calculating the earned value for actual work completed. The earned value for each activity shall be calculated by multiplying the percent complete by the weighted dollar amount for that activity, less any previous earned amounts.

(I) Performance Schedule Impact Analysis. Performance Schedule Impact Analysis shall be provided, in a narrative format, for all changes that affect the schedule. Any changes and events which the Buyer does not indicate in the Schedule and Schedule Impact Analysis is assumed to have no affect on the Production Schedule.

(1) The Buyer shall provide ongoing Schedule analysis by comparing actual progress to planned progress as identified by the original baseline production schedule and shall report in the Summary Status Report the percentage ahead or slippage of the to date progress.

(2) The Schedule Impact Analysis shall demonstrate how the Buyer proposes to incorporate the changes into the Schedule and shall explain the affect if any, on milestone accomplishment, Schedule Critical Path, Schedule logic, resources, and costs and completion date.

(3) Failure by the Buyer to include any element of work required for performance of the Contract shall not excuse the Buyer from completing all work within the Contract performance period and/or in accordance with any Contract-required Milestone Date(s).

(J) Recovery Plan. If slippage has occurred from Buyer's baseline schedule, the Buyer must provide an analysis, in narrative format, of the slippage that identifies the cause and propose a corrective plan of action that will be taken to complete the remaining work within the Contract performance period.

(K) Late Completion Notification. If at any time, the updated Critical Path of the Performance Schedule indicates a late delivery or late completion date, the Buyer shall notify the Contracting Officer and the COTR in writing the next working day, and/or prior to the beginning of any period when no work will occur, such as a holiday period. This notification shall include identification of the problem and shall propose corrective actions for schedule recovery. NOTE: The buyer's inclusion of various schedule impacts in its Performance Schedule does not change the Contract Period of Performance in ARTICLE V unless the Contracting Officer authorizes an extension under ARTICLE XVII.

(L) All reports shall be delivered to the COTR. The Performance Schedule and required reports shall be delivered to the COTR for review and acceptance within (7) days after contract start date. Status reports shall be prepared bi-weekly and submitted one day prior to the next scheduled progress meeting, to reflect the addition, deletion, or modification of Work Items, and changes made by the Buyer.

(M) Initial Performance Schedule. The initial Performance Schedule produced for each Obsolete Vessel shall be saved by the Buyer to serve as a baseline for the purpose of progress tracking and variance analysis.

(N) Subcontractor's work/progress. The Buyer shall manage and schedule all subcontractor's production work/progress, material procurement, and interface control to support the overall Performance Schedule. Provide and maintain a subcontractor listing on file beginning within three (3) days after award of Contract. A revised list is to be updated whenever changes occur to the list. The subcontractor list shall include the subcontractor's business address, telephone number and point of contact as well as all work item(s) and scheduled activity(s) numbers and a brief description of the specific work to be accomplished.

(O) Scheduling data files format. All scheduling data files shall be compatible with and readable by MS Project 2007.

ARTICLE XVI. MILESTONES/DELIVERABLES.

1. Performance Schedule Milestones

The Buyer shall incorporate into the performance schedule the following major Contract milestones and required due dates as listed.

Milestone	**Due Date**
1. Deliver Sub-Contractor Listing	3 days after Contract Award Date
2. Deliver Key Personnel Roster	3 days after Contract Award Date
3. Deliver Certificates of Company Insurance (Required prior to issuance of NTP)	10 days after Contract Award Date
4. Deliver Cert of Asbestos Abatement Liability	10 days after Contract Award Date
5. Deliver Performance Bond (Required prior to issuance of NTP)	10 days after Contract Award Date, See Article 15
7. Deliver Tug Safety Management Certificate	10 days after Contract Award Date
8. Deliver Performance Schedule Activity Weighted Average Breakdown	7 days after Contract Award Date
9. Deliver Surveyor's Trip in Tow Recommendation Report.	Not later than 5 days after NTP

10. Deliver Emergency Response Oil Spill Notification POC.	10 days after Contract Award
11. Deliver Vessel Afloat Monitoring Plan	10 days after Contract Award, but not later than 3 days prior to the vessel departure from the fleet.
12. Deliver Towers Insurance	Not later than 5 days before vessel departure from the fleet.
13. Deliver Facilities Pollution Insurance	Not later than 3 days before vessel departure from the fleet.
14. Deliver USCG Load Line Exemption and Order for Departure	Prior to departure of the vessel from the fleet.
15. Remove vessel from fleet	TBD by Shipyard
16. Conduct Joint Underwater hull inspection during daylight hours COTR to schedule	4 hours after completion of underwater hull cleaning
17. Vessel is Undocked and shifted to the Pier	TBD by Shipyard
18. Remove Vessel from Shipyard for tow	NLT than 3-5 days after undocking
19. Deliver tank content verification report	10 days after vessel arrival
/Contractor estimate	10 days after vessel arrival
20. Deliver Validation of Contractor HM/HW estimates by sampling and analytical results	20 days after vessel arrival
21. Complete PCB Abatement	TBD by Buyer's performance schedule
22. Complete Asbestos Abatement	TBD by Buyer's performance schedule
23. Complete all Hazmat Removal/Disposal	TBD by Buyer's performance schedule
24. Begin Vessel Dismantling	TBD by Buyer's performance schedule
25. Remove Last Structural Piece from Slip	TBD by Buyer's performance schedule
26. Complete Vessel Dismantling	TBD by Buyer's performance schedule
27. Compete Material Sales and Recycling	30 days after removal of the last structural piece from the slip
29. Complete Facility Cleaning and Restoration	30 days after removal of the last structural piece from the slip
30. Deliver Certificate of Destruction	30 days after removal of the last structural piece from the slip
31. Deliver Closeout-Report and Final Schedule.	30 days after removal of the last structural piece from the slip

ARTICLE XVII. DELAY

1. Excusable Delays Impacting the Performance Schedule.

In the event the Buyer's performance is delayed under this contract and the Contracting Officer makes a determination that such delay arose from conditions beyond the control and without the fault or negligence of the Buyer, then the Contracting Officer may, in writing, extend the performance schedule for a reasonable period of time.

2. Decision by the Contracting Officer.

The Contracting Officer maintains exclusive authority to grant or deny requests to extend the performance schedule under this contract. The decision of the Contracting Officer as to the existence of the cause or causes of such delay and also as to the extension of the performance schedule shall be final and conclusive upon the Buyer.

3. Requests for Extension of Performance Schedule.

If the Buyer seeks an extension of the performance schedule for a reason supportable under clause 2 of this ARTICLE, the Buyer must submit a request for extension of the performance schedule.

A request for extension of performance schedule must:

(A) Be in writing, addressed to the Contracting Officer

(B) Request a specific amount of days for the extension.

(C) Contain all appropriate supporting documentation and supplemental information that the Contracting Officer requires or should request.

(D) Be submitted to the Contracting Officer within a reasonable period of time, as determined by the Contracting Officer, after the occurrence of the event of happening causing the delay.

4. No Damage for Delay.

This Article provides the exclusive remedy for excusable delays under this contract.

(A) Except as set forth in paragraph b, below, the Buyer agrees to make no monetary claim for delays in the performance of this contract and agrees that any claim for excusable delay shall be submitted in accordance with this Article and shall only be compensated for by an extension of the performance schedule.

(B) Delay in Delivery - If delivery of the vessel to the Buyer is delayed more than five days after the scheduled undocking date, the Contracting Officer will consider a request from the Buyer for a reduction in the sale price to compensate for reasonable tug demurrage costs directly and solely attributable to the delay. The only delays for which a reduction will be considered are delays caused solely by the Seller and/or its dry-docking contractor arising from the dry-docking of the vessel at the Shipyard, repairs while on dock and the subsequent undocking and delivery of the vessel to the Buyer. A price reduction will not be made for a delay in delivery of five days or less. No

adjustment will be made for any delay in delivery resulting from any other cause, including the fault or negligence of the Buyer, or for which an adjustment is provided or excluded under any other term or condition of this contract. If a delay in delivery occurs and tug demurrage costs will be incurred, not later than the day after the scheduled undocking date the Buyer must notify the Contracting Officer in writing of the daily amount of the tug demurrage costs it will incur under its towing contract and submit a copy of that contract to the CO. Failure of the Buyer to provide both the written notice and the towing contract by the day after the scheduled undocking date may result in a denial of any request for a price reduction. The Buyer must submit to the Contracting Officer any request for a price reduction under this Article within ten (10) days after it receives the bill for the tug demurrage charges for which it seeks relief and that bill must be included with the request.

5. Liquidated Damages.

The failure of the Buyer to perform any such obligations under this contract in the manner set forth and within the performance schedule specified, or any extension thereof, will cause the Government substantial damage, and the amount of such damage will be difficult to ascertain. In order to protect against indefiniteness and the uncertainty of liability, the Buyer agrees:

(A) Obsolete Vessel Operation Liquidated Damages. In the event the Buyer shall at any time operate or use the whole of the Obsolete Vessel hull, superstructure, structural components, or portions thereof, or cause or permit same to be operated or used as a means of, or as an aid in, the transporting of passengers or cargo, the Buyer shall pay to the Contracting Officer, as liquidated damages and not as a penalty, in addition to any other sum or sums payable hereunder, the sum of ONE THOUSAND DOLLARS ($1,000) for each day such Obsolete Vessel is in operation or use.

(B) Performance Schedule Delay Liquidated Damages. In the event the Buyer shall fail, neglect or refuse to dismantle the Obsolete Vessel in the manner provided herein and within the performance schedule herein specified, or any extension thereof granted by the Contracting Officer pursuant to clause 2 of this ARTICLE, the Buyer shall pay to the Contracting Officer as liquidated damages and not as a penalty, in addition to any other sum or sums payable hereunder, the sum of SIX HUNDRED DOLLARS ($600.00) for each calendar day the Buyer shall fail to perform as to such Obsolete Vessel.

ARTICLE XVIII. TERMINATION

1. Termination for Cause.

   A. Buyer Liability for Termination Costs.

      In the event that the Buyer violates, in any manner the terms and conditions of this Contract including all attachments, exhibits and appendices, or fails to pay liquidated damages herein provided, the Contracting Officer may determine that the Buyer has breached the Contract and terminated said Contract.

   B. Termination Procedure.

      Termination shall be effected by written notice to be served upon the Buyer, either personally or by leaving said notice at its principal office with the officer in charge thereof, or by service upon the Master, if any aboard the Obsolete Vessel, and thereupon the Buyer shall cease to have any interest in the Obsolete Vessel, or any parts thereof, not dismantled as herein provided, and shall cease to have any benefits from the continuation of this Contract.

   C. No Release of Liquidated Damages or Amounts Owed Government.

      The buyer and / or its surety agrees that such termination shall not release the Buyer and / or its Surety from the payment of liquidated damages or other amounts owed the Government that are due and payable, as herein provided, from the Buyer to the Contracting Officer at the time of service of the written notice of termination.

   D. Obligations of the Buyer Upon Termination.

      In the event this Contract is terminated, the Buyer agrees that it will forthwith upon receipt of directions from the Contracting Officer surrender to the Contracting Officer the actual possession of the Obsolete Vessel(s), or any parts thereof, not dismantled as herein provided, and deliver to the Contracting Officer a properly executed bill of sale for the Obsolete Vessel conveying the Obsolete Vessel, or any parts thereof, not dismantled as herein provided, to the Government with full warranty of title and freedom from all liens and encumbrances.

2. Termination Without Cause.

The Government reserves the right to terminate this Contract, immediately upon written notice, for any reason, at any time, prior to the arrival of the vessel at the Buyer's recycling facility.

A. Seller Liability for Termination Costs.

Subject to the terms of this Contract, the Government shall refund, to the Buyer, the purchase price for the vessel and the cost of performance incurred up to the time of the termination and any commercially reasonable expenses having resulted from the termination that the Buyer can demonstrate, to the satisfaction of the Government that it actually incurred. In no event will the Government be liable for consequential, special, indirect, or punitive damages, including but not limited to loss profits, arising out of or resulting from the termination of this Contract under this Termination Without Cause provision. The Buyer shall not be reimbursed for any work performed or costs incurred which reasonably could have been avoided.

B. Termination Procedure.

Termination shall be effected immediately by written notice to be served upon the Buyer, either personally or by leaving said notice at its principal office with the officer in charge thereof or by service upon the Master, if any, aboard the Obsolete Vessel, and thereupon the Buyer shall cease to have any interest in the Obsolete Vessel, or any parts thereof, not dismantled as herein provided, and shall cease to have any benefits from the continuation of this Contract.

C. Obligations of the Buyer Upon Termination.

In the event of such termination, the Buyer shall immediately stop all work hereunder and cause any and all of its suppliers and subcontractors to cease work. In addition, the Buyer agrees that it will forthwith, upon receipt of directions from the Contracting Officer surrender to the Contracting Officer the actual possession of the Obsolete Vessel(s) and deliver to the Contracting Officer a properly executed bill of sale for the Obsolete Vessel conveying the Obsolete Vessel back to the Government with fully warranty of title and freedom from all liens and encumbrances.

D. Buyer's Submission of Damages.

Buyer shall submit to the Contracting Office, in writing, all direct and incidental damages Buyer incurred as a result of the termination of this Contract.

ARTICLE XIX. RECORDS/REPORTING REQUIREMENTS.

1. Buyer Agrees to Maintain Detailed Records.

The Buyer agrees to maintain all books, records detailing contract expenses and revenue, and other documents used to perform the Contract and make such documents available to the Government for review and audit purposes. The Buyer must further maintain such records for a period of two years after Contract completion or for such time as the Buyer, for its own purposes, retains such books, records, and other documents whichever is longer.

2. All Required Reports are to be Electronically Prepared and Submitted

All required reports are to be electronically prepared and formatted for compatibility with MS Office 2007 including, Word, Excel, Access, PowerPoint and Adobe Acrobat ver. 9.0. All project schedules shall be prepared and formatted for acceptance in MS Project 2007. All reports are to be copied on to a CD-ROM and three copies shall be delivered to the COTR and one copy to the MARAD ES&H representatives during the appropriate submittal period.

3. Baseline/Pre-Arrival/Arrival.

The Buyer shall deliver the following reports to the COTR within the time frame indicated:

(A) Not later than four (4) days after the Obsolete Vessel arrival at the Buyer's dismantling facility:

- Copies of all notifications made, as required, to Federal, State and local regulatory agencies.
- A report of the location and inventory of all hazardous materials/wastes on-site at the Buyer's facility at the time of the Obsolete Vessel arrival (to prevent co-mingling with other vessel wastes).
- An inspection report of the condition of the facility at the beginning of the project including copies of the most recent Buyer furnished ground and water sampling results.

(B) Not later than ten (10) days after the Obsolete Vessel arrival at the Buyer’s dismantling facility at the beginning of the project:

- A verification report of the contents of all tanks on the Obsolete Vessel, conducted upon the Obsolete Vessel arrival at the Buyer’s facility, compared to the Government furnished tank soundings

provided prior to the Obsolete Vessel departure.

- Verification of the on arrival survey of all tank contents and approximate quantities contained and compared to the Government furnished baseline estimates with an accompanying tank diagram shall constitute verification. Inaccessible tanks shall be identified in the report.

(C) The contractor shall submit not later than 20 days after the vessel's arrival at the contractor's facility and prior to the start of work a verification of hazardous materials/wastes inclusive of sampling and analytical results so that areas containing or contaminated with hazardous or regulated substances are identified to enable safe work practices and applicable environmental regulations to be identified and implemented. Areas where presumption of hazardous/regulated materials is made shall be identified in the report submitted and the report shall be accepted by the COTR prior to the beginning of work in those areas.

4. Bi-Weekly Status Reports.

The Buyer shall prepare technical status report to be submitted once every two weeks on a day mutually agreeable to all parties that summarizes the previous two weeks performance and forecasts the next two weeks performance period. The report shall be submitted to the COTR at least 24 hours prior to the scheduled bi-weekly meeting. The purpose of this report is to apprise MARAD of the project status and to identify any departures from the approved management and TCP. The requirements of the Bi-Weekly are contained in Appendix A.

5. Bi-Weekly Progress Meeting.

The Buyer shall participate in a Bi-Weekly Progress Meeting once every two weeks at a place and time mutually agreeable to all parties either on site or by teleconference. The Buyer's representative in attendance shall be authorized to make management decisions relative to the requirements of the Contract. The Bi-Weekly agenda is contained in Appendix B.

6. Health and Safety/Regulatory Inspections.

Copies of notification of any regulatory agency inspection conducted, or any Notices of Violation, citations, or cautionary notices received from regulators during the previous two-week reporting period. Status of the Buyer's worker health and safety program including copies of all required health and safety documentation. The requirements of the safety inspections are contained in Appendix C.

7. Final Close-Out Report.

Upon completion of performance under this contract, the Buyer shall provide a final closeout report to include the requirements listed above, as well as the following additional

requirements: The final close out report is a milestone activity and shall be scheduled in the performance plan. The report shall be submitted to MARAD within thirty (30) calendar days after the last structural piece is removed from the slip. The requirements of the final close out reports are contained in Appendix C.

ARTICLE XX CONTRACT COMPLETION

1. Proof of the Dismantlement.

The Buyer shall certify that it has completed dismantlement of the Obsolete Vessel via submission of a Certificate of Destruction signed by the person who executed the contract on behalf of the Buyer or by an employee of the Buyer authorized in writing by the Buyer's management to execute that Certification on behalf of the Buyer.

2. Completion of Recycling and Remediation

The Buyer shall within 30 days after removal of the last structural piece of the vessel from the slip, complete remediation, removal and disposal of all hazardous materials from the vessel. The Buyer may retain recyclable ferrous and non-ferrous metals and equipment indefinitely after the 30 day period and may dispose of these recyclable materials at the Buyer's convenience. Stockpiled material from MARAD, other vessels and or recyclable materials that have been tested and found to contain PCBs in concentration greater than 50 ppm shall be segregated from clean recyclables and shall be disposed in accordance with all applicable statutes and regulations within 30 days after the last structural piece of the vessel is removed from the slip. Buyer shall report on the disposal or utilization of the resultant scrap, the engines, machinery and equipment in a Final Close-Out Report containing the detail required in Appendix D.

ARTICLE XXI. ENVIRONMENTAL COMPLIANCE

1. Buyer Responsible for Complying With all Laws During Transport.

The Buyer hereby acknowledges and accepts responsibility for strict adherence to all applicable federal, state, and local laws, statutes, ordinances, rules regulations and orders relating to the environmental laws (hereinafter applicable laws), during transporting, processing or use of the Obsolete Vessel received from the Government under this Contract. The Buyer is cautioned that it is solely responsible to ascertain the extent to which applicable laws may affect it and comply therewith. The Buyer also hereby acknowledges and accepts responsibility for steps that must be taken to insure financial responsibility for any and all discharges of oil occurring after delivery of the Obsolete Vessel as required by 33 C.F.R. 130.1 et seq. administered by the United States Coast Guard.

2. Regulated Materials.

The Environmental Protection Agency (EPA) has determined that a large number of normal ships operational or maintenance materials (including but not limited to paints, lubricants, solvents, detergents, etc.) may be hazardous. Unless specifically stated otherwise, the term "hazardous materials" or “regulated materials” as used in this Contract refers to any hazardous or toxic materials, hazardous or toxic substances, hazardous or toxic chemicals, hazardous, toxic or solid waste, or petroleum and petroleum products as defined in any applicable laws.) The Buyer shall provide copies of all hazardous waste manifests to the Contracting Officer or designee. The Buyer accepts responsibility for proper handling of regulated materials in compliance with applicable laws.

3. Generator Duties.

The Buyer expressly (a) acknowledges its duty to comply with applicable laws, including but not limited to The Toxic Substances Control Act, 15 U.S.C. § 2601 et seq. and the implementing regulations, 40 C.F.R. Part 761; and (b) agrees that it will perform all required duties, including those of the generator of hazardous, toxic or solid waste including but not limited to PCB waste or any regulated PCBs or PCB item removed from the Obsolete Vessel. In accordance with applicable laws, including 40 C.F.R. Part 761, the Buyer expressly agrees that it will obtain an EPA identification number; arrange for all regulated material to be transported to an approved treatment, storage or disposal facility; perform all communication and record keeping tasks; and, prepare, sign and return all requisite copies of all manifests, including but not limited to those for PCBs and PCB items, removed from the Obsolete Vessel, and provide copies of such documents to MARAD. The Buyer agrees that items or components remaining on board the Obsolete Vessel may be regulated in the locality where the Obsolete Vessel will be berthed during performance of this Contract, and the Buyer is solely responsible for ascertaining the extent to which regulations of said locality effect it and for compliance therewith.

4. Asbestos.

The Buyer hereby acknowledges and accepts responsibility for asbestos found on the Obsolete Vessel, including but not limited to pipes, ducts, boilers, tanks, reactors, turbines, furnaces, structural members, etc., or in holds or compartments of the Obsolete Vessel sold under this Contract. The Buyer shall provide the COTR with copies of all manifests for the transport, storage and disposal of asbestos. Federal standards for handling and for the removal of asbestos from Obsolete Vessel within the United States are prescribed at 40 C.F.R. Part 61, Subpart M.

5. Polychlorinated Biphenyls (PCBs).

The Buyer hereby acknowledges and accepts responsibility for PCBs found on the Obsolete Vessel sold under this Contract. The Buyer shall provide the COTR with copies of all manifests for the transport, storage and disposal of PCB's. Federal standards for handling and disposal of PCBs from the Obsolete Vessel within the United States are at 40 C.F.R. Part 761. The Buyer is advised to contact the cognizant EPA office for explicit details. The Buyer hereby acknowledges and accepts sole responsibility for the handling and disposing of all items containing PCBs regulated under applicable environmental laws.

6. Unannounced Inspection Rights.

The government reserves the right to conduct unannounced inspections at any time during the PCB removal and the Obsolete Vessel's dismantling activity pursuant to this Contract and Section 11 of TSCA 15 U.S.C. §2610, respectively. The EPA, MARAD or its designee may inspect all operations in connection with the dismantling of the Obsolete Vessel.

ARTICLE XXII. DISCLAIMERS AND POTENTIAL HEALTH HAZARDS

1. Asbestos, PCBs and Other Regulated Materials.

The Buyer is responsible for the asbestos, the PCBs and the other regulated materials in the Obsolete Vessel that are considered health hazards and particular care must be taken in handling and disposing of such material.

2. Health, Safety and Welfare of Shipbreakers.

The Buyer hereby agrees and affirms its responsibility to assure safe and healthful conditions for all its employees engaged in each phase of the dismantling operation. This includes, but is not limited to, the provision of appropriate personal protective equipment, the proactive elimination of occupational chemical, mineral, electrical, mechanical, and other material hazards, and the institution of prompt, pervasive engineering controls, proper education and training, and effective supervisory procedures in keeping with the requirements of the Occupational Safety and Health Act of 1970, including any provisions of such standards that may be made after the date of this Contract and specifically the relevant standards of 29 C.F.R. Part 1910, 29 C.F.R. 1915, 29 C.F.R. 1917, 29 C.F.R. 1918, 29 C.F.R. 1919, as well as all other laws, statutes, rules, ordinances, regulations and orders with respect to safety and health with respect to actions occurring within and without the United States.

3. Buyer Responsible for Disposal of Radioactive Materials.

The Buyer is responsible for items which may be capable of emitting ionizing radiation in varying degrees; such as, switches, circuit breakers, knobs, controls, pointers, instruments, dials,

electron tubes, markers, etc., aboard the Obsolete Vessel.

4. Guano Hazard.

The Buyer further acknowledges and accepts responsibility for the presence of sea gull, pigeon and other bird droppings aboard the Obsolete Vessel as such droppings may create an unsanitary condition. As a safety precaution, the Buyer is advised that all personnel working in areas of the Obsolete Vessel where such droppings are present should wear appropriate protective equipment.

5. No Government Liability.

The Government does not assume any liability for damage to the property of the Buyer or for personal injuries, disabilities, or death to the Buyer or the Buyer's employees or to any other person arising from, or incident to, the sale of the Obsolete Vessel pursuant to this Contract and/or any material aboard such Obsolete Vessel, or to its use or disposition. As a safety precaution, the Buyer should also warn any future possessor of the Obsolete Vessel of the potential health hazards referred to above.

ARTICLE XXIII. INCIDENT REPORTING

The Buyer must provide verbal or e-mail notification to the COTR within two (2) hours of and written notification within 24 hours of any incident involving injuries to personnel, spills, fires, explosions, damage to property, or harm to the environment or any other significant incidents which may arise from other performance aspects under this Contract. The Buyer shall, within one week of receipt, provide copies of any notices of violation, citation, or other documentation relating to Federal, state or local administrative or legal action against the Buyer regarding actions arising under or relating to this Contract.

ARTICLE XXIV. NOTIFICATION OF EXPORT

It is unlawful to export Polychlorinated Biphenyls (PCBs) and other regulated hazardous materials from the United States of America. The Buyer is required to notify the Contracting Officer in writing of the intent to export any materials and /or equipment resulting from the Obsolete Vessel (s) dismantling efforts. Any and all exporting of materials and/or equipment resulting from this Contract must meet all International, Federal, State, and Local laws and regulations. Proper documentation is required for the export of any and all recyclable materials resulting from this Contract prior to commencement of export.

ARTICLE XXV. INSPECTION BY GOVERNMENT

The Buyer shall permit MARAD, its representatives thereof and other federal agencies to inspect the Obsolete Vessel and the Buyer's operations in connection therewith at all reasonable times upon request, for such purposes as MARAD or representatives thereof may deem necessary or appropriate in order to determine or verify compliance by the Buyer with all terms and conditions of this Contract. Such inspection may, at MARAD's sole discretion, be recorded by any means including, but not limited to, the taking of photographs or videos by the MARAD personnel attending the inspection.

ARTICLE XXVI. NO OBSTRUCTION TO NAVIGATION

Neither the Obsolete Vessel, nor any parts thereof, shall be permitted to become a menace or obstruction to navigation either while being moved or while being dismantled as aforesaid; and, in the event that the Obsolete Vessel, or any parts thereof, shall at any time become a menace or obstruction to navigation, the Buyer shall, at its own cost and expense, remove the same forthwith, and upon its failure to do so, the Contracting Officer may, through any agent or agencies designated, remove said menace or obstruction at the cost and expense of the Buyer and/or its Surety, but no obligation shall be imposed upon MARAD to remove same.

ARTICLE XXVII. SALE OR ASSIGNMENT

The Buyer shall neither sell nor assign any of its rights or obligations hereunder, nor resell the Obsolete Vessel, without the prior written consent of the Contracting Officer. The Buyer shall advise the Government as to the location at which the Obsolete Vessel will be dismantled and the identity of the dismantler. When evaluating the request for sale or assignment, the Contracting Officer may require the New Buyer or Assignee to submit for Government approval any information that would have been required if the New Buyer or Assignee were an original Buyer of the Obsolete Vessel, including but not limited to a Technical Compliance Plan.

ARTICLE XXVIII. SUCCESSORS AND ASSIGNS

All the covenants, stipulations and agreements herein contained are and shall be binding upon the respective heirs, administrators, executors, successors and assigns, if any, of the Buyer, and of the Administrator and the Contracting Officer.

ARTICLE XXVIX. NO EMPLOYMENT OF CERTAIN GOVERNMENT OFFICIALS

No member of or delegate to Congress, nor Resident Commissioner, shall be admitted to any share or part of this Contract or to any benefit that may arise there from except that this

provision shall not apply to this Contract if made with a corporation for its general benefit. No member of or delegate to Congress, nor Resident Commissioner, shall be employed by the Buyer, either with or without compensation, as an attorney, agent, officer or director.

ARTICLE XXX. PROHIBITION AGIANST CONTINGENT FEES

The Buyer warrants that no person or agency has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except bona fide employees or *bona fide* established commercial agencies employed or maintained by the Buyer for the purpose of securing business. For breach or violation of this warranty, the Government shall have the right to annul this Contract with respect to the party in breach thereof and to require the Buyer to pay, in addition to the contract price or consideration, the full amount of such commission, percentage, brokerage, or contingent fee.

ARTICLE XXXI. BUYER'S GUARANTEE

1. Buyer Agrees to Hold MARAD Harmless.

The Buyer hereby absolutely, irrevocably and unconditionally guarantees that in the event any claim against MARAD is filed by any governmental unit, national, state or local, or any private party in a qui tam action or otherwise, for any fee, fine, penalty or monetary award, in connection with dismantlement of the Obsolete Vessel, the Buyer shall promptly take any and all actions needed to ameliorate, defend and pay the fee, fine, penalty or monetary award.

2. No Discharge or Setoff.

The Buyer hereby consents and agrees that its obligations under this Contract will not be discharged by any act or omission by MARAD. Any amount payable hereunder shall not be subject to any reduction by reason of any counterclaim, set-off, deduction, abatement or otherwise.

3. Buyer Responsible for all Costs for Obligations Under this Contract.

The Buyer shall pay all reasonable costs and expenses (including, without limitation, attorneys' fees and expenses) incurred in connection with the enforcement of the obligations of the Buyer under this Contract. It is expressly agreed that the liability of the Buyer for the payment of the obligations guaranteed herein shall be primary and not secondary.

4. This guarantee of payment on the part of Buyer shall:

(A) Remain in full force and effect so long as any obligation of the Buyer exists under this Contract;

(B) Be binding upon the Buyer, its successors and assigns;

(C) Be executed and issued for the sole and exclusive benefit of the United States, and no other party shall be permitted to claim any benefit, direct or indirect, there from; and

(D) Inure to the benefit of, and be enforceable by MARAD, its successors and assigns.

ARTICLE XXXII. REPRESENTATION AND WARRANTIES.

The Buyer represents and warrants as follows:

(A) The Buyer has full power and authority (corporate, legal and other) to execute, deliver and carry out the terms of this Contract;

(B) This Contract has been duly authorized, executed and delivered by the Buyer and constitutes the legal, valid and binding obligation of the Buyer enforceable against the Buyer in accordance with its terms;

(C) The execution, delivery and performance by the Buyer of this Contract does not require the approval or consent of its shareholders or of any governmental authority and does not contravene the Buyer's Certificate of Incorporation or any mortgage, indenture or other agreement binding upon it, or any law, regulation, order, judgment or decree applicable to the Buyer; and

(D) The Buyer has fully adequate financial resources, funds, and assets to satisfy their obligations under this Contract, and the Buyer will in the future retain financial resources, funds, and assets to fully satisfy its obligations under this Contract.

ARTICLE XXXIII. DISPUTES

1. Contract Disputes Act of 1978.

This Contract is subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613).

2. Matters "arising under" or "relating to" this Contract.

This article applies to all disputes with respect to Contracting Officer decisions on

matters "arising under" or "relating to" the Contract. The Civilian Board of Contract Appeals has all of the authority to consider disputes arising under this Contract, as well as authority to decide disputes relating to this Contract.

ARTICLE XXXIV. COUNTERPART SIGNATURE

This agreement may be executed in any number of counterparts, each of which shall be part of an original and all of which shall constitute but one and the same instrument.

ARTICLE XXXV. GOVERNING LAW.

This Contract shall be governed by the federal law of the United States.

ARTICLE XXXVI. NOTICE TO PROCEED.

1. Official Notice To Proceed (NTP).

Upon contract award and/or issuance of the official contract start date the Buyer may be issued a conditional Notice to Proceed to proceed with specific preparatory actions including but not limited to: 1) provision for the Marine Surveyor to conduct the trip in tow survey; 2) Provision for the Buyer to begin mobilization, based on a known docking and undocking date for the vessel, to accomplish the required inland and ocean tow preparations.

The contract award date and the NTP date may not be one and the same. MARAD may schedule issuance of the notice to proceed to minimize the impact to the workload at the fleet with regard to Obsolete Vessel arrivals and departures and fleet maintenance activities. The final Notice to Proceed shall be issued by the Contracting Officer once all required deliverables have been submitted and approved by MARAD. Failure to provide proof of the following items by the Notice to Proceed date may be reason to terminate the Contract for cause.

(A) Workers Compensation, Including Longshoremen and Harbor Workers Act coverage.

(B) Employers Liability coverage

.

(C) Comprehensive General Liability insurance coverage.

(D) Pollution insurance coverage.

(E) Maritime Employers Liability (Jones Act) insurance coverage.

(F) Asbestos Abatement Liability Insurance coverage.

(G) Performance surety.

2. Contractor Bears All Risk Prior to the NTP Issuance.

The contractor bears all risks and costs associated with performing work on the vessel prior to the NTP issuance. MARAD will not be liable for any costs arising from Contractor performance prior to the issuance of Notice to Proceed for any reason including non-issuance of the Notice to Proceed, and or termination of the contract. Inspection by a Marine Surveyor for the purpose of developing the trip in tow survey will be the only activity allowed aboard the Obsolete Vessels(s) prior to the issuance of the NTP. The Contractor shall submit a copy of the Marine Surveyors initial trip in tow recommendation report within 5 days after the issuance of the official notice to proceed.

ARTICLE XXXVII. DEFINITIONS

As used in this Contract:

Dismantlement

The term “dismantlement” is defined as the reduction of all materials, components and structures of the Obsolete Vessel to their basic material and/or recyclable content. To dismantle the Obsolete Vessel means to deconstruct, dismember, or destroy the hull and superstructure and all component parts thereof in such a manner that no considerable part of the material is left intact or undisturbed to the extent that it can be readily identified as an existing portion of the original hull or superstructure. Dismantlement includes the complete removal from the slip of all portions of the Obsolete Vessel including, but not limited to the hull, inner bottom, bulkhead, deck and deck house materials, as well as all floors, longitudinals, webs, girders and other framing.

Day

The term “day” refers to calendar days and all time periods set forth herein shall be calculated with calendar days specifically including weekends and holidays.

Hull

The term "hull" means the framework of a vessel, including the keel, together with all decks, deck houses, tanks, the inside and outside plating and all steel bulkheads, but exclusive of masts, yards, rigging, machinery, outfit and equipment.

IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day and year first above written.

UNITED STATES OF AMERICA
SECRETARY OF TRANSPORTATION
MARITIME ADMINISTRATION

ATTEST:

By: _____
Secretary
Maritime Administration
(Seal)

By: _____
Contracting Officer,

ATTEST:

By: _____
(Title)
(Corporate Seal)

By: ESCO MARINE, INC.

By: _____
(Title) Vice President

ACKNOWLEDGMENT IN PROPER LEGAL FORM TO BE EXECUTED AND FIRMLY AFFIXED HERETO.

APPENDIXES

1. A – Biweekly Status Reports
2. B – Biweekly Progress Meeting
3. C – Final Close Out Report

EXHIBITS:

1. Bill of Sale
2. List of Ordinance Equipment

Bi-Weekly Status Reports: The Contractor shall prepare technical status report to be submitted bi-weekly on a day mutually agreeable to all parties that summarizes the previous two weeks performance and forecasts the next two weeks performance period. The report shall be submitted to the COTR at least 24 hours prior to the scheduled bi-weekly meeting. The purpose of this report is to apprise MARAD of the project status and to identify any departures from the approved management and TCP. The report shall consist of two parts.

Part 1: Executive level progress summary:

The progress summary shall be concise and consist of all technical activities performed under the Contract during the reporting period. Actual physical progress reporting shall be an approximate percentage of actual work completed derived from the monitoring of the work schedule.

Part I shall discuss the following topics:

1) A Project Milestones Table.
   a) The table shall be presented with columns noting the original contract/baseline, revised and actual dates indicated for each milestone.
2) Any Changes of Key Personnel concerned with the project.
   a) Project Manager
   b) Contracts Manager
   c) EH&S Manager
3) Project Progress.
   a) Progress since the previous progress report defined as work accomplished vs. planned work.
   b) Approximate overall percentage of project completion with accompanying breakdowns of the percentage of completion for hazardous material removal and disposal and for the structural dismantling of the Obsolete Vessel.
4) Project Difficulties.

a) Difficulties encountered during the reporting period
b) Corrective actions taken.

5) Regulatory Agency Notification.
   a) Inspection(s) conducted
   b) Notices of Violation, citations, or cautionary notices received from regulators during the reporting period relating to the performance of this Contract
   c) Notification of any other documentation relating to Federal, state or local administrative or legal actions arising under or relating to the Contract
   d) Progress on resolution of any deficiencies identified by regulatory inspection.
6) Permits/Licenses.
   a) Status of outstanding permits/licenses required for performance of this Contract and status of any existing permits/licenses due to expire within ninety (90) days of the Progress Report
   b) Advance notice of commencement of project activities that will require notification to any regulatory agency by the Contractor or any of its subcontractors.
   c) Contractor's responses to any outstanding discrepancies noted or questions asked in writing by the Government.
7) Risk Assessment.
   a) Risk relating to timely completion of this Contract.

Part 2: Project Progress Documentation

This section shall consist of specific areas of interest relating to the progress and documentation of the project. Quantities for materials/wastes shall be reported for the previous two-week reporting period, cumulatively to date with a comparison to Contractor's initial estimated quantities. Quantities are to be reported in the unit of measure and type as proposed so as to be traceable to the Contractor's initial

estimates.

Part 2 shall discuss the following topics:

(1) Performance Schedule and Dismantling Status.

(a) The Contractor shall prepare and submit an updated performance schedule, which clearly compares actual progress against the baseline performance schedule.

(b) An updated Obsolete Vessel (s) profile drawing color coded and integrated to the performance schedule, which clearly displays, by location, the level of progress associated with hazmat remediation and structural dismantling.

(c) Identification of the deck to which the Obsolete Vessel has/have been dismantled.

(2) Project Recovery Plan.

(a) Narrative of Contractor's proposed recovery plan and schedule to regain planned schedule performance.

(3) Hazardous Materials/Wastes.

(a) Status of hazardous material/waste abatement and disposal including copies of all required manifests and other shipping documents or hazardous property disposal documents.

(b) Quantity of each type of hazardous material/waste removed from the Obsolete Vessel, in storage and shipped for recycling/disposal during the reporting period.

(c) Quantity of each type of hazardous material/waste forecasted to be removed from the Obsolete Vessel (s), placed in storage, or shipped for disposal in the next two-week reporting period.

(d) Copies of chain of custody forms for all samples and copies of the results of sampling obtained during the previous two-week reporting period.

(4) Recyclable Materials.

(a) Status of recyclable equipment and materials disposal including copies of all required property transfer documents.

(b) Tonnage of recyclable ferrous and non-ferrous metals and equipment removed, in storage and shipped during the previous two-week reporting period.

(c) Cumulative totals of recyclable ferrous and non-ferrous metals and equipment removed, in storage and shipped.

(d) Forecasted tonnage of recyclable ferrous and non-ferrous metals and equipment to be removed placed in storage and shipped in the next two-week reporting period.

(5) Health, Safety and Environmental Regulatory Inspections.

(a) Copies of notification of any regulatory agency inspection conducted, or any Notices of Violation, citations, or cautionary notices received from regulators during the previous two-week reporting period.

(b) Status of the Contractor's worker health and safety program including copies of all required health and safety documentation.

(c) Status of any safety deficiencies found during on-site inspections by the Contractor any Federal, State or local regulatory agency and Contractor's expected timetable for completing corrective action.

(d) Copies of worker exposure monitoring data.

(e) Copies of asbestos enclosure clearance sampling results.

(f) Copies of Marine Chemists gas free certifications.

(g) Copies of notification of any other documentation relating to Federal, state or local administrative or legal actions arising under or relating to the Contract. The Contractor shall supply the COTR with copies of all correspondence associated with regulatory agencies relating to the performance of this Contract.

(h) Copies of any accident, incident and injury reports generated by the Contractor and required for submittal to any regulatory agency during the previous two-week reporting period.

(i) Summary totals of worker injuries, incidents and lost labor days for the previous two-week reporting period including cumulative totals and a summary of causes.

Bi-Weekly Progressing Meeting: The Contractor shall participate in a Bi-Weekly Progress Meeting at a place and time mutually agreeable to all parties either on site or by teleconference. The Contractor's representative in attendance shall be authorized to make management decisions relative to the requirements of the Contract.

1) The Contractor shall be prepared to discuss the following:
   a) Total percentage of work complete
   b) Percentage completion of each Work Item
   c) Performance Schedule milestones, key events, Controlling Work Items, Critical Path, float, and schedule recovery.
   d) Planned production manning versus actual manning.
   e) Major problems for each item and proposed corrective action.
2) The Contractor shall provide for the bi-weekly meeting, and at least one working day prior to the scheduled meeting:
   a) An updated performance schedule with a summary report listing each work item and activity
   b) A current physical progress percent complete for each. Percentage complete shall agree will the percentage complete as reported in the Production Schedule.

Final Close-Out Report: The final close out report is a milestone activity and shall be scheduled in the performance plan. The report shall be submitted to MARAD within thirty (30) calendar days after the last structural piece is removed from the slip.

The Contractor shall provide a final closeout report to include:

3) A final Performance Schedule updated to show actual events of the project including:
   a) The actual duration of the scheduled activities compared to the established baseline schedule.
4) A comparison report, which shows actual quantities of all materials, abated, disposed or recycled compared to the Contractor's hazardous material estimate.
5) Total dismantling labor hours by hazmat quantities and dismantling activities.
6) Total abatement labor hours by hazmat quantities and dismantling activities.
7) A comparison report, which reports actual costs compared to estimated costs, for all tasks listed in the Contractors Estimated Cost/Revenue Breakdown sheet.
8) Quantity of wastes disposed by element.
9) Quantity of scrap recovered for resale to include, but not be limited to, ferrous, non-ferrous, and equipment including revenue received for each type of recyclable material. The Contractor shall provide the figures for the actual revenue received for sold recyclable materials. For materials stock piled after the closeout date the Contractor shall provide the estimated revenue for each type of recyclable material based on the anticipated revenue calculated at the time of submission of the Final Close out report. The figures shall be totaled to arrive at the final revenue amounts received for each type of recyclable material.
10) A written certificate attesting that on said date all materials associated with the Obsolete Vessel have been disposed of in accordance with the applicable regulatory and Contract requirements. The contractor shall identify the types and quantities of recyclable material and equipment retained for recycling.
11) A written certificate attesting that on said date the dismantling facility has been returned to the same condition as identified in the baseline pre-arrival/arrival determination.

12) A written certificate entitled "Certificate of Destruction" attesting that on said date the Obsolete Vessel has been completely dismantled to its basic material content and that all hazardous materials/wastes have been remediated and disposed of in accordance with all Federal, State and local laws and regulations.
13) A written "Release of Claims".

EXHIBIT 1

BILL OF SALE

TO ALL TO WHOM THESE PRESENTS COME, GREETINGS: KNOW YE, THAT THE UNITED STATES OF AMERICA REPRESENTED BY THE SECRETARY OF TRANSPORTATION ACTING BY AND THROUGH THE MARITIME ADMINISTRATOR (THE "SELLER"), THE SOLE OWNER OF THE VESSEL (THE "VESSEL") HERE IN BELOW MORE PARTICULARLY IDENTIFIED, AS FOLLOWS:

NAME: **M/V WABASH**

OFFICIAL NUMBER: **AOR-5**

TYPE: **REPLENISHMENT OILER**

LOCATION: **SUISUN BAY RESERVE FLEET**

FOR AND IN CONSIDERATION OF THE SUM OF **TWO MILLION TWENTY SIX THOUSAND SEVEN HUNDRED TWENTY SIX DOLLARS, $2,026,726.00,** LAWFUL MONEY OF THE UNITED STATES OF AMERICA, TO IT IN HAND PAID BEFORE AWARD BY ESCO MARINE, INC., ("THE BUYER"), AND OTHER GOOD AND VALUABLE CONSIDERATIONS, THE RECEIPT OF BOTH OF WHICH IT DOES HEREBY ACKNOWLEDGE AND IS THEREWITH FULLY SATISFIED, CONTENTED AND PAID, HAS BARGAINED AND SOLD, ANY BY THESE PRESENTS, DOES BARGAIN AND SELL UNTO THE BUYER, ITS SUCCESSORS AND ASSIGNS, ALL OF THE RIGHTS, TITLE AND INTEREST OF THE SELLER IN AND TO THE VESSEL, ALL ENGINES, BOILERS, MASTS, SAILS, BOATS, CABLES, TACKLE, FURNITURE AND ALL OTHER NECESSARIES THERE TO APPERTAINING AND ON BOARD THE VESSEL. TO HAVE AND TO HOLD THE VESSEL AND APPURTENANCES

EXHIBIT 1

THEREUNTO BELONGING UNTO IT, THE SAID BUYER, ITS SUCCESSORS AND ASSIGNS FOREVER TO THE SOLE AND ONLY PROPER USE, BENEFIT, AND BEHALF OF THE SAID BUYER AND ITS SUCCESSORS AND ASSIGNS, AND THE SELLER HEREBY EXPRESSLY SELLS THE VESSEL “AS IS, WHERE IS” AFLOAT AND MAKES NO WARRANTY, GUARANTY, OR REPRESENTATION AS TO SEAWORTHINESS, DESCRIPTION, CAPACITY, CONDITIONS, TONNAGE, OR OTHERWISE CONCERNING SAID VESSEL AND APPURTENANCES, EXCEPT THAT SELLER HAS PROMISED, COVENANTED AND AGREED, AND BY THESE PRESENTS DOES HEREBY PROMISE, COVENANT AND AGREE FOR ITSELF AND ASSIGNS, TO AND WITH THE SAID BUYER, ITS SUCCESSORS AND ASSIGNS, TO WARRANT AND DEFEND THE TITLE IN AND TO THE SAID VESSEL AND APPURTENANCES AGAINST ALL AND EVERY PERSON OR PERSONS WHOMSOEVER, AND ALSO WARRANTS THAT THE SAID VESSEL AND APPURTENANCES ARE FREE AND CLEAR OF LIENS AND ENCUMBRANCES.

TITLE TO THE AFORESAID VESSEL IS BEING TRANSFERRED TO THE BUYER BY THIS BILL OF SALE PURSUANT TO AND SUBJECT TO THE TERMS AND PROVISIONS OF THE PURCHASE CONTRACT BETWEEN THE UNITED STATES OF AMERICA, AND THE BUYER DATED AS OF THIS DATE, CONTRACT NO. **MA-14199** (THE “PURCHASE CONTRACT’), WHICH PROVIDES, AMONG OTHER THINGS, THAT THE VESSEL SHALL ONLY BE REMEDIATED, DISMANTLED, AND RECYCLED BY THE BUYER AND SHALL NOT BE USED FOR ANY OTHER PURPOSE INCLUDING, BUT NOT LIMITED TO, THE CARRIAGE OF CARGOES RESERVED BY LAW TO

EXHIBIT 1

VESSELS OF THE UNITED STATES.

IN TESTIMONY WHEREOF, THE UNITED STATES OF AMERICA, REPRESENTED AS AFORESAID, HAS CAUSED THIS BILL OF SALE TO BE DULY SIGNED AND SEALED ON ITS BEHALF BY ITS PROPER OFFICER, THEREUNTO DULY AUTHORIZES THIS 1st DAY OF OCTOBER, 2012.

UNITED STATES OF AMERICA
SECRETARY OF TRANSPORTATION
MARITIME ADMINISTRATION

By _____

Contracting Officer

ATTEST:

By: Sarah J Washington

(Seal)

EXHIBIT 2

LIST OF ORDNANCE EQUIPMENT

DESCRIPTION OF EQUIPMENT	MANUFACTURER'S NAME	COMPARTMENT LOCATION	QUANTITY IN LOCATION
NONE			