

**CUSTOMER CONTRACT REQUIREMENTS
ENERGY EFFICIENT THERMOPLASTIC COMPOSITE MANUFACTURING
CUSTOMER CONTRACT DE-EE0005780**

CUSTOMER CONTRACT REQUIREMENTS

The following customer contract requirements apply to this contract to the extent indicated below. If this contract is for the procurement of commercial items under a Government prime contract, as defined in FAR Part 2.101, see Section 3 below.

1. FAR Clauses The following contract clauses are incorporated by reference from the Federal Acquisition Regulation and apply to the extent indicated. In all of the following clauses, "Contractor" and "Offeror" mean Seller.

52.227-1 Authorization and Consent (Dec 2007) Alternate I (APR 1984).

52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement (DEC 2007). A copy of each notice sent to the Government will be sent to Buyer.

2. Prime Contract Special Provisions The following prime contract special provisions apply to this purchase order

2 CFR 910 Rights in Data – Programs Covered under Special Data Statutes . Appendix A of Subpart D

2 CFR 910 Patent Rights (Large Business Firms – No Waiver) .

Appendix A of Subpart D

Appendix A Notice to Subrecipients Regarding Confidential Information and Data and Protected Personally Identifiable Information .

I. CONFIDENTIAL INFORMATION AND DATA

The Recipient is required to mark confidential information and data in accordance with this guidance.

Failure to properly mark confidential information and data may result in its public disclosure under the

Freedom of Information Act (FOIA, 5 U.S.C. § 552) or otherwise.

A. Protected Data

The Recipient must properly mark any documents containing Protected Data. "Protected Data" is defined as information and data produced under the award that, if developed at private expense, would qualify as trade secret, privileged, or confidential information or data. Protected Data is protected from public disclosure for five (5) years from the time it is first produced.

The cover page must be marked with the following wording and identify the specific pages containing Protected Data:

PROTECTED RIGHTS NOTICE

Pages [__] of this document contain protected data that was produced under Agreement No. ____ with the U.S. Department of Energy. This data may not be published, disseminated, or disclosed to others outside the Government until 5 years after development of information under this Agreement, unless express written authorization is obtained from the recipient. Upon expiration of the period of protection set forth in this Notice, the Government shall have unlimited rights in this data.

The header and footer of each page containing protected information must be marked with the following wording: *“May contain protected information that is privileged or confidential and exempt from public disclosure.”*

Ensure that all e-mails containing protected information are categorized as “confidential.”

(Learn how to mark a message confidential in Outlook: http://office.microsoft.com/enus/outlook_help/mark_a_message_as_private_personal_or_confidential_HP005242880.aspx).

B. Other Confidential Information and Data

The Recipient must properly mark any documents containing trade secrets or commercial/financial information that is privileged or confidential.

The cover page must be marked with the following wording and identify the specific pages containing such information:

NOTICE OF RESTRICTION ON DISCLOSURE AND USE OF DATA

Pages [___] of this document may contain trade secrets or commercial or financial information that is privileged or confidential and exempt from public disclosure. Such information shall be used or disclosed only for evaluation purposes or in accordance with a financial assistance or loan agreement between the submitter and the Government.

The Government may use or disclose any information that is not appropriately marked or otherwise restricted, regardless of source.

The header and footer of each page containing such information must be marked with the following wording: *“May contain trade secrets or commercial or financial information that is privileged or confidential and exempt from public disclosure.”*

Each line and paragraph containing such information must be marked with double brackets or other clear identification, such as highlighting.

Ensure that all e-mails containing protected information are categorized as “confidential.”

(Learn how to mark a message confidential in Outlook: http://office.microsoft.com/enus/outlook_help/mark_a_message_as_private_personal_or_confidential_HP005242880.aspx).

II. PROTECTED PERSONALLY IDENTIFIABLE INFORMATION

The Recipient should not include any Protected Personally Identifiable Information (Protected PII) in their submissions to EERE. Protected PII is defined as any data that, if compromised, could cause harm to an individual such as identify theft. Protected PII includes:

Social Security Numbers in any form;

Place of Birth associated with an individual;

Date of Birth associated with an individual;

Mother’s maiden name associated with an individual;

Biometric record associated with an individual;

Fingerprint;

Iris Scan;

DNA;

Medical history information associated with an individual;

Medical conditions, including history of disease;

Metric information, e.g., weight, height, blood pressure;

Criminal history associated with an individual;

Ratings;

Disciplinary actions;

Financial information associated with an individual;

Credit card numbers; and

Security clearance history or related information (not including actual clearances held).

IV. Other Reporting E. Annual Indirect Cost Proposals .

The supplier must submit an Annual Indirect Cost Proposal, reconciled to its financial statements unless the award is based on a predetermined or fixed indirect rate(s) or a fixed amount for indirect or facilities and administration (F&A) costs.

IX. Other Reporting F. Annual Audits for For-Profit Recipients .

Any Subrecipient that is a for-profit entity must submit an annual compliance and financial statement audit. See 10 C.F.R. 600.316 and For-Profit Audit Guidance Parts I through IV available at <http://energy.gov/management/officemanagement/operationalmanagement/financialassistance/financialassistance/forms>

Section VII (Attachment 2) Recipient and Principal Investigator Disclosures .

A. The supplier (including Principal Personnel) is under investigation for or has been convicted of fraud or similar acts, violations of U.S. export control laws and regulations, or violations of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701, et seq.);

B. The supplier (including Principal Personnel) is debarred, suspended, proposed for debarment, or otherwise declared ineligible from receiving Federal contracts, subcontracts, and financial assistance and benefits; and

C. The supplier (including Principal Personnel) is insolvent.

Section VIII Conflicts of Interests Within Project Team .

The supplier is required to disclose any actual or apparent personal, organizational, financial, and other conflicts of interest within the Project Team. Examples of potential conflicts of interest may include, but are not limited to: Personell for the supplier may have an equity stake in a subtier supplier; the Principal Investigator for a supplier may have a consulting arrangement with the Prime Contractor; or the supplier may be a subsidiary or otherwise affiliated with the Prime Contractor or a subtier supplier.

Section X (Attachment 2) Project Schedule Status .

Project Schedule Status: The supplier is required to report on the status of the technical milestones and deliverables identified in their purchase contract. List milestones and deliverables, anticipated start and completion dates, and actual start and completion dates. The supplier must estimate the percentage complete for each milestone/deliverable.

Term 12 Performance of Work in the United States . All work performed under this Award must be performed in the United States. This requirement does not apply to the purchase of supplies and equipment; however, the Recipient should make every effort to purchase supplies and equipment within the United States. The supplier must flow down this requirement to its subtier suppliers.

Term 28 Indirect Costs .

Indirect costs must be appropriately managed, allowable and otherwise comply with the requirements of this Purchase Contract and 10 CFR Part 600.

Term 34 REPORTING EXECUTIVE COMPENSATION .**Reporting of Total Compensation of Executives**

Supplier shall provide the names and total compensation of each of the subrecipient's five most highly compensated executives for the supplier's preceding completed fiscal year, if;

i. In the supplier's preceding fiscal year, the supplier received;

(A) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

(B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and

ii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>).

Where and when to report. The supplier must report executive total compensation described in paragraph c.1. of this award term:

By the 15th of the month following the month during which the supplier receives the subaward. For example, if a purchase contract is awarded on any date during the month of October of a given year (*i.e.*, between October 1 and 31), the supplier must report any required compensation information of the subrecipient by November 15 of that year.

Definitions. For purposes of this Award term:

1. Entity means all of the following, as defined in 2 CFR Part 25:

i. A Governmental organization, which is a State, local government, or Indian tribe;

ii. A foreign public entity;

iii. A domestic or foreign nonprofit organization;

iv. A domestic or foreign for-profit organization;

v. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.

2. Executive means officers, managing partners, or any other employees in management positions.

3. Subaward:

- i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which the Recipient received this award and that the recipient awards to an eligible subrecipient.
- ii. The term does not include the Recipient's procurement of property and services needed to carry out the project or program (for further explanation, see Sec. __.210 of the attachment to OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations).
- iii. A subaward may be provided through any legal agreement, including an agreement that the Recipient or a subrecipient considers a contract.

4. Subrecipient means an entity that:

- i. Receives a subaward from the Recipient under this award; and
- ii. Is accountable to the Recipient for the use of the Federal funds provided by the subaward.

5. Total compensation means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):

- i. Salary and bonus.
- ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
- iii. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
- iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
- v. Above-market earnings on deferred compensation which is not tax-qualified.
- vi. Other compensation, if the aggregate value of all such other compensation (*e.g.* severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

Term 4 FLOW DOWN REQUIREMENT .

The Recipient agrees to apply the terms and conditions of this Award, as applicable, to all subrecipients (and subcontractors, as appropriate) and to require their strict compliance therewith. Further, the Recipient must apply the Award terms as required by 10 C.F.R. § 600.148; 10 C.F.R. § 600.236(i); 10 C.F.R. § 600.331(c), as applicable dependent on the Recipient's entity type, and the Intellectual Property terms of this Award.