

PURCHASE ORDER TERMS

1. Buyer is a government entity and certifies that materials covered by this Order are exempt from all State and Federal Taxes.
2. No waiver or exception to any of the terms, conditions or provisions contained in this Order shall be valid unless specifically agreed to in writing.
3. Shipment of any part of this Order without written exception constitutes Seller's acceptance of Order, prices and conditions.
4. Buyer reserves the right to cancel any portion of this Order if shipment is not made and serviced as specified.
5. No charge will be allowed for packing, crating, drayage or storage without the Buyer's written permission. The price includes delivery of all materials and goods F.O.B. Buyer's plant, freight and cartage prepaid, or at any other location the Buyer shall indicate in the contract.
6. Seller shall not delegate any duties, nor assign any rights or claims under this order or any part thereof without prior written consent of the Buyer. Such consent shall not release Seller from its obligations and liabilities.
7. Payment for the goods under this order shall not constitute acceptance thereof.
8. All materials shall be received subject to the Buyer's inspection and rejections. Defective material or material not in accordance with the Buyer's specifications will be held for Seller's instructions and at its own risk and expense. If instructions are not received within fifteen (15) days after notice of rejection, goods rejected as not conforming to this Order may be returned at Seller's expense, including transportation and handling costs.
9. No goods returned as defective shall be replaced without the Buyer's written permission.
10. Neither party shall be liable for delays or defaults due to acts of God, acts of governmental authorities, acts of public enemy, war, fires, floods, epidemics, strikes, labor troubles, freight embargos, or causes of contingencies reasonably beyond its control, but this paragraph shall not prevent Buyer from cancelling in accordance with paragraph hereof.
11. Seller warrants all materials and goods furnished hereunder to be free from defect of material or workmanship and to conform strictly to the specifications, drawings or sample specified or furnished. This warranty shall survive any inspection, delivery, acceptance or payment by the Buyer of the materials or goods.
12. Seller warrants that the use or sale of the material delivered hereunder will not infringe any United States patent claims covering the materials itself, but does not warrant against infringements by reason of the use thereof in combination with other materials or in the operations of any other process.
13. Seller warrants that all goods and services furnished hereunder shall comply with requirements of the Fair Labor Standards Act of 1938, as amended, and all invoices rendered shall so certify.
14. Any controversy or claim arising out of relating to this order or the performance or breach thereof shall be settled by arbitration in accordance with the rules and procedures of the American Arbitration Association.
15. All Federal Clauses and regulations pertaining to the goods and services of this contract apply.

The Federal Clauses listed below apply to all procurements for materials and supplies less than \$100,000.00

INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

The preceding provisions include, in part, certain Standard Terms and Conditions required by U.S. DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by U.S. DOT, as set forth in the Federal Transit Administration (FTA) circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The "CONTRACTOR" shall not perform any act, fail to perform any act, or refuse to comply with any BMTA, hereafter referenced as "AGENCY," requests which would cause AGENCY to be in violation of the FTA terms and conditions.

NO GOVERNMENT OBLIGATION TO THIRD PARTIES

No Obligation by the Federal Government.

(1) The AGENCY and CONTRACTOR acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the AGENCY, CONTRACTOR, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract. (2) The CONTRACTOR agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

FALSE OR FRAUDULENT STATEMENTS OR CLAIMS

The CONTRACTOR acknowledges and agrees that:

(1) Civil Fraud. The Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §§ 3801 *et seq.*, and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to the CONTRACTOR's activities in connection with the Project. By executing the Grant Agreement or Cooperative Agreement for the Project, the CONTRACTOR certifies or affirms the truthfulness and accuracy of each statement it has made, it makes, or it may make in connection with the Project. In addition to other penalties that may apply, the CONTRACTOR also acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, certification, assurance, or representation to the Federal Government, the Federal Government reserves the right to impose on the CONTRACTOR the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, to the extent the Federal Government deems appropriate. (2) Criminal Fraud. If the CONTRACTOR makes a false, fictitious, or fraudulent claim, statement, submission, certification, assurance, or representation to the Federal Government or includes a false, fictitious, or fraudulent statement or representation in any agreement with the Federal Government in connection with a Project authorized under 49 U.S.C. chapter 53 or any other Federal law, the Federal Government reserves the right to impose on the CONTRACTOR the penalties of 49 U.S.C. § 5323(l), 18 U.S.C. § 1001, or other applicable Federal law to the extent the Federal Government deems appropriate.

ACCESS TO THIRD PARTY CONTRACT RECORDS

The AGENCY agrees to require, and assures that its CONTRACTOR require, their third party contractors and third party subcontractors at each tier to provide to the U.S. Secretary of

Transportation and the Comptroller General of the United States or their duly authorized representatives, access to all third party contract records as required by 49 U.S.C. § 5325(g). The CONTRACTOR further agrees to require, and assures that its subcontractors require, their third party contractors and third party subcontractors, at each tier, to provide sufficient access to third party procurement records as needed for compliance with Federal laws and regulations or to assure proper Project management as determined by FTA.

CHANGES TO FEDERAL REQUIREMENTS

The CONTRACTOR shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between AGENCY and FTA, as they may be amended or promulgated from time to time during the term of this contract. The CONTRACTOR's failure to so comply shall constitute a material breach of this contract in compliance with 49 CFR Part 18.

TERMINATION (For projects over \$10,000)

a. Termination for Convenience (General Provision) The AGENCY may terminate this contract, in whole or in part, at any time by written notice to the CONTRACTOR when it is in the Government's best interest in compliance with 49 U.S.C. Part 18/FTA Circular 4220.1F. The CONTRACTOR shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The CONTRACTOR shall promptly submit its termination claim to AGENCY to be paid. If the CONTRACTOR has any property in its possession belonging to the AGENCY, the CONTRACTOR will account for the same, and dispose of it in the manner the AGENCY directs.

b. Termination for Default [Breach or Cause] (General Provision) If the CONTRACTOR does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the CONTRACTOR fails to perform in the manner called for in the contract, or if the CONTRACTOR fails to comply with any other provisions of the contract, the AGENCY may terminate this contract for default. Termination shall be effected by serving a notice of termination on the CONTRACTOR setting forth the manner in which the CONTRACTOR is in default. The CONTRACTOR will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract. If it is later determined by the AGENCY that the CONTRACTOR had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the CONTRACTOR, the AGENCY, after setting up a new delivery of performance schedule, may allow the CONTRACTOR to continue work, or treat the termination as a termination for convenience.

c. Opportunity to Cure (General Provision) The AGENCY in its sole discretion may, in the case of a termination for breach or default, allow the CONTRACTOR ten (10) days in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions.

If CONTRACTOR fails to remedy to AGENCY's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within ten (10) days after receipt by CONTRACTOR of written notice from AGENCY setting forth the nature of said breach or default, AGENCY shall have the right to terminate the Contract without any further obligation to CONTRACTOR. Any such termination for default shall not in any way operate to preclude AGENCY from also pursuing all available remedies against CONTRACTOR and its sureties for said breach or default.

d. Waiver of Remedies for any Breach In the event that AGENCY elects to waive its remedies

for any breach by CONTRACTOR of any covenant, term or condition of this Contract, such waiver by AGENCY shall not limit AGENCY 's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

e. Termination for Convenience (Professional or Transit Service Contracts) The AGENCY, by written notice, may terminate this contract, in whole or in part, when it is in the Government's interest. If this contract is terminated, the AGENCY shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

f. Termination for Default (Supplies and Service) If the CONTRACTOR fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the CONTRACTOR fails to comply with any other provisions of this contract, the AGENCY may terminate this contract for default. The AGENCY shall terminate by delivering to the CONTRACTOR a Notice of Termination specifying the nature of the default. The CONTRACTOR will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract. If, after termination for failure to fulfill contract obligations, it is determined that the CONTRACTOR was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the CONTRACTOR.

g. Termination for Default (Transportation Services) If the CONTRACTOR fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension or if the CONTRACTOR fails to comply with any other provisions of this contract, the AGENCY may terminate this contract for default. The AGENCY shall terminate by delivering to the CONTRACTOR a Notice of Termination specifying the nature of default. The CONTRACTOR will only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract. If this contract is terminated while the CONTRACTOR has possession of AGENCY goods, the CONTRACTOR shall, upon direction of the AGENCY, protect and preserve the goods until surrendered to the AGENCY or its agent. The CONTRACTOR and AGENCY shall agree on payment for the preservation and protection of goods. Failure to agree on an amount will be resolved under the Dispute clause. If, after termination for failure to fulfill contract obligations, it is determined that the CONTRACTOR was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the AGENCY.

h. Termination for Default (Construction) If the CONTRACTOR refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the CONTRACTOR fails to comply with any other provisions of this contract, the AGENCY may terminate this contract for default. The AGENCY shall terminate by delivering to the CONTRACTOR a Notice of Termination specifying the nature of the default. In this event, the AGENCY may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The CONTRACTOR and its sureties shall be liable for any damage to the AGENCY resulting from the CONTRACTOR's refusal or failure to complete the work within specified time, whether or not the CONTRACTOR's right to proceed with the work is terminated. This liability includes any increased costs incurred by the AGENCY in completing the work. The CONTRACTOR's right to proceed shall not be terminated, nor the CONTRACTOR charged with damages under this clause if:

1. the delay in completing the work arises from unforeseeable causes beyond the control and

without the fault or negligence of the CONTRACTOR. Examples of such causes include: acts of God, acts of the AGENCY, acts of another CONTRACTOR in the performance of a contract with the CONTRACTOR, epidemics, quarantine restrictions, strikes, freight embargoes; and

2. the CONTRACTOR, within [10] days from the beginning of any delay, notifies the AGENCY in writing of the causes of delay. If in the judgment of the AGENCY, the delay is excusable, the time for completing the work shall be extended. The judgment of the AGENCY shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses.

a. If, after termination of the CONTRACTOR's right to proceed, it is determined that the CONTRACTOR was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of the CONTRACTOR.

i. Termination for Convenience or Default (Architect and Engineering) The AGENCY may terminate this contract in whole or in part, for the CONTRACTOR's convenience or because of the failure of the CONTRACTOR to fulfill the contract obligations. The AGENCY shall terminate by delivering to the CONTRACTOR a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the CONTRACTOR shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process. If the termination is for the convenience of the CONTRACTOR, the Contracting Officer shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services. If the termination is for failure of the CONTRACTOR to fulfill the contract obligations, the AGENCY may complete the work by contract or otherwise and the CONTRACTOR shall be liable for any additional cost incurred by the AGENCY. If, after termination for failure to fulfill contract obligations, it is determined that the CONTRACTOR was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the CONTRACTOR.

j. Termination for Convenience of Default (Cost-Type Contracts) The AGENCY may terminate this contract, or any portion of it, by serving a notice or termination on the CONTRACTOR. The notice shall state whether the termination is for convenience of the AGENCY or for the default of the CONTRACTOR. If the termination is for default, the notice shall state the manner in which the CONTRACTOR has failed to perform the requirements of the contract. The CONTRACTOR shall account for any property in its possession paid for from funds received from the AGENCY, or property supplied to the CONTRACTOR by the AGENCY. If the termination is for default, the AGENCY may fix the fee, if the contract provides for a fee, to be paid the CONTRACTOR in proportion to the value, if any, of work performed up to the time of termination. The CONTRACTOR shall promptly submit its termination claim to the AGENCY and the parties shall negotiate the termination settlement to be paid the CONTRACTOR. If the termination is for the convenience of the AGENCY, the CONTRACTOR shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination. If, after serving a notice of termination for default, the AGENCY determines that the CONTRACTOR has an excusable reason for not performing, such as strike, fire, flood, events which are not the fault of and are beyond the control of the CONTRACTOR, the AGENCY, after setting up a new work schedule, may allow the CONTRACTOR to continue work, or treat the termination as a termination for convenience.

CIVIL RIGHTS (For projects over \$10,000)

The CONTRACTOR agrees to comply with all applicable civil rights laws and regulations, in accordance with applicable Federal directives, except to the extent that the Federal Government

determines otherwise in writing. These include, but are not limited to, the following:

a. Nondiscrimination in Federal Public Transportation Programs. The CONTRACTOR agrees to comply, and assures the compliance of each subcontractor, lessee, third party contractor, or other participant at any tier of the Project, with the provisions of 49 U.S.C. § 5332, which prohibit discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibits discrimination in employment or business opportunity.

b. Nondiscrimination – Title VI of the Civil Rights Act. The CONTRACTOR agrees to comply, and assures the compliance of each subcontractor, lessee, third party contractor, or other participant at any tier of the Project, with all provisions prohibiting discrimination on the basis of race, color, or national origin of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d *et seq.*, and with U.S. DOT regulations, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act,” 49 C.F.R. Part 21. Except to the extent FTA determines otherwise in writing, the CONTRACTOR agrees to follow all applicable provisions of the most recent edition of FTA Circular 4702.1A, “Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Recipients,” and any other applicable Federal directives that may be issued.

c. Equal Employment Opportunity. The CONTRACTOR agrees to comply, and assures the compliance of each subcontractor, lessee, third party contractor, or other participant at any tier of the Project, with all equal employment opportunity (EEO) provisions of 49 U.S.C. § 5332, with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.*, and implementing Federal regulations and any later amendments thereto. Except to the extent FTA determines otherwise in writing, the CONTRACTOR also agrees to follow all applicable Federal EEO directives that may be issued. Accordingly:

(1) General. The CONTRACTOR agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, sex, disability, age, or national origin. The CONTRACTOR agrees to take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, disability, age, or national origin. Such action shall include, but not be limited to, employment, upgrading, demotions or transfers, recruitment or recruitment advertising, layoffs or terminations; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

(2) Equal Employment Opportunity Requirements for Construction Activities. For activities determined by the U.S. Department of Labor (U.S. DOL) to qualify as “construction,” the CONTRACTOR agrees to comply and assures the compliance of each subcontractor, lessee, third party contractor, or other participant, at any tier of the Project, with all requirements of U.S. DOL regulations, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor,” 41 C.F.R. Parts 60 *et seq.*; with implementing Executive Order No. 11246, “Equal Employment Opportunity,” as amended by Executive Order No. 11375, “Amending Executive Order No. 11246 Relating to Equal Employment Opportunity,” 42 U.S.C. § 2000e note, and with other applicable EEO laws and regulations, and also agrees to follow applicable Federal directives, except as the Federal Government determines otherwise in writing.

d. Nondiscrimination on the Basis of Sex. The CONTRACTOR agrees to comply with all applicable requirements of Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. §§ 1681 *et seq.*, and with implementing U.S. DOT regulations, “Nondiscrimination on the

Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. Part 25, that prohibit discrimination on the basis of sex.

e. Nondiscrimination on the Basis of Age. The CONTRACTOR agrees to comply with all applicable requirements of:

(1) The Age Discrimination Act of 1975, as amended, 42 U.S.C. §§ 6101 *et seq.*, and with implementing U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. Part 90, which prohibit discrimination against individuals on the basis of age in the administration of programs or activities receiving Federal financial assistance.

(2) The Age Discrimination in Employment Act (ADEA) 29 U.S.C. §§ 621 through 634 and with implementing U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. Part 1625, which prohibits discrimination against individuals on the basis of age.

f. Drug or Alcohol Abuse-Confidentiality and Other Civil Rights Protections. To the extent applicable, the CONTRACTOR agrees to comply with the confidentiality and civil rights protections of the Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. §§ 1101 *et seq.*, MDOT the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. §§ 4541 *et seq.*, and the Public Health Service Act of 1912, as amended, 42 U.S.C. §§ 290dd through 290dd-2, and any amendments thereto.

g. Access to Services for Persons with Limited English Proficiency. The CONTRACTOR agrees to facilitate compliance with the policies of Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," 42 U.S.C. § 2000d-1 note, and follow applicable provisions of U.S. DOT Notice, "DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficiency (LEP) Persons," 70 *Fed. Reg.* 74087, December 14, 2005, except to the extent that FTA determines otherwise in writing.

h. Environmental Justice. The CONTRACTOR agrees to facilitate compliance with the policies of Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," 42 U.S.C. § 4321 note, except to the extent that the Federal Government determines otherwise in writing.

i. Other Nondiscrimination Laws. The CONTRACTOR agrees to comply with applicable provisions of other Federal laws and regulations, and follow applicable Federal directives prohibiting discrimination, except to the extent the Federal Government determines otherwise in writing.

DISADVANTAGED BUSINESS ENTERPRISE

To the extent authorized by Federal law, the CONTRACTOR agrees to facilitate participation by Disadvantaged Business Enterprises (DBEs) in the Project and assures that each subcontractor, lessee, third party contractor, or other participant at any tier of the Project will facilitate participation by DBEs in the Project to the extent applicable as follows:

(1) The CONTRACTOR agrees and assures that it shall comply with section 1101(b) of SAFETEA-LU, 23 U.S.C. § 101 note, and U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. Part 26.

(2) The CONTRACTOR agrees and assures that it shall not discriminate on the basis of race, color, sex, or national origin in the award and performance of any subagreement, lease, third party contract, or other arrangement supported with Federal assistance derived from U.S. DOT

in the administration of its DBE program and shall comply with the requirements of 49 C.F.R. Part 26.

The CONTRACTOR agrees to take all necessary and reasonable steps as set forth in 49 C.F.R. Part 26 to ensure nondiscrimination in the award and administration of all subagreements, leases, third party contracts, and other arrangements supported with Federal assistance derived from U.S. DOT. As required by 49 C.F.R. Part 26, the CONTRACTOR's DBE program approved by U.S. DOT, if any, is incorporated by reference and made part of the Grant Agreement or Cooperative agreement for the Project. The CONTRACTOR agrees that it has a legal obligation to implement its approved DBE program, and that its failure to carry out that DBE program shall be treated as a violation of the Grant Agreement or Cooperative Agreement for the Project and this Master Agreement. Upon notification by U.S. DOT to the CONTRACTOR of the CONTRACTOR's failure to implement its approved DBE program, U.S. DOT may impose the sanctions as set forth in 49 C.F.R. Part 26 and may, in appropriate cases, refer the matter to the appropriate Federal authorities for enforcement under 18 U.S.C. § 1001, or the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801 *et seq.*, or both.

DEBARMENT AND SUSPENSION (For projects over \$25,000)

The CONTRACTOR agrees to comply, and assures the compliance of each subcontractor, lessee, third party contractor, or other participant at any tier of the Project, with Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note, and U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. Part 1200, which adopts and supplements the provisions of U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. Part 180. The CONTRACTOR agrees to, and assures that its subcontractors, lessees, third party contractors, and other participants at any tier of the Project will, review the "Excluded Parties Listing System" at <https://www.sam.gov/portal/public/SAM/> before entering into any subagreement, lease, third party contract, or other arrangement in connection with the Project.

CARGO PREFERENCE REQUIREMENTS (FOR PROPERTY TRANSPORTED BY OCEAN VESSEL)

Use of United States-Flag Vessels - The CONTRACTOR agrees in compliance with 46 U.S.C. 1241/46 CFR Part 381:

- a. to use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels;
- b. to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to MDOT (through the CONTRACTOR in the case of a subcontractor's bill-of-lading.)
- c. to include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

FLY AMERICA (FOR FOREIGN AIR TRANSPORT OR TRAVEL)

The CONTRACTOR understands and agrees that the Federal Government will not participate in the costs of international air transportation of any individuals involved in or property acquired for the Project unless that air transportation is provided by U.S.-flag air carriers to the extent such

service is available, in compliance with section 5 of the International Air Transportation Fair Competitive Practices Act of 1974, as amended, 49 U.S.C. § 40118, and U.S. GSA regulations, "Use of United States Flag Air Carriers," 41 C.F.R. §§ 301-10.131 through 301-10.143.

ENERGY CONSERVATION

The CONTRACTOR agrees to comply with applicable mandatory energy efficiency standards and policies of applicable State energy conservation plans issued in accordance with the Energy Policy and Conservation Act, as amended, 42 U.S.C. §§ 6321 *et seq.*, except to the extent that the Federal Government determines otherwise in writing. To the extent applicable, the CONTRACTOR agrees to perform an energy assessment for any building constructed, reconstructed, or modified with FTA assistance, as provided in FTA regulations, "Requirements for Energy Assessments," 49 C.F.R. Part 622, Subpart C.

PREFERENCE FOR RECYCLED PRODUCTS (CONTRACTS FOR ITEMS DESIGNATED BY EPA, WHEN PROCURING \$10,000 OR MORE PER YEAR)

To the extent applicable, the CONTRACTOR agrees to comply with the U.S. Environmental Protection Agency (U.S. EPA), "Comprehensive Procurement Guideline for Products Containing Recovered Materials," 40 C.F.R. Part 247, which implements section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962. Accordingly, the CONTRACTOR agrees to provide a competitive preference for products and services that conserve natural resources, protect the environment, and are energy efficient, except to the extent that the Federal Government determines otherwise in writing.

NATIONAL INTELLIGENT TRANSPORTATION SYSTEMS (ITS) ARCHITECTURE AND STANDARDS (*For all ITS projects*)

To the extent applicable, the CONTRACTOR agrees to conform to the National Intelligent Transportation Systems (ITS) Architecture and Standards as required by SAFETEA-LU § 5307(c), 23 U.S.C. § 512 note, and follow the provisions of FTA Notice, "FTA National ITS Architecture Policy on Transit Projects," 66 *Fed. Reg.* 1455 *et seq.*, January 8, 2001, and any other implementing directives FTA may issue at a later date, except to the extent FTA determines otherwise in writing.

ACCESS FOR INDIVIDUALS WITH DISABILITIES

The CONTRACTOR agrees to comply with 49 U.S.C. § 5301(d), which states the Federal policy that elderly individuals and individuals with disabilities have the same right as other individuals to use public transportation services and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement transportation accessibility rights for elderly individuals and individuals with disabilities. The CONTRACTOR also agrees to comply with all applicable provisions of section 04 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability in the administration of programs or activities receiving Federal financial assistance; with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 *et seq.*, which requires that accessible facilities and services be made available to individuals with disabilities; with the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151 *et seq.*, which requires that buildings and public accommodations be accessible to individuals with disabilities; and with other laws and amendments thereto pertaining to access for individuals with disabilities that may be applicable. In addition, the CONTRACTOR agrees to comply with applicable implementing Federal regulations, and any later amendments thereto, and agrees to follow applicable Federal implementing directives, except to the extent FTA approves otherwise in writing. Among those regulations and directives are:

(1) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities

- (ADA)," 49 C.F.R. Part 37;
- (2) U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. Part 27;
- (3) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB)/U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. Part 1192 and 49 C.F.R. Part 38;
- (4) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35;
- (5) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. Part 36;
- (6) U.S. General Services Administration (U.S. GSA) regulations, "Accommodations for the Physically Handicapped," 41 C.F.R. Subpart 101-19;
- (7) U.S. EEOC, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630;
- (8) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 C.F.R. Part 64, Subpart F;
- (9) U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. Part 1194;
- (10) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. Part 609; and
- (11) Federal civil rights and nondiscrimination directives implementing the foregoing Federal laws and regulations, except to the extent the Federal Government determines otherwise in writing.

STATE, TERRITORIAL, AND LOCAL LAW

Should a Federal law pre-empt a State, territorial, or local law, regulation, or ordinance, the CONTRACTOR must comply with the Federal law and implementing regulations. Nevertheless, no provision of the Grant Agreement or Cooperative Agreement for the Project, or this Master Agreement requires the CONTRACTOR to observe or enforce compliance with any provision, perform any other act, or do any other thing in contravention of State, territorial, or local law, regulation, or ordinance. Thus if compliance with any provision of the Grant Agreement or Cooperative Agreement for the Project, or this Master Agreement violates or would require the CONTRACTOR to violate any State, territorial, or local law, regulation, or ordinance, the CONTRACTOR agrees to notify FTA immediately in writing. Should this occur, FTA and the