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* Refer to 2 Code of Federal Regulations Part 200
1. **Order of Precedence**

   This Cooperative Agreement is subject to the laws and regulations of the United States. Any inconsistency or conflict in the terms and conditions specified in this Cooperative Agreement shall be resolved according to the following order of precedence:

   (a) The Federal statute authorizing this award, or any other Federal statutes directly affecting performance of this Cooperative Agreement.
   (c) These General Terms and Conditions.
   (d) Other terms and conditions contained within this Cooperative Agreement and any attached schedules.

2. **Statutes and Regulations**

   This Cooperative Agreement is subject to the laws and regulations of the United States that apply to assistance instruments including Chapter 63 of U.S. Code Title 31. 2 CFR 200 is hereby incorporated into this Cooperative Agreement by reference.

3. **Cost Principles and Audit**

   This Cooperative Agreement is subject to the audit requirements of 2 CFR 200 Subpart F.

4. **Record Retention and Access Requirements**

   All financial and programmatic records, supporting documents, statistical records, and other records of Cooperators or sub-Cooperators which are:

   (i) Required to be maintained by the terms of this part, program regulations or the cooperative agreement, or

   (ii) Otherwise reasonably considered as pertinent to program regulations or the cooperative agreement.

5. **Modification of Cooperative Agreement**

   The only method by which this Cooperative Agreement can be modified is by a formal, written and signed modification. Administrative modification(s) to the Cooperative Agreement may be accomplished unilaterally by the signature of designated Cooperative Agreement Administrative Representative or Awarding Officer. Changes to the express clauses or terms of the Cooperative Agreement affecting price, quality, quantity or delivery of the Cooperator’s acts or omissions in performing the Scope of Work shall be the subject of a bilaterally executed modification. No other communications, whether oral or in writing, shall modify this Cooperative Agreement.

6. **Prior Approvals and Changes**

   Any program changes to the approved project must comply with 2 CFR 200.308 Revision of Budget and Program Plans.

7. **Allowable Costs**
Cooperative agreement funds may be applied only to those costs allowed under 2 CFR 200 Subpart E & Appendix III for Institutions of Higher Education.

8. **Unexpended Balance**

In the absence of any specific notice to the contrary, Cooperators are authorized to carry forward unexpended balances of funds received to subsequent funding periods.

9. **Overpayment and Earned Interest**

**Overpayment.** Within ninety (90) days after the end date of the Cooperative Agreement, any overpayment of funds shall be remitted to the Administrative Grants Officer (AGO) at the Administrative Office on the Award/Modification document, by check made payable to the Naval Facilities Engineering Command. An overpayment represents the difference between allowable actual expenditures and total disbursements received by the Cooperator.

10. **Future Funding**

The Government’s legal funding obligation is limited to the amount shown as the “total obligated for this CESU Cooperative Agree,” in paragraph 5 of the Cooperative Agreement document.

11. **Subagreements**

Cooperator shall comply with 2 CFR 200 Subpart D Post Federal Award Requirements, Subrecipient Monitoring and Management

12. **Officials Not to Benefit**

No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this Cooperative Agreement, or to any benefit arising from it, in accordance with 41 U.S.C. 22.

13. **Hatch Act**

The Cooperator agrees to comply with the Hatch Act (5 U.S.C. 1501-1508 and 7324 - 7328), as implemented by the Office of Personnel Management at 5 CFR part 151, which limits political activity of employees or officers of State or local governments whose employment is connected to an activity financed in whole or part with Federal funds.

14. **Lobbying**

By signing and submitting this proposal, the Cooperator is providing the certification at Appendix A to 32 CFR Part 28 regarding lobbying.

15. **Environmental Standards**
By accepting funds under this Cooperative Agreement, the Cooperator assures that it will:


(b) Identify to the Cooperator agency any impact that this agreement may have on:

   (1) The quality of the human environment, and provide help the agency may need to comply with the National Environmental Policy Act (NEPA, at 42 U.S.C. 4321, et seq.) and to prepare Environmental Impact Statements or other required environmental documentation. In such cases, the Cooperator agrees to take no action that will have an adverse environmental impact (e.g., physical disturbance of a site such as breaking of ground) until the agency provides written notification of compliance with the environmental impact analysis process.

   (2) Coastal barriers, and provide help the agency may need to comply with the Coastal Barriers Resource Act (16 U.S.C. 3501, et seq.), concerning preservation of barrier resources.

   (3) Any existing or proposed component of the National Wild and Scenic Rivers system, and provide help the agency may need to comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271, et seq.).

16. **Nondiscrimination**

By accepting funds under this Cooperative Agreement, the Cooperator assures that it will comply with applicable provisions of the following national policies prohibiting discrimination:

(a) On the basis of race, color, or national origin, in Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d, et seq.), as implemented by DoD regulations at 32 CFR Part 195

(b) On the basis of race, color, religion, sex, or national origin, in Executive Order 11246 [3 CFR, 1964-1965 Comp., p.339], as implemented by Department of Labor regulations at 41 CFR part 60.

(c) On the basis of sex or blindness, in Title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et seq.).

(d) On the basis of age, in the Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) as implemented by Department of Health and Human Services regulations at 45 CFR Part 90.

(e) On the basis of handicap, in Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by Department of Justice regulations at 28 CFR Part 41 and DoD regulations at 32 CFR Part 56.

17. **Cargo Preference**

The Cooperator agrees that it will comply with the Cargo Preference Act of 1954 (46 U.S.C. 1241), as implemented by Department of Transportation regulations at 46 CFR 381.7, which require that at least 50 percent of equipment, materials or commodities procured or otherwise obtained with U.S. Government funds under this cooperative agreement, and which may be transported by ocean vessel, shall be transported on privately owned U.S.-flag commercial vessels, if available.
18. **Preference for U. S. Flag Air Carriers**

Travel supported by U.S. Government funds under this cooperative agreement shall use U.S.-flag air carriers (air carriers holding certificates under 49 U.S.C. 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B138942.

19. **Profit or Fee**

In accordance with 32 CFR 22.205(b), no fee or profit may be charged to this cooperative agreement.

20. **Claims, Disputes, and Appeals**

(a) **Cooperator Claims.**

Per 32 CFR 22.815, any claims arising out of this agreement must be:

1. Submitted in writing to the Grants Officer;
2. Specify the nature and basis for the relief requested, and;
3. Include all data and relevant facts in support of the claim.

(b) **DOD Component Claims.**

Claims by a DOD Component shall be the subject of a written decision by the Grants Officer.

(c) **Alternative Dispute Resolution (ADR).**

The Parties shall use ADR to the maximum extent practicable, and comply with 32 CFR 22.815 ADR policies and procedures.

(d) **Grants Officer Decisions.**

1. Within 60 calendar days after receipt of a written claim, the Grants Officer shall:
   
   a. Prepare a written decision, which shall include: the reasons for the decision; the relevant facts on which the decision is based; and the identity and mailing address of the cognizant Appeal Authority, and; shall be included in the award file, or

   b. Notify the Cooperator of a date when the written decision will be rendered. The notice shall address why additional time is needed.

2. The Grants Officer’s decision is final, unless appealed. In the event of an appeal, the Parties shall endeavor to use ADR procedures to the maximum extent practicable.

(e) **Formal Administrative Appeals.**

All formal administrative appeals shall comply with the applicable provisions of 32 CFR 22.815(e), Claims, disputes, and appeals.
(1) Appeal Authority. The Assistant Commander for Acquisition is the Appeal Authority to decide formal, administrative appeals under this Grant.

(f) Non-exclusivity of remedies.

Nothing in this section is intended to limit a Cooperator’s right to any remedy under the law.

21. **Controlled Unclassified Information**

The parties understand that information and materials provided pursuant to or resulting from this cooperative agreement may be export controlled, sensitive, for official use only, or otherwise protected by law, executive order or regulation. The Cooperator is responsible for compliance with all applicable laws and regulations. Nothing in this cooperative agreement shall be construed to permit any disclosure in violation of those restrictions.

22. **Debarment and Suspension**

Cooperators shall comply with the requirements 2 CFR 1125, NONPROCUREMENT DEBARMENT AND SUSPENSION. The Cooperator shall also include a similar term or condition in any lower-tier covered transactions, as required by 2 CFR Part 1125 Subpart C, § 1125.332.

23. **Drug Free Workplace**

By accepting funds under this Cooperative Agreement, the Cooperator agrees to comply with the “Government –Wide Drug-Free Workplace (Grants)” requirements specified by DoDGARS Part 26, Subpart B (or Subpart C, if the Cooperator is an individual) of 32 CFR Part 26 (2004), which implements Secs. 5151-5160 of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701, et. seq.).

24. **Standards for Financial Management Systems**

By accepting funds under this cooperative agreement, the Cooperator agrees to maintain a financial management system that complies with 2 CFR 200 Subpart D Post Federal Award Requirements, Standards for Financial And Program Management.

25. **Payment**

2 CFR Appendix B to Part 1128 - Terms and Conditions for FMS Article II, “Payments”

Section B. Awards to institutions of higher education, nonprofit organizations, local governments, and Indian tribes.

1. *Payment method.* Unless the award-specific terms and conditions of this award provide otherwise, you are authorized to request advance payments under this award. That authorization is contingent on your continuing to maintain, or demonstrating the willingness to maintain, written procedures that minimize the time elapsing between your receipt of each payment and your disbursement of the funds for program purposes. Note that you are not required to request advance payments and may instead, at your option, request reimbursements of funds after you disburse them for project or program purposes.

2. *Amounts requested.* You must:

   a. Limit the amount of any advance payment request to the minimum amount needed to meet your actual, immediate cash requirements for carrying out the purpose of the approved program or project, including direct project costs and a proportionate share of any allowable indirect costs.
b. Exclude from any payment request amounts you are withholding from payments to contractors to assure satisfactory completion of the work. You may request those amounts when you make the payments to the contractors or to escrow accounts established to ensure satisfactory completion of the work.

c. Exclude from any payment request amounts from any of the following sources that are available to you for program purposes under this award: program income, including repayments to a revolving fund; rebates; refunds; contract settlements; audit recoveries; and interest earned on any of those funds. You must disburse those funds for program purposes before requesting additional funds from us.

3. Timing of requests. For any advance payment you request, you should submit the request approximately 10 days before you anticipate disbursing the requested amount for project or program purposes. With time for agency processing of the request, that should result in payment as close as is administratively feasible to your actual disbursements for project or program purposes.

4. Frequency of requests. You may request payments as often as you wish unless you have been granted a waiver from requirements to receive payments by electronic funds transfer (EFT). If you have been granted a waiver from EFT requirements, the award-specific terms and conditions of this award specify the frequency with which you may submit payment requests.

5. Withholding of payments. We will withhold payments for allowable costs under the award at any time during the period of performance only if one or more of the following applies:
   a. We suspend either payments or the award, or disallow otherwise allowable costs, as a remedy under OAR Article III due to your material failure to comply with Federal statutes, regulations, or the terms and conditions of this award. If we suspend payments and not the award, we will release withheld payments upon your subsequent compliance. If we suspend the award, then amounts of payments are subject to adjustment in accordance with the terms and conditions of OAR Article III.
   b. You are delinquent in a debt to the United States as defined in OMB Circular A-129, “Policies for Federal Credit Programs and Non-Tax Receivables,” in which case we may, after reasonable notice, inform you that we will not make any further payments for costs you incurred after a specified date until you correct the conditions or liquidate the indebtedness to the Federal Government.
   c. The award-specific terms and conditions of this award include additional requirements that provide for withholding of payments based on conditions identified during our pre-award risk evaluation, in which case you should have been notified about the nature of those conditions and the actions needed to remove the additional requirements.

6. Depository requirements.
   a. There are no eligibility requirements for depositories you use for funds you receive under this award.
   b. You are not required to deposit funds you receive under this award in a depository account separate from accounts in which you deposit other funds. However, FMS Article I requires that you be able to account for the receipt, obligation, and expenditure of all funds under this award.
   c. You must deposit any advance payments of funds you receive under this award in insured accounts whenever possible and, unless any of the following apply, you must deposit them in interest-bearing accounts:
      i. You receive a total of less than $120,000 per year under Federal grants and cooperative agreements.
      ii. You would not expect the best reasonably available interest-bearing account to earn interest in excess of $500 per year on your cash balances of advance payments under Federal grants and cooperative agreements.
      iii. The best reasonably available interest-bearing account would require you to maintain an average or minimum balance higher than it would be feasible for you to do within your expected Federal
and non-Federal cash balances.

iv. A foreign government or banking system precludes your use of interest-bearing accounts.

d. You may retain for administrative expenses up to $500 per year of interest that you earn in the aggregate on advance payments you receive under this award and other Federal grants and cooperative agreements. You must remit annually the rest of the interest to the Department of Health and Human Services, Payment Management System, using the procedures set forth in OMB guidance in 2 CFR 200.305(b)(9).

26. **Procurement**

Cooperator’s system for acquiring goods and services under this Cooperative Agreement shall comply with 2 CFR 200 Subpart D Post Federal Award Requirements, Procurement Standards.

27. **Property**

Title shall vest in, and Cooperator shall manage, property under this cooperative agreement in accordance with 2 CFR 200 Subpart D Post Federal Award Requirements, Property Standards for Institutions of Higher Education, Hospitals, Other Non-Profit Organizations, and State and Local Governments.

28. **Reports**

Cooperator shall maintain and submit reports in accordance with 2 CFR 200 Subpart D Post Federal Award Requirements, Performance and Financial Monitoring and Reporting for Institutions of Higher Education, Hospitals, Other Non-Profit Organizations and State and Local Governments.

29. **Termination and Enforcement**

This award is subject to 2 CFR 200 Subpart D Post Federal Award Requirements, Remedies For Noncompliance, for Institutions of Higher Education, Hospitals, Other Non-Profit Organizations, and State and Local Governments.

30. **After-Award Requirements**

Closeouts, subsequent adjustments, continuing responsibilities, and collection of amounts due are subject to the requirements in 2 CFR 200.343-345 Subpart D Post Federal Award Requirements, Closeout, Post-Closeout Adjustments and Continuing Responsibilities, and Collection of Amounts Due for Institutions of Higher Education, Hospitals, Other Non-Profit Organizations and State and Local Governments.

31. **Cost Share or Match**

Any cost share or cost match agreements shall comply with 2 CFR 200.306 for Institutions of Higher Education, Hospitals, Other Non-Profit Organizations, and State and Local Governments.

32. **Resource Conservation and Recovery**

Cooperator shall comply with the requirements contained in 2 CFR 200.323 Procurement of Recovered Materials.

[End of Items]