

**Example of Facility Use Terms and Conditions Used for  
— Depot Maintenance PPP Agreements —**

ATTACHMENT TO REPAIR SERVICES CONTRACT

Section I. Government Furnished Property--*Depot, Building number*

At the convenience of the Government and in support of the timely and efficient performance of this contract, *Company*, hereafter referred to as the “Contractor” shall be permitted to occupy the subject property in accordance with the terms and conditions detailed as follows:

1. The property is identified as *Depot, Building number* and improved open land area immediately adjacent to it, improved open lay down area, parking lot “x” (shared use) all, as within, or in the vicinity of the *designated area name* compound, together with all rights of ingress and egress to the identified property. The property is further identified specifically by drawings and depictions attached to this document.

2. An equitable adjustment to each contract will be issued for the use of the subject property, the basis of which was derived from, among other things, a Fair Market Value Determination of *Building number* prepared by the \_\_\_\_\_. The Administrative Contracting Officer will issue such adjustment against applicable contracts. The equitable adjustment shall capture costs retroactive from *date* and, be applied against applicable contracts.

3. *Depot* shall be responsible for installing and monitoring an electric meter, which records power usage, and the Contractor shall be responsible for all utility costs. The Administrative Contracting Officer shall provide supporting documentation to the Contractor to verify utility usage. Verification of the supporting documentation by the Contractor will not delay issuance of the monthly credit modification.

4. Work will be restricted to that work required to support performance of contracts \_\_\_\_\_ and \_\_\_\_\_ during the Contractor’s tenancy in *Building number*. The use of the property for the performance of any other work on the premises is strictly prohibited. Any performance of such work will be immediate grounds for termination of the Contractor’s tenancy. It is the intention of the Government to include the occupancy of this property in successor competitive contracts, when appropriate. In the event of multiple contract awards to multiple contractors, the building may, at the direction of the Contracting Officer, be partitioned for use by the multiple awardees. The Contracting Officer reserves this right upon the event of award of either, or both of, the successor(s) to the referenced contracts to other than or in addition to the incumbent contractor.

5. The Contractor indemnifies the Government of all claims for personal or property casualties, environmental incidents, and all other legal proceedings, which may result from the Contractor’s occupancy and use of furnished government property.

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6. The contractor agrees to use the property solely for purposes provided above and to abide by all Federal, State and local rules, regulations, laws and ordinances, in addition to those applicable for Government installations, including but not limited to security, environmental and safety.

7. The Contractor is required to provide proof of insurance to the Administrative Contracting Officer in the following types and amounts:

Fire and Extended Coverage	\$1,000,000
Third Party Property Damage	\$ 300,000
Third Party Personal Injury (Per Person)	\$1,000,000
Third Party Personal Injury (Per Accident)	\$2,000,000

8. The Contractor shall have the right, at its own expense, to install such of its own machinery and equipment and to install such removable fixtures as may be necessary for its use of the property and to remove same prior to the expiration or termination of their tenancy. Any such installations shall, if left annexed to the property, become the property of the Government.

9. The Government in no way whatsoever, either express or implied, warrants the continued maintenance, condition, adequacy or suitability of the subject property. It is the responsibility of the Contractor to warrant it has, by its own inspection, independent of any action on the part of the Government, satisfied itself as to the material condition and suitability of the property for its intended use. The Contractor shall be liable for any damage to the property caused by, or during, its occupancy and use of the building as GFP.

10. MISCELLANEOUS TERMS: The Contractor shall promptly follow written or verbal direction from *Depot* radiological controls personnel, other responders, or *Depot* officials during routine radiological controls training exercises and emergency response drills, and in the event of an actual radiological emergency. The Government may, but shall not be obligated to, close all routes of ingress and egress to and from the subject property, or cause the Contractor to evacuate from the vicinity of the property to the extent deemed necessary for the protection of health and safety of employees or personnel of the Government, its contractors, or the public. The Government shall give such advance notice of the closure or evacuation as circumstances permit. The Government's determination that such action is necessary shall be conclusive and the Government, its officers, employees and authorized representatives shall not be liable for any damage or loss, including that from delay or disruption of work, caused by such action. The Contractor shall comply with all existing rules and regulations regarding installation security, ingress, egress, parking, safety and sanitation, as established by the Department of Defense; Department of the *Name*, and *Depot*. The Government shall have unrestricted access to the property at all times for any legitimate purpose not

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inconsistent with the Contractor's use of the property in accordance with this contract provision including, but not limited to, the purpose of inspection.

### Section II. Applicable FAR Clauses

The source document for this Example incorporates the FAR clauses cited below in their entirety.

- A. FAR Clause 52.245-2 – Government Property (Fixed-Price Contracts) (Dec 1989)
- B. FAR Clause 52.245-8 – Liability For The Facilities (Jan 1977)
- C. FAR Clause 52.245-11 – Government Property (Facilities Use) (Apr 1984)

### Section III. Environmental and Safety Provisions for the Use of Government-Furnished Property

1. Unless otherwise stated, the term “Contractor” as applied to the following Environmental and Safety Provisions for the Use of Government-Furnished Property includes the Contractor's subcontractors and agents and any other person(s) over whom the Contractor exercises direction and control. These provisions are not intended as a waiver of any environmental and safety requirements imposed upon the Contractor through other contracts or by rule, regulation, or statute.

2. The Contractor shall comply with all applicable Federal, State and local occupational safety and health and environmental rules, regulations and statutes. If required by law or directed by the *Service*, the Contractor, at its own expense, shall obtain any environmental permit or clearance required for operations at the Government-Furnished Property (GFP). The Contractor shall reimburse the *Service* for costs or penalties the *Service* incurs, which are associated with the Contractor's use of the GFP. The Contractor shall obtain any environmental permit or regulatory authorization required and shall not rely upon any permit or regulatory authorization issued to the *Service*, absent specific written consent from the *Depot legal office*. The Contractor shall provide the *Service* copies of all permit applications and issued permits, applicable to operations being conducted by the Contractor in the GFP. The Contractor shall be responsible for informing its subcontractors, agents and any other person(s) over whom the Contractor exercises direction and control of these provisions.

3. The Contractor shall provide the *Depot environmental office* a Hazardous Waste Management Plan as described in paragraph 8 below.

4. Regulatory Interface.

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a. The *Depot environmental office* shall be the point of contact for obtaining any approval required by local *Depot* environmental and safety rules. The Contractor shall consult with *Depot environmental office* on all environmental compliance matters such as permits, inspections, agreements, reports, etc., which affect the GFP and Contractor's operations therein. The Contractor shall provide data or information requested by *Depot environmental office*, in a timely manner. The Contractor shall notify *Depot environmental office* of all meetings scheduled with regulatory agencies regarding Contractor use of the GFP and provide *Depot environmental office* applicable documentation.

b. The Contractor shall notify the *Depot environmental office* upon the receipt of any notice of inspection, Notice of Violation (NOV), Notice of Non-compliance (NON) or enforcement action regarding Contractor use of GFP.

c. The Contractor shall immediately investigate all practices cited in NOV's, NON's, or enforcement actions and take immediate actions to remedy infractions to come into compliance. The Contractor shall provide *Depot environmental office* a written report identifying the alleged violation, investigation results, cause generating the need for a response, remedial actions taken and preventative actions the Contractor intends to take to prevent a recurrence. The Contractor shall not enter into any agreement with a regulatory agency without notifying and obtaining concurrence of *Depot environmental office*. The *Service* may, at its sole discretion, terminate this Contract if a regulatory agency determines the Contractor is in non-compliance with Federal, State, or local rules, regulations or statutes. The Contractor shall reimburse *Depot*, or *Service*, for any monetary fines and penalties assessed against *Depot* or *Service* as a result of Contractor actions.

5. All proposed facility and equipment installations/modifications/alterations and operations are subject to *Service* approval. The Contractor's personnel shall attend an Occupational Safety and Health and environmental brief prior to start of work. The Contractor will be responsible to provide *Depot environmental office* with a current list of all equipment the Contractor plans to bring to the GFP. The list shall be submitted at least seven (7) working days prior to bringing the equipment into the GFP. The *Service* may advise whether the equipment requires a permit or its use raises environmental requirements and concerns. The *Service* shall have the right to prohibit introduction of equipment requiring permits or special operating requirements until permits have been received or the Contractor has addressed *Depot environmental office's* concerns regarding equipment operation.

6. *Depot* will obtain/maintain permits as required for the owner of the GFP.

7. Inspections and Surveillance.

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a. *Depot environmental office* will conduct an environmental brief prior to Contractor's occupancy to inform the Contractor of *Service's* requirements, policies and permits.

b. The *Service* and/or *Depot environmental office* and the Contractor shall conduct joint inspections of the GFP and record discrepancies as soon as practicable.

c. *Depot environmental office* will conduct periodic environmental inspections/surveillance of facilities and operations. The Contractor shall provide *Depot environmental office* access to all spaces, operations and records related to environmental compliance. The Contractor shall provide a knowledgeable person to accompany *Depot environmental office* on inspections/surveillance. The Contractor shall immediately remedy any conditions found by *Depot environmental office* to be in non-compliance with Federal, State or local rules, regulations, and statutes.

d. In addition to inspections/surveillance conducted by *Depot environmental office*, the Contractor shall conduct weekly environmental inspections/surveillance of its facilities and operations, make a written record of the inspections/surveillance, and take appropriate action(s) to correct and resolve non-compliance. The Contractor shall provide *Depot environmental office* copies of all Contractor inspections/surveillance reports, including a written Statement of corrective actions taken.

8. Hazardous Waste Management Plan. The Contractor shall have in place prior to commencement of operations on the GFP a plan for meeting Federal, State and local requirements for its personnel (including subcontractors and agents) and operations on the GFP. The plan shall address procedures for handling emergency response to hazardous waste, fuel, sewage, and other chemical spills; management of hazardous materials and waste; company policies and procedures for complying with Federal, State and local rules, regulations and statutes; applicable company policies; applicable training programs; a system for identification and remediation of environmental problems; and shall contain copies of any necessary permits. The Contractor shall identify its "Point(s) of Contact" (POC) responsible for environmental programs and emergencies including telephone and pager numbers.

9. Air Quality.

a. The *Service* will obtain air quality permits for air emission sources as required for equipment brought onto the GFP or installed by the *Service* or Contractor to support operational requirements. The Contractor shall provide data to modify existing *Service* air permits, as required, for Contractor air emission sources. The Contractor shall comply with the *Service's* Covered Source Air permit, including record keeping and reporting requirements. The Contractor shall provide *Depot environmental office* with a current list

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of all equipment regardless of ownership the Contractor plans to use on the GFP. The Contractor shall provide notice to *Depot environmental office* at least seven (7) working days prior to bringing equipment onto the GFP. Equipment requiring permits or having special environmental requirements shall not be brought onto the GFP until the *Service* has obtained the necessary permits or the Contractor and *Depot environmental office* have met and addressed the requirements.

b. The Contractor shall be responsible for cost of repair, inspection, testing and penalties assessed upon any air emission source used by the Contractor regardless of ownership.

c. The Contractor shall use only Volatile Organic Compound (VOC) compliant coatings/paints and shall provide Material Safety Data Sheets (MSDS) and VOC content certification for each coating to the *Depot environmental office* prior to usage. All hazardous material (HM) containers shall be kept closed when not in use. Air drying of brushes, rollers, rags and HM containers (i.e., full, partial, empty) is prohibited.

10. Water Quality.

a. *Depot environmental office* will dispose of industrial wastewater generated by the Contractor. The Contractor shall reimburse the Government for any cost incurred for disposal of industrial wastewater. *Depot environmental office* will obtain an Industrial Wastewater Discharge Certificate, which covers Contractor use of the GFP. The Contractor shall insure no industrial waste water generated from operations is discharged into sanitary sewer system, storm drains, floor drains, sinks, etc., without prior authorization from *Depot environmental office*. The Contractor shall immediately notify *Depot environmental office* and submit a written report within five (5) working days thereafter of illegal or unapproved disposal or discharges of industrial wastewater.

b. *Depot environmental office* will obtain permits for storm water discharge and other permits necessary under the Clean Water Act for the Contractor. The Contractor shall comply with *Depot* storm water pollution control plan, storm permit conditions and requirements.

c. The Contractor shall notify and obtain concurrence from *Depot environmental office* prior to modifying or connecting to the *Service's* potable water system. The *Service* shall maintain back-flow prevention devices, if installed prior to the effective date of the contract.

d. The Contractor shall not install above ground wastewater or potable water storage tanks without the approval of *Depot environmental office*.

11. Training. The Contractor shall maintain, at the GFP, records of all training for

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environmental and safety requirements set out in this contract. The Contractor shall maintain training records for a minimum of three years. The Contractor shall make all training records available to the *Service* for review.

### 12. Spills.

a. The Contractor shall notify *Depot environmental office* and the *Service's* administrator of this Contract immediately regarding all spills of oil, hazardous substance, hazardous waste, fuel, sewage or other chemicals. The Contractor shall take immediate actions to contain and clean up spills. The Contractor shall reimburse the *Service* for costs to provide personnel or equipment for spill response efforts. The *Service* alone shall determine whether to provide assistance.

b. The Contractor shall conduct an investigation into the cause of the spill, identify corrective actions and report the findings and corrective actions taken to *Depot environmental office* within five (5) working days of the spill.

c. The Contractor shall maintain, at the GFP, and make available to the *Service* for review, documentation required by *Depot regulation reference* for Spill Prevention Control and Countermeasures (SPCC).

13. Ozone Depleting Substance (ODS). Contractor shall use only approved ODS equipment. The Contractor shall immediately report to *Depot environmental office* any leak or release of an ODS into the environment from the Contractor's operations at the GFP.

### 14. Hazardous Material Management.

a. The storage of toxic or hazardous materials (HM) on the GFP by the Contractor is prohibited except as may be authorized by the *Service* on a case-by-case basis in accordance with 10 U.S.C. 2692. When authorized by the *Service*, the Contractor shall comply with the following:

b. The Contractor shall not transport to the GFP, HM that is not identified for use at the GFP in support of this Contract. The Contractor shall not store on the GFP, HM used for repair and maintenance operations at other locations.

c. The Contractor shall contact *Depot environmental office* to receive a Hazardous Material Briefing prior to bringing any HM onto the GFP. The Contractor shall provide an initial inventory and thereafter a monthly updated inventory and Material Safety Data Sheets (MSDS) for all HM brought onto the GFP. The Contractor shall ensure *Depot environmental office* has (2) copies of each MSDS for each HM, at least 48 hours prior to usage or storage of the HM. The Contractor shall transport and store only

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the minimum quantity of HM necessary to conduct operations each month.

d. The Contractor shall designate in writing the person(s) responsible for all HM management.

e. The Contractor shall obtain from *Depot environmental office*, a “Hazardous Material Storage Site (HMSS)” Permit prior to storage of HM and shall comply with all requirements of the Permit System. Only compatible materials shall be stored together. The Contractor shall perform and document weekly inspections of its HM storage containers and storage sites. The Contractor shall maintain records of inspections and make them available for inspection.

f. The Contractor shall maintain a daily inventory of HM stored, volume used, and volume removed from the GFP. A copy of the daily inventory shall be submitted to *Depot environmental office* no later than ten (10) calendar days after the end of each month. The Contractor shall submit a final inventory no later than five (5) calendar days prior to expiration or termination of the Contract.

15. Solid Waste and Recycling.

a. The Contractor shall provide data to *Depot environmental office* for preparation of *Depot* solid waste reports, as required.

b. The *Service* may provide recycling containers, material collection and disposal services when available. The Contractor may elect to participate in the *Service’s* Recycling Program.

c. The Contractor shall not use GFP as a storage or consolidation area for solid waste, other than for waste generated from operations on the GFP.

16. Hazardous Waste Disposal.

a. The Contractor shall dispose of all Hazardous Waste (HW) and non-regulated waste (waste not regulated under the Resource Conservation Recovery Act), generated on the GFP by transferring it to *Depot environmental office*. The Contractor shall turn in any empty containers that once held a hazardous material or waste to *Depot* HW Facility for disposal. The Contractor shall reimburse the *Service* for all costs incurred, including labor associated with packaging, storage, handling, testing and disposal.

b. The Contractor shall ensure all HW and non-regulated waste including waste from Contractor’s guests and invitees is properly identified, marked, containerized, and labeled using DOT approved containers and markings.

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c. Disposal of hazardous and non-regulated waste directly through or via a private disposal contractor is prohibited. Disposal of hazardous and non-regulated waste in any refuse collection container/bin is prohibited.

17. Asbestos Storage, Labeling, Handling and Disposal. All asbestos containing waste material shall be wetted down, bagged in a 6-mil polyethylene bag marked with the asbestos warning label. The bag shall be “goose-necked” and sealed. The bag shall then be placed in a second red polyethylene bag marked with the asbestos warning label, goose necked and sealed. Bags may be sealed with tape, wrap ties or any other secure means of closing the bags. An “Asbestos Waste Tag’ shall be completed and attached to the bag. The bags shall then be disposed of in specially designated asbestos dumpsters located at the *Depot* HW Facility.

18. Mercury.

a. Mercury is prohibited on the GFP, with the exception of mercury vapor lamps and fluorescent lamps. Expended, intact fluorescent tubes shall be controlled as HW and turned in to *Depot* HW Facility for disposal. Components containing mercury must be controlled by the Contractor to prevent inadvertent release of this material.

b. Instances of breakage of mercury containers or mercury spillage must be immediately reported to the *Depot environmental office*. The Contractor shall reimburse the Government for all costs to provide personnel or equipment in response to such breakage or spillage.

19. The Contractor shall have its own portable trash containers to collect and dispose of general refuse on a regular basis. Non-hazardous waste (non-hazardous trade debris, industrial material, etc.) resulting from Contractor operations may be controlled by the *Service*. Contractor shall contact the *Service* for guidance.

20. In the event of pollution or contamination due to an act or omission by the Contractor, the Contractor at its own expense shall remove the cause of such pollution or contamination, notify the appropriate emergency response authorities, and immediately clean the affected areas of such pollution or contaminant. The Contractor shall immediately notify the *Depot environmental office* and the *Service’s* administrator of this Contract.

21. The Contractor shall immediately notify the *Depot environmental office* of possible discovery of any hazardous substance, pollutant or contaminant, including hazardous waste or hazardous constituent petroleum or petroleum derivative disposed of, released or existing in environmental media such as soil, subsurface soil, air, groundwater, surface water or subsurface geological formations that could pose an imminent threat to human health or the environment.

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22. Remedy for Breach of Environmental Provisions. The Contractor shall be responsible for actions of invitees. Noncompliance with any of these provisions by the Contractor or its invitees may be grounds for termination of this contract or loss of use of the GFP.

### Section IV. Occupational Safety and Industrial Health Provisions

1. Unless otherwise stated, the term “Contractor,” as applied to the following Occupational Safety and Industrial Health Provisions, includes the Contractor’s subcontractors and agents and any other person over whom the Contractor exercises direction and control.

2. The Contractor shall ensure its employees and invitees comply with all applicable Federal, State and local Occupational Safety and Health (OSH) regulations. The Contractor shall ensure the availability of Industrial Hygiene support as required.

#### 3. Safety and Accident Prevention Plan.

a. The Contractor shall maintain, on the GFP, a written “Safety and Accident Prevention Plan” which addresses hazards inherent to the planned work and appropriate OSH controls.

b. The Safety and Accident Prevention Plan shall include, but not be limited to: 1) specific health controls and/or air monitoring for work involving hazardous constituents (e.g., lead/chromate containing paint, asbestos, and silica); and 2) requirements for “hot work” operations conducted on the GFP (i.e., identifying the type of hot work being performed, means of fire prevention and control, fire fighting equipment and capabilities, emergency actions and procedures in the event of a fire).

4. The Contractor shall maintain the work area in the highest reasonable state of cleanliness consistent with work performed. As a minimum, all trash, industrial waste and mechanical or grinding debris shall be removed and properly disposed of at least once every shift. Mechanical/grinding debris containing pollutants (e.g., lead/chromate containing paint debris) shall be packaged and labeled according to environmental disposal requirements.

5. The Contractor shall ensure work performed by employees does not create any safety, health or environmental hazards to others working in the area or downwind. All boundaries and/or containment shall have prominent signage indicating the hazards and personal protective equipment (PPE) required for entering the area.

6. The Contractor shall comply, and shall ensure its invitees comply, with posted

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requirements for wearing PPE while in and around any area where industrial activity is being performed.

7. The Contractor shall allow *Depot environmental office* access to the GFP to conduct facility safety and health inspections.