

Conciliation Agreement  
Between the  
U.S. Department of labor Office of Federal Contract Compliance Programs  
And  
Quench USA, Inc.  
630 Allendale Road, Suite 200  
King of Prussia, PA 19406  
OFCCP Control # R00208463

**PART I: *General Provisions***

1. This Agreement is between the Office of Federal Contract Compliance Programs (hereinafter OFCCP) and Quench USA, Inc. (hereinafter Quench) located at 630 Allendale Road, Suite 200, King of Prussia, PA 19406.
2. The violations identified in this Agreement were found during a compliance evaluation of Quench which began on September 26, 2018 and were specified in a Notice of Violation that was issued on October 19, 2018. OFCCP alleges that Quench has violated Executive Order 11246, as amended; Section 503 of the Rehabilitation Act of 1973, as amended; and/or the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended and its implementing regulations at 41 CFR Chapter 60 due to the specific violations cited in Part II below.
3. This Agreement does not constitute an admission by Quench of any violation of Executive Order 11246, as amended; Section 503 of the Rehabilitation Act of 1973, as amended; and/or the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended and its implementing regulations.
4. The provisions of this Agreement will become part of Quench's AAP. Subject to performance by Quench of all promises and representations contained herein and in its AAP, all named violations in regard to the compliance of Quench with all OFCCP programs will be deemed resolved. However, Quench is advised that the commitments contained in this Agreement do not preclude future determinations of noncompliance based on a finding that the commitments are not sufficient to achieve compliance.
5. Quench agrees that OFCCP may review compliance with this Agreement. As part of such review, OFCCP may require written reports, inspect the premises, interview witnesses, and examine and copy documents, as may be relevant to the matter under investigation and pertinent to Quench's compliance. Quench shall permit access to its premises during normal business hours for these purposes.
6. Nothing herein is intended to relieve Quench from the obligation to comply with the requirements of Executive Order 11246, as amended, Section 503 of the Rehabilitation Act of 1973, as amended, and/or the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. 4212), their implementing regulations, or any other equal employment statute or executive order or its implementing regulations.

7. Quench agrees that there will be no retaliation of any kind against any beneficiary of this Agreement or against any person who has provided information or assistance, or who files a complaint, or who participates in any manner in any proceedings under Executive Order 11246, as amended; Section 503 of the Rehabilitation Act of 1973, as amended; and/or the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended.
8. This Agreement will be deemed to have been accepted by the Government on the date of the signature by the District Director for OFCCP, unless the Regional Director or Director of OFCCP indicates otherwise within 45 calendar days of the District Director's signature on this Agreement.
9. If at any time in the future, OFCCP believes that Quench has violated any portion of this Agreement during the term of the Agreement, Quench will be promptly notified of that fact in writing. This notification will include a statement of the facts and circumstances relied upon in forming that belief. In addition, the notification will provide Quench with 15 calendar days from receipt of the notification to respond in writing, except where OFCCP alleges that such a delay would result in irreparable injury.

Enforcement proceedings for violation of this Agreement may be initiated at any time after 15-day period has elapsed (or sooner, if irreparable injury is alleged) without issuing a Show Cause Notice.

Where OFCCP believes that Quench has violated this Conciliation Agreement, OFCCP may seek enforcement of this Agreement itself and shall not be required to present proof of the underlying violations resolved by this Agreement.

Liability for violation of this Agreement may subject Quench to sanctions set forth in Section 209 of the Executive Order, 41 SFR 60-300.66 and/or 41 CFR 60-741.66 and/or other appropriate relief.

## **PART II: *Specific Provisions***

1. **Violation:** During the period of January 1, 2017 through December 31, 2017, Quench USA Inc. failed to prepare and maintain an acceptable affirmative action program (AAP) for women and minorities, in accordance with 41 CFR 60-1.40(a)(1) and 41 CFR 60-2.10-17.

**Remedy:** Effective immediately, Quench USA Inc. will create and maintain an acceptable affirmative action program (AAP) for women and minorities, pursuant to Executive Order 11246. Quench USA Inc. will preserve its Executive Order 11246 AAP, pursuant to 41 CFR 60-1.12(b) and maintain records pursuant to 41 CFR 60-1.12(a). Further, Quench USA Inc. will annually update and implement the contents of its AAP's, as required by 41 CFR 60-2.10-17. Quench USA Inc. will provide OFCCP with evidence of updates to its AAP.

2. **Violation:** During the period of January 1, 2017 through December 31, 2017, Quench USA Inc. failed to prepare and maintain an acceptable affirmative action program (AAP) for protected veterans at each establishment, in violation of 41 CFR 60-300.40(b). Specifically, Quench USA Inc. failed to comply with any of its AAP obligations set forth in Subpart C of the regulations, 41 CFR 60-300.40-45.

**Remedy:** Quench USA Inc. will prepare and maintain an affirmative action program (AAP) for protected veterans. The AAP shall set forth Quench USA Inc.'s policies and procedures in accordance with 41 CFR 60-300.40-45. This AAP may be integrated into or kept separate from other AAP's. Quench USA Inc. shall review and update annually its AAP pursuant to 41 CFR 60-300.40(c) and will comply with all obligations set forth in Subpart C of the regulations, 41 CFR 60-300.40-45.

3. **Violation:** During the period of January 1, 2017 through December 31, 2017, Quench USA Inc. failed to prepare and maintain an acceptable affirmative action program (AAP) for qualified individuals with disabilities, in violations of 41 CFR 60-741.40(b). Specifically, Quench USA Inc. failed to comply with any of its AAP obligations set forth in Subpart C of the regulations, 41 CFR 60-741.40-45.

**Remedy:** Quench will prepare and maintain an affirmative action program (AAP) for qualified individuals with disabilities. The AAP shall set forth Quench USA Inc.'s policies and procedures in accordance with 41 CFR 60-741.40-45. This AAP may be integrated into or kept separate from other AAP's. Quench USA Inc. shall review and update annually its AAP pursuant to 41 CFR 60-741.40(c) and will comply with all obligations set forth in Subpart C of the regulations, 41 CFR 60-741.40-45.

4. **Violation:** During the period of January 1, 2017 through December 31, 2017, Quench USA, Inc., has failed to develop and implement an auditing system that periodically measures the effectiveness of its total affirmative action program as required by 41 CFR 60-2.17. Specifically, Quench USA, Inc., failed to maintain records in such a way that it could be determined if an adverse impact for females and minorities occurred in its applicant/hire activity, separated by job group.

**Remedy:** Quench USA, Inc., will monitor records of all personnel activity at least annually to ensure that equal opportunity is attained. Specifically, Quench USA Inc., will review its applicant/hire recording keeping system and ensure that it maintains accurate records in order to measure the effectiveness of its total affirmative action program. Quench USA Inc. will compare the applicant/hire selection rates by race and gender for each job group measuring the total selection process.

5. **Violation:** During the period of January 1, 2017 through December 31, 2017, Quench USA, Inc., failed to maintain and have available as part of its Affirmative Action Program all personnel and employments records for at least two years from the date of the making of the record or the personnel action involved, as required by CFR 60-1.12(a).

**Remedy:** Quench will prepare and maintain and have available as part of its Affirmative Action Program all employment and applicant records, including applications, interview notes, race and gender of applicants and applicant flow logs. This support data will be retained for two (2) years from the dates of the creation of the records or for two years from the dates on which applicants are last identified as candidate for specific openings, whichever occurs later.

6. **Violation:** During the period of January 1, 2017 through December 31, 2017, Quench USA Inc., failed to immediately list all employment openings with either the state workforce agency job bank or a local employment service delivery system serving the location where the openings occurred in violations of 41 CFR 60-300.5(a) 2-6.

**Remedy:** Quench USA Inc., will list all employment openings as they occur with an appropriate employment service delivery system (ESDS) Pennsylvania Career Link where the openings occur, in a manner and format that will allow the ESDS to provide priority referrals of protected veterans to Quench USA, Inc., as required by 41 CFR 60-300.5(a) 2-6. With its initial listing, and as subsequently needed to update the information, Quench USA Inc. will also advise the employment service delivery system that it is a federal contractor that desires priority referrals of protected veterans for job openings at all locations within the state, and provide the employment service delivery system with the name and address of each of its hiring locations within the state and the contact information for the contractor official responsible for the hiring at each location, in accordance with 41 CFR 60-300.5(a)4. Should any of the information in the disclosures change since it was last reported to the ESDS, Quench USA Inc. shall provide updated information simultaneously with its next job listing.

7. **Violation:** During the period January 1, 2017 through December 31, 2017, Quench USA Inc., failed to keep and preserve all personnel and employment records, in violation of 41 CFR 60-300.80. Specifically, Quench USA Inc. failed to preserve records created during the hiring process as specified in 41 CFR 60-300.80(b) for a period of three (3) years.

**Remedy:** Quench USA Inc. will keep and preserve all personnel and employment records, in accordance with 41 CFR 60-300.80, and will keep and preserve those records specified in 41 CFR 60-300.80(b) for a period of three (3) years from the date of the making of the record.

8. **Violation:** During the period January 1, 2017 through December 31, 2017, Quench USA Inc., failed to keep and preserve all personnel and employment records, in violation of 41 CFR 60-741.80. Specifically, Quench USA Inc., failed to preserve records created during the hiring process for faculty applicants as specified in 41 CFR 60-741.80(b) for a period of three (3) years.

**Remedy:** Quench USA Inc., will keep and preserve all personnel and employment records, in accordance with 41 CFR 60-741.80, and will keep and preserve those records specified in 41 CFR 60-741.80(b) for a period of three (3) years from the date of the making of the record.

Additionally, during the review, OFCCP noted that Quench failed to file a current VETS-4212 Report with the U.S. Department of Labor, Veteran's Employment and Training Service (VETS) as required by 41 CFR 61-300.10(c). Please note that the VETS-100A report has been replaced with the VETS-4212 report. The filing season for the VETS-4212 begins on August 1<sup>st</sup> and ends on September 30<sup>th</sup>. Reports may be filed via email to [VETS4212-customersupport@dol.gov](mailto:VETS4212-customersupport@dol.gov) or via postal mail at:

VETS-4212 Service Center  
C/O Department of Labor National Contact Center (DOL-NCC)  
150000 Conference Center Drive, Suite B0132  
Chantilly, VA 20151

For more information on the VETS-4212 report and filing instruction, please contact the VETS-4212 Customer Support Office by email at [VETS4212-customersupport@dol.gov](mailto:VETS4212-customersupport@dol.gov) or by phone at (866) 237-0275 for further assistance. OFCCP will notify VETS-4212 of this violation.

### **Part III: Reporting**

1. Quench agrees to retain records pertinent to the violations cited in Part II above, and to the reports submitted in compliance with Paragraph 2, below. These records shall include data and information underlying the required reports, specifically, but not limited to all applications and personnel records. The records will be retained until the expiration of this Agreement or consistent with regulatory requirements, whichever is later.
2. Quench agrees to furnish the OFCCP, U.S. Department of Labor Philadelphia District Office with the following reports:
  - A. Quench will submit a progress report covering each six-month period this Agreement is in effect. Therefore, the first report shall be due **September 4, 2019** and will cover the period March 1, 2019 through August 31, 2019. The second report shall be due **March 16, 2020** and will cover the period September 1, 2019 through February 29, 2020.

Quench shall send each report to:

U.S. Department of Labor – OFCCP  
Robert N.C. Nix, Sr. Federal Building  
900 Market Street, Room 311  
Philadelphia, PA 19107  
Attention: Edward J. Rogers, District Director

The *first progress report* shall consist of:

- A. Quench will provide an acceptable copy of Quench's 2019 Affirmative Action Program (AAP) for women and minorities created pursuant to 41 CFR §60-2.10(b). The data in this AAP will include the Executive Order AAP prepared in accordance with the requirements of 41 C.F.R. § 60-1.40 and 41 C.F.R. § 60-2.1 through § 60-2.17; organizational display or workforce analysis prepared according to 41 C.F.R. § 60-2.11; the formation of job groups (covering all jobs) consistent with criteria given in 41 C.F.R. § 60-2.12; for each job group, a

statement of the percentage of minority and female incumbents as described in 41 C.F.R. § 60-2.13; for each job group, a determination of minority and female availability that considers the factors given in 41 C.F.R. § 60-2.14(c)(1) and (c)(2); for each job group, the comparison of incumbency to availability as explained in 41 C.F.R. § 60-2.15; and placement goals for each job group in which the percentage of minorities or women employed is less than would be reasonably expected given their availability as described in 41 CFR § 60-2.16.

- B. Quench will provide an acceptable copy of Quench's 2019 AAP for protected veterans. This includes the data counts required by 41 CFR Section 60-300.44(k) and the Protected Veteran Hiring Benchmark analysis required by 41 CFR Section 60-300.45.
- C. Quench will provide an acceptable copy of Quench's 2019 AAP for qualified individuals with disabilities. This includes the data counts required by 41 CFR Section 60-741.44(k) and the Disability Utilization Analysis required by 41 CFR Section 60-741.45.
- D. Quench will provide data on its employment activity (applicants, hires, promotions, and terminations). The data will be presented by job group or by job title.
  - a. Applicants: For each job group or job title, this analysis must consist of the total number of applicants identified by gender and by race/ethnicity.<sup>10</sup> For each job group or job title, applicants for whom race and/or gender is not known should be included in the data submitted. However, if some of your job groups or job titles (most commonly, entry-level) are filled from the same applicant pool, you may consolidate your applicant data for those job groups or titles. For example, where applicants expressly apply for or would qualify for a broad spectrum of jobs (such as "Production," "Office," etc.) that includes several job groups, you may consolidate applicant data.
  - b. Hires: For each job group or job title, this analysis must consist of the total number of hires identified by gender and race/ethnicity.
  - c. Promotions: For each job group or job title, provide the total number of promotions by gender and race/ethnicity. Also, include a definition of "promotion" as used by your company and the basis on which they were compiled (e.g. promotions to the job group, from and/or within the job group, etc.). If it varies for different segments of your workforce, please define the term as used for each segment. If you present promotions by job title, include the department and job group from which and to which the person(s) was promoted.
  - d. Terminations: For each job group or job title, provide the total number of employee terminations by gender and race/ethnicity. When presenting terminations by job title, include the department and job group from which the person(s) terminated.
- E. A list of all employment openings that occurred; a) documentation to confirm these openings were listed with the appropriate ESDS (either the state workforce

agency job bank or a local ESDS) where the openings occurred, in a manner and format that allows the ESDS to provide priority referrals of protected veterans to Quench; b) in the first report, documentation that Quench advised the appropriate ESDS, with its initial listing, that it is a federal contractor that desires priority referrals of protected veterans for job openings at all locations within the state; and c) in the first report, documentation to confirm that, in its initial listing, Quench provided the ESDS with the name and address of each of its hiring locations within the state, and the contact information for the official responsible for hiring at each location. Documentation of the above should include copies of the written notification(s) to the ESDS. Should any of the information in the disclosures change since it was last reported to the ESDS, Quench shall provide updated information simultaneously with its next job listing; d) Copies of all responses received from each employment service delivery system used during the report period;

The *second progress report* shall consist of:

- a. A copy of the 2020 Affirmative Action Program (AAP) created pursuant to 41 CFR §60-2.10(b). This includes the same analyses set forth above for Report 1 for this AAP..
- b. Quench will provide an acceptable copy of Quench's 2020 AAP for protected veterans. This includes the same analyses set forth above for Report 1 for this AAP.
- c. Quench will provide an acceptable copy of Quench's 2020 AAP for qualified individuals with disabilities. This includes the same analyses set forth above for Report 1 for this AAP..

**TERMINATION DATE:**

This Conciliation Agreement shall remain in full force and effect until sixty (60) days following Quench's submission of the final report, or until such time as OFCCP has deemed that Quench has met all conditions of this Agreement.

**INTEGRATION CLAUSE:**

This Conciliation Agreement represents the full Agreement between Quench and OFCCP and this Agreement supersedes any other agreements, oral or written. In signing this Agreement, neither Quench nor OFCCP relies upon any promise, representation of fact or law, or other inducement that is not expressed in this Agreement. This Agreement may be modified only by written agreement of the Parties affected and may not be modified by any oral agreement.

**PART IV: Signatures**

This Conciliation Agreement is hereby executed by and between the Office of Federal Contract Compliance Programs and Quench USA Inc. located at 630 Allendale Road, Suite 200, King of Prussia, PA 19406.

(b) (6), (b) (7)(C)

TONY IBARGUEN  
Quench USA, Inc.  
630 Allendale Road,  
Suite 200 King of Prussia, PA  
19406

DATE: 6/6/19

(b) (6), (b) (7)(C)

EDWARD J. ROGERS  
District Director  
Philadelphia District Office  
900 Market Street, Room 311  
Philadelphia, PA 19107

DATE: 6/6/19

(b) (6), (b) (7)(C)

(b) (7)(C), (b) (7)(E)  
Compliance Officer  
Philadelphia District Office  
900 Market Street, Room 311  
Philadelphia, PA 19107

DATE: 6/6/19