

GENERAL TERMS AND CONDITIONS

1. CONTRACT FORMATION AND MODIFICATIONS

This order is MDC's offer to Seller and acceptance by Seller is expressly limited to the terms of this offer. Seller's acceptance of MDC's offer must be by commencement of performance or by seasonable written acknowledgment of this order, but where Seller's acceptance is by commencement of performance, MDC reserves the right to treat its offer as having lapsed before acceptance unless MDC is notified of Seller's acceptance within a reasonable time. Any different or additional terms of Seller's acknowledgment are hereby objected to and rejected by MDC regardless of the form of such acknowledgment. This order, including any documents incorporated herein by express reference, is intended to be a complete integration and there are no prior or contemporaneous different or additional agreements pertaining to the subject matter of the order. Upon Seller's acceptance, the order shall be the complete and exclusive statement of the terms of the resulting contract. The contract shall not be modified by or interpreted by reference to any course of dealing or usage of trade and shall not be modified by any course of performance. No modification of the contract shall be effective unless in writing signed by the party to be charged with the modification. No modification shall bind MDC unless signed by an authorized MDC Purchasing Representative.

2. INSPECTION, ACCEPTANCE AND REJECTION

a. Seller will provide and maintain an inspection system acceptable to MDC and the Government covering goods and services under this contract and will tender only goods that have been inspected and found to conform to this contract's requirements. Seller will keep records evidencing inspections and their result, and will make these records available to MDC and the Government during contract performance and for three years after final payment.

b. All goods (which term throughout this Contract includes, without limitation, processes, technical information, computer software, raw materials, components, intermediate assemblies, end products and, where applicable, services to be performed hereunder) may be subject to inspection and test at all times and places, including the period of manufacture, by MDC, and the Government.

c. Seller and Seller's subcontractors shall provide all reasonable facilities for the safety and convenience of inspectors at no additional cost to MDC. Seller shall furnish to inspectors all information and data as may be reasonably required to perform their inspection. All goods to be delivered hereunder may be subject to final inspection, test and acceptance by MDC at destination, notwithstanding any payment or inspection at source. MDC shall accept or give notice of rejection of goods delivered hereunder within a reasonable time after receipt of such goods. Acceptance by MDC shall not waive any rights that MDC might otherwise have at law or by express reservation in this Contract with respect to any nonconformity.

d. Inspection and acceptance of any goods by MDC shall not be deemed to alter or affect the obligations of Seller or the rights of MDC under the Warranties herein as may be provided by law.

3. QUALITY CONTROL AND CONTRACTUAL COMPLIANCE

a. Seller will provide and maintain a quality control system acceptable to MDC and the Government for the goods and services purchased under this Contract, and Seller shall permit MDC to review procedures, practices, processes and related documents to determine such acceptability. MDC may elect to survey all sellers periodically to ascertain compliance with MDC and U.S. Government requirements which have been made part of this Contract. Seller agrees to provide access to its premises for, and to cooperate with, MDC in the conduct of those surveys.

b. It shall be Seller's continuing obligation to advise MDC's Purchasing Representative in the event Seller discovers potential or actual nonconformances prior to or during manufacture, and/or subsequent to delivery of goods under this Contract. Seller must provide written notice within twenty-four (24) hours of discovery using:

1) for goods procured under this contract for C-17 application, Form MD-1898, Request for Deviation/Waiver, in accordance with MIL-STD-480 and MIL-STD-481;

2) for goods procured under this Contract for other than C-17 application, Form DAC 26-23B, Vendor Information Request (VIR), or any similar format providing the same information.

c. Foreign procurement of metallic raw materials required to conform to federal, military, or industrial specifications shall be procured per the requirements of those suppliers listed in the Douglas Material Specification (DMS) 2201.

4. WARRANTY

a. Seller warrants that goods and services furnished hereunder will conform to the requirements of this Contract (including all descriptions, specifications and drawings made a part of this Contract), and such goods will be merchantable, fit for their intended purposes, free from all defects in materials and workmanship and to the extent not manufactured pursuant to detailed designs furnished by MDC, free from defects in design. MDC's approval of designs or specifications furnished by Seller shall not relieve Seller of its obligations under this warranty.

b. In addition to its other remedies, MDC may, at Seller's expense, require prompt correction or replacement of any goods and services failing to meet Seller's warranties herein. Goods and services corrected or replaced by Seller shall be subject to all of the provisions of this Contract in a manner and to the extent as goods and services originally furnished hereunder. Upon receipt of a defective item for correction, repair, or maintenance under this warranty, Seller shall perform any required work within sixty (60) days from the receipt of such defective item and the authority to proceed from MDC or such other time as set forth in this contract.

c. All warranties, including special warranties specified elsewhere herein, shall inure to MDC, its successors, assigns, customers and users of its products.

5. DELIVERY

a. Seller shall strictly adhere to the delivery and completion schedules specified in this Contract. If, at any time, Seller believes it may be unable to comply with the delivery or completion schedules, Seller shall immediately notify MDC's Purchasing Representative in writing of the probable length of any anticipated delay and the reasons for it, and shall continue to notify MDC's Purchasing Representative of any material change in the situation. In the event of such notification or of an actual failure by Seller to comply with the delivery or completion schedules, MDC may, in addition to all other remedies, require Seller, at Seller's expense, to ship goods via air freight or expedited routing to avoid or minimize delay.

b. In the event of early delivery, MDC may store goods at Seller's expense, unless delivery in advance of the contractual commitment date is expressly authorized within this Contract.

c. The quantities specified for delivery on this Purchase Order/Contract are the only quantities required by MDC. Therefore, if Seller delivers quantities in excess of those specified in this Purchase Order/Contract, MDC shall not be required to make any payment for the excess goods and, at MDC's election, may keep or return the excess goods at Seller's risk and expense.

d. Seller shall provide bar coded shipping labels, pursuant to Douglas Process Specification (DPS) 3.301-1 Revision A, on all goods, items and packages shipped to MDC hereunder.

6. CHANGES

a. MDC may, any time, exclusively in a writing signed by its authorized Purchasing Representative, and without notice to sureties, make changes within the general scope of this Contract which affect the (a) drawings, designs, or specifications; (b) method of shipment or packing; (c) place of inspection, delivery or acceptance; (d) delivery schedules; or (e) description of services to be performed; time of performance of services (i.e. hours of the day, days of the week, etc.); or place of performance of services. If any such change causes an increase or decrease in the cost of, or the time required for, performance of this Contract, an equitable adjustment shall be made in the contract price or delivery schedule or both, and the Contract shall be modified in writing accordingly. Any claim by Seller for adjustment under this Article must be asserted in writing to MDC's Purchasing Representative not later than thirty (30) days after the date of receipt by Seller of the written change authorization, or within such extension as MDC may grant in writing. MDC may, in its sole discretion, consider any such claim regardless of when asserted. Pending any such adjustment, Seller will diligently proceed with the Contract as modified. Where the cost of property made excess or obsolete as a result of a change is included in Seller's claim for adjustment, MDC shall have the right to direct the manner of disposition of such property. MDC shall have the right to examine any of Seller's pertinent books and records for the purpose of verifying Seller's claim.

b. Seller's claim for equitable adjustment shall be in the form of a complete change proposal fully supported by factual information and shall separately identify all increases and all decreases in costs. The claim shall be submitted by a senior company official in a signed writing that contains the following certification statement:

"I certify that the claim is made in good faith, that the supporting data are accurate and complete to the best of my knowledge and belief; and that the amount requested accurately reflects the contract adjustment for which (Seller) believes MDC is liable."

7. INVOICE AND PAYMENT

a. For each shipment of goods or completed item of services, Seller shall submit an original invoice marked "original" and one marked "copy" to the appropriate MDC Accounts Payable Department. The prices set forth in this order includes all taxes, fees, levies and similar charges except for sales and use taxes. All sales and use taxes must be separately itemized. Purchase Order/Contract Number and Item Number must appear on all shipping documents, invoices, quality certifications, and packing sheets.

b. Determination of payment due date, whether under net or discount terms, will be based on the latest of (1) the date the goods are received or services are completed; (2) the date the goods are scheduled to be shipped/received or services are scheduled for completion under the Contract; (3) the date an accurate invoice is received, or (4) the correct bar coded shipping labels are received by MDC. Unless early delivery of goods or services is expressly authorized by the MDC Purchasing Representative, payment for goods or services received in advance of the contractual commitment date shall not be made prior to the contractual commitment date.

c. Payment will be deemed to have been made when deposited in the mail.

d. MDC may offset any amount owed to MDC under this or any other contract against any payment due Seller under this contract.

8. TERMINATION FOR CONVENIENCE

MDC may terminate this Contract for its convenience in whole or, from time to time, in part in accordance with the Clause entitled "Termination for Convenience of the Government" set forth in FAR 52.249-2, in effect on the date of this Contract, which Clause is incorporated herein by this reference, except Paragraphs (c) and (i). Further the period for submitting the subcontractor's termination settlement proposal is reduced to six (6) months and for requesting an equitable adjustment to forty-five (45) days. In the referenced Clause, "Contractor" shall mean Seller and "Government" and "Contracting Officer" shall mean MDC.

9. TERMINATION FOR DEFAULT

a. MDC may terminate the whole or any part of this Contract in any of the following circumstances:

(1) If Seller fails to deliver the goods or perform the services required by this Contract within the time specified herein, or any extension thereof granted by MDC in writing; or

(2) If Seller fails to perform any of the other provisions of this Contract or so fails to make progress as to endanger performance of this Contract in accordance with its terms, and in either of these two (2) circumstances does not cure such failure within a period of ten (10) days after receipt of notice from MDC specifying such failure; or

(3) In the event of suspension of Seller's business, insolvency, liquidation proceedings by or against Seller, appointment of a trustee or receiver for Seller's property or business, or any assignment, reorganization or arrangement by Seller for the benefit of creditors.

b. MDC may require Seller to transfer title and deliver to MDC in the manner and to the extent directed by MDC (1) any completed goods; and (2) such partially completed goods and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights, (hereinafter called "manufacturing materials") as Seller has produced or acquired for the performance of this Contract, including the assignment to MDC of Seller's subcontracts; and Seller shall protect and preserve property in possession of Seller in which MDC or the Government has an interest. Payment for completed goods delivered to and accepted by MDC shall be at the contract price. Payment for manufactured materials delivered to and accepted by MDC and for the protection and preservation of property shall be at a price determined in the same manner as provided in Article 8 hereof (Termination for Convenience), except that Seller shall not be entitled to profit. MDC may withhold from Seller monies otherwise due Seller for completed goods and/or manufacturing materials in such amounts as MDC determines necessary to protect MDC against loss due to outstanding liens or claims against said goods.

c. If, after cancellation, it is determined that Seller was not in default, the rights and remedies of the parties will be as if the contract had been terminated in accordance with Article 8 (Termination for Convenience).

10. MDC PROPERTY

Seller shall keep all property furnished by MDC and all property to which MDC acquires title by virtue of this Contract segregated and clearly marked and will maintain a complete inventory thereof. Seller assumes all risk of loss, destruction or damage to such property while in Seller's possession, custody or control. Seller will immediately notify MDC's Purchasing Representative in writing of any such loss, destruction or damage. Except for property incorporated in delivered end products, Seller will, upon termination or completion of this Contract, deliver such property, as directed by MDC, in good condition subject to ordinary wear and tear and normal manufacturing losses. Nothing in this Article limits Seller's use in direct dealings with the Government, of property in which the Government has a vested interest.

11. NONDISCLOSURE

Neither party will, without the written consent of the other, use or disclose to any other person any proprietary information or data furnished by the other party except as required to perform this contract. This restriction does not apply to information or data already lawfully in possession of a party. Nothing in this Article limits either party's use, in direct dealings with the Government, of data in which the Government has a title, a vested interest, or data rights.

12. EXPORT LICENSING INFORMATION/OFFSHORE PROCUREMENT

a. Seller shall obtain an export license pursuant to the requirements set forth herein for any items that Seller either manufactures or subcontracts outside the U.S. If Seller is a "Foreign Person" (as defined by the International Traffic in Arms Regulations [ITAR] reference 22 CFR Sub-chapter M) the Seller shall, upon request of MDC's Purchasing Representative and without additional cost, provide such information as may be necessary to support MDC's application for export license(s) covering any items ordered from Seller hereunder.

b. This Contract may contain defense related technical data. MDC has obtained, or will obtain, the approval of the U.S. Government to furnish to Seller the data, and any other items hereunder requiring such approval, which are necessary for Seller to perform this Contract. U.S. Government approval is based upon the following (ITAR) requirements with which Seller agrees to comply:

(1) Seller shall use the technical data furnished by MDC only in the manufacture of defense articles in accordance with this Contract.

(2) Seller shall not disclose or provide technical data furnished by MDC to any person except authorized U.S. citizen, intending citizen, permanent resident alien (immigrant alien) employees and qualified subcontractors which require the data in performance of the subcontracts.

(3) Seller shall not disclose or provide technical data furnished by MDC to any foreign person either in the U.S. or abroad unless obtaining prior authorization directly from the U.S. Department of State Office of Defense Trade Controls (ODTC). ITAR defines a "foreign person" as any person who is not a U.S. citizen, permanent resident alien, or a protected individual as defined by 8 USC 1324(b)(3). Foreign person also means a foreign corporation (corporation not incorporated in the U.S.), foreign government, and any agency or subdivision of foreign governments (i.e. diplomatic mission).

(4) Seller shall not acquire any rights in the data furnished by MDC except to use it in the performance of this Contract. Seller also shall not convey to its qualified subcontractors any greater rights in the data than Seller has. Seller's qualified subcontractors shall only have the right to use the data as required in performance of their subcontracts.

(5) Seller shall deliver the defense articles manufactured in accordance with this Contract only to MDC or to the U.S. Government.

(6) Upon completion or termination of this Contract, Seller shall destroy or return to MDC all technical data furnished to Seller by MDC pursuant to this Contract. At MDC's election, MDC may direct Seller to return or destroy the data and may require Seller to certify in writing that Seller has complied.

(7) Seller shall impose these requirements, (1) through (6), suitably revised to identify the parties properly, on all of its subcontractors to which Seller intends to furnish technical data provided by MDC for use by the subcontractors in performance of the subcontracts.

13. SUBCONTRACTING

Seller will not subcontract without MDC's prior written consent for the design, development or procurement of the whole or any substantial portion of any goods ordered hereunder. This limitation shall not apply to Seller's purchases of standard commercial supplies or raw material.

14. DISPUTES

a. Pending the final resolution of any dispute arising under, related to or involving this Contract, Seller agrees to proceed with performance of this Contract, including the delivery of goods, in accordance with MDC's instructions. Seller's failure to proceed in accordance with MDC's instructions shall be considered a material breach of this contract.

b. Seller shall submit to MDC's authorized Purchasing Representative a written demand for MDC's final decision regarding the disposition of any dispute between the parties arising under, related to or involving this Contract, unless MDC, on its own initiative, has already rendered such a final decision. Seller's written demand shall be fully supported by factual information, and if such demand involves a cost adjustment to the contract it shall include a signed writing submitted by a senior company official containing the following certification statement:

"I certify that the written demand is made in good faith, that the supporting data are accurate and complete to the best of my knowledge and belief; and that the amount requested accurately reflects the contract adjustment for which (Seller) believes MDC is liable."

c. Any MDC final decision shall be expressly identified as such, shall be in writing, and shall be signed by MDC's authorized Purchasing Representative, except that MDC's failure to render a final decision within ninety (90) days after receipt of Seller's demand shall be deemed a final decision adverse to Seller's contentions. MDC's final decision shall be conclusive and binding regarding the dispute unless Seller commences an action to contest such decision within ninety (90) days following the date of the final decision or one (1) year following the accrual of the cause of action, whichever is later.

d. Seller shall cooperate fully with MDC in seeking a resolution of any dispute involving this Contract under the disputes procedure applicable to the Government prime or higher-tier contract and if MDC elects to follow such procedures Seller shall not be entitled to demand a final decision under Paragraph b. above until such resolution. Seller shall be bound by the final outcome of the disputes procedure if : (1) MDC has afforded Seller an opportunity to participate in MDC's conduct of the dispute or (2) MDC, having decided to discontinue its own processing of the dispute, has afforded Seller an opportunity to assume the processing of the dispute in MDC's name.

e. MDC and Seller shall bear their own costs of processing the dispute.

f. Except with respect to security matters, which shall be governed by applicable security regulations, both parties agree that the Government will not be an indispensable party to the resolution of any dispute arising under any Order issued under a Government contract.

15. WAIVER AND SEVERABILITY

Any action or inaction by MDC or the failure of MDC, on any occasion, to enforce any right or provision of this Contract shall not be construed to be a waiver by MDC of its rights hereunder, and shall not prevent MDC from enforcing such provision or right on any future occasion. A determination that any portion of this Contract is unenforceable or invalid shall not affect the enforceability or validity of any of the remaining portions of this Contract.

16. RIGHTS AND REMEDIES

The rights and remedies of MDC herein are cumulative, and are in addition to any other rights or remedies that MDC may have at law or equity.

17. PRECEDENCE

In the event of any inconsistency between the articles, attachments, specifications or provisions which constitute this Contract, the following order of precedence shall apply: (a) special terms and conditions; (b) general terms and conditions (c) specifications; and (d) all other attachments incorporated herein by reference. MDC's specifications shall prevail over any subsidiary documents referenced therein. Seller shall not use any specification in lieu of those contained in this Contract without written consent of MDC's authorized Purchasing Representative.

18. COMPLIANCE WITH STATUTES AND REGULATIONS

Seller warrants and certifies that in the performance of this Contract it will comply with all applicable statutes, rules, regulations and orders of the United States, and of any state or political subdivision thereof, and agrees to indemnify MDC against any loss, cost, damage or liability by reason of Seller's violation of this Section.

19. DEFINITIVE AGREEMENT AND APPLICABLE LAW

a. This Contract, including all Exhibits, Attachments and other documents incorporated herein by reference, whether or not attached hereto, constitute the complete and exclusive statement of the agreement between the parties hereto. This Contract supersedes any previous understanding or agreement between MDC and Seller (oral or written) with respect to the subject matter hereof. Any and all performance under any previous letter contract or other preliminary agreement between MDC and Seller with respect to the subject matter hereof shall be deemed made, done or performed under the applicable provisions of this Contract.

b. This Contract shall be governed by and construed in accordance with the law of the state in which the MDC Purchasing Department placing this contract is located, with no consideration given to its conflict of laws rules, regardless of the place of execution or performance of this Contract.

20. PRICE WARRANTY

Seller warrants that the price of the goods and services to be furnished to MDC under this Contract do not exceed the price charged by Seller to any other customer purchasing the same goods and services in like or similar quantities and under similar conditions of purchase.

21. MATERIALS FURNISHED AND PROPERTY RIGHTS

a. If MDC furnishes any material for fabrication hereunder, Seller agrees: (1) not to substitute any other material in such fabrication without MDC's written consent; (2) that title to such materials shall not be affected by incorporation in or attachment to any other property; and (3) that all such material or replacement material furnished at MDC's expense will be returned in the form of products (except that which become normal industrial waste) or unused material. Seller shall inspect any such material furnished by MDC and shall have the right to reject nonconforming material upon inspection. Inaccuracies, out of tolerance conditions or inadequacies in materials which are accepted by Seller shall not excuse performance in strict accordance with the applicable specifications.

b. Seller agrees that it will use all designs, tools, patterns, drawings, specifications, other information and equipment, title to which is in MDC, only in the performance of this Contract and not otherwise, unless MDC's prior written consent has been obtained. The foregoing shall not be construed as limiting the right of Seller to use such items in the manufacture of end products for direct sale to the Government to the extent that the Government has the right under a contract with MDC, or otherwise, to authorize such use by Seller; provided that such use will not interfere with Seller's performance of this or other contracts from MDC relating to Government contracts in effect at the time Seller enters into direct sale to the Government, that Seller furnishes prior written notice to MDC of such intended use, and, to the extent practicable, Seller prominently identifies each such end product as being manufactured by Seller for direct sale to the Government. Seller's performance in strict accordance with the specifications shall not be excused by reason of any inaccuracy in tools or fixtures furnished by MDC.

22. CITIZENSHIP REQUIREMENTS

a. Employees of Seller who perform services under this Contract on the premises of MDC shall be citizens of the United States of America (U.S.A.), its possessions or territories, in instances when the performance of such services requires Secret or Top Secret security classifications. If any employee of Seller who performs services on MDC premises under this Contract is not a citizen of the U.S., its possessions or territories, and the performance of such services requires a Company Confidential security classification, Seller shall contact the cognizant MDC Purchasing Representative prior to allowing said employee to perform such services. Following necessary coordination within MDC, the MDC Purchasing Representative shall provide specific instructions to Seller. When the performance of work on MDC premises does not require a security clearance above, Seller shall bear exclusive responsibility for providing employees who are qualified under the Immigration Reform and Control Act ("IRCA") and who have completed an I-9 Form.

b. Upon the request of MDC, Seller shall submit proof of citizenship or employment eligibility status to MDC for each employee covered by Subparagraph a. who shall perform services under this Contract on the premises of MDC. Examples of documents that may be considered satisfactory are birth certificates, U.S. passports, U.S. naturalization papers, and green cards issued by the U. S. Department of Immigration and Naturalization. Consistent with IRCA, the order of presentation of such documents shall be the sole prerogative of Seller's employees. If these documents are not available, a compilation of other evidence may suffice. Upon acceptance of proof of citizenship or employment eligibility, MDC may issue identification badges or cards to employees of Seller.

c. Should Seller fail to comply with this Clause, MDC may, at its option, terminate this Contract for default in accordance with Article 9 hereof. An example of such failure would be the submittal of falsified proof of citizenship or employment eligibility.

23. SPECIAL TOOLING

Unless otherwise specified in this Contract, the price includes the cost of gauges, jigs, fixtures, dies, molds, tools, patterns, and similar items of special tooling that may be manufactured or acquired by Seller for use in the manufacture, fabrication, or assembly of the goods called for herein, and unless FAR 52.245-17 is applicable to this Contract, or otherwise specified herein, title to such special tooling will remain in Seller.

24. NEW ITEMS OF MANUFACTURE

In the event (a) there are any new features of design incorporated in any goods made under this Contract as a result of Seller's compliance with the drawings or specifications of MDC; (b) development cost for such features is being charged by Seller to MDC; and (c) the goods to be made hereunder are not merely a slight modification of goods with respect to which seller already possesses patent rights, then Seller grants to MDC the right to make or have made all such goods, together with a royalty-free, nonexclusive, irrevocable license under any U.S. patent covering such new features of design. If MDC is reimbursed by the Government for Seller's effort contemplated by this clause, this Article will not apply and is deemed deleted.

25. ASSIGNMENT

Except as herein provided, neither this Contract nor any duty, right or interest therein may be delegated, assigned, or otherwise transferred in any manner by Seller without prior written consent of MDC, and any effort to the contrary shall be void. Either party may, upon notice to the other, assign this Contract to any person, firm or corporation with which such party may merge or consolidate or to which such party may assign substantially all of its assets, and either party may assign claims for monies due or to become due hereunder to any bank, trust company or other financial institution, including any Government lending agency. The assigning party shall furnish the other party with two (2) signed copies of any such assignment.

26. PACKING

All items are to be packed in suitable containers for protection in shipment and storage, and in accordance with applicable specifications. Each container of a multiple container shipment shall be identified (a) to show the number of the container and the total number of containers in the shipment, and (b) the number of the container in which the packing sheet has been enclosed. All shipments by Seller or its subcontractors must include packing sheets containing MDC's Contract number, quantity, part number/size, description of the items shipped, and appropriate evidence of inspection. Materials for different contracts shall be listed on separate packing sheets.

27. SHIPPING INSTRUCTIONS

Shipments must be made as specified in this Contract, except as subsequently modified in writing by MDC or otherwise directed in writing by MDC's Traffic Department. Originals of all bills of lading and express receipts shall be mailed to the Traffic Department of MDC's consignee division.

28. CLEARANCE OF MATERIALS INTENDED FOR PUBLIC RELEASE

Seller shall issue no news release (including photographs and files), public announcement, advertisement, denial, or confirmation concerning all or part of the subject matter of this Contract or any phase of any program hereunder without the prior written approval of MDC.

29. OFFSET/CO-PRODUCTION

a. Seller shall use its best efforts to cooperate with MDC in the fulfillment of any offset program obligation that MDC may have accepted as a condition of the sale of an MDC product to a foreign nation.

b. MDC expressly reserves the right to all "offset" credits resulting from co-production or other similar obligations entered into between Seller and foreign sources of any goods or services in support of the procurement hereunder. Seller may not, therefore, procure or offer to procure any goods or services ordered hereunder from any foreign source without the prior written approval of MDC. The express reservation applies to not only the goods and services ordered hereunder but also to the procurement of additional quantities thereof by means of options or similar commitments obtained by Seller to fulfill anticipated requirements MDC may have. Seller may not, therefore, enter into such procurements from foreign sources to support MDC future requirements without MDC's prior written approval.

c. While MDC's approval under the foregoing Paragraph may not be unreasonably withheld, Seller may be required to complete and file all necessary documentation in order to effect the passing through of offset credits to MDC as a condition precedent to such approval.

d. Any data to be provided to a foreign source shall be coordinated with MDC in advance to ensure that any necessary export licenses are obtained prior to transfer of such data.

30. SAFETY AND ACCIDENT PREVENTION

In performing work under this Contract on a Government installation, Seller shall (a) conform to the specific safety requirements contained in the Contract, and (b) for those related activities not directly addressed by this Contract, conform to the applicable safety rules prescribed by the Government installation, and (c) take such additional precautions as MDC or the Contracting Officer under MDC's Government contract may reasonably require for safety and accident prevention purposes. Any violation of such rules and requirements, unless promptly corrected as directed by MDC or the Contracting Officer, shall be grounds for termination of this Contract in accordance with the default provisions hereof. MDC may, by written order, direct additional safety and accident standards as may be required under MDC's Government contract and any adjustments resulting from such direction will be in accordance with the provisions of this Contract entitled "Changes."

31. FOREIGN MILITARY SALES

The Seller certifies that the price of this Contract does not include any direct or indirect costs of sales commissions or fees for Seller's sales representatives involved in Foreign Military Sales.

32. ANTI-KICKBACK ACT PROCEDURES

a. If this Contract is placed under a U.S. Government contract or management risk funds, the Contract Clause entitled "Anti-Kickback Act Procedures" set forth in FAR 52.203-7 is made a part of this Contract by reference, with the following modifications: the term "the Contractor" shall mean Seller, and the term "the Contracting Officer" shall mean the contracting officer cognizant of the prime contract under which this Contract was awarded.

b. By its acceptance of this Contract, Seller warrants and represents to MDC that neither Seller nor any immediate or lower-tier subcontractor of Seller nor any person acting on behalf of any of them has engaged in conduct prohibited by Section 3 of the Anti-Kickback Act of 1986 (Public Law 99-634) relating to this Contract or any subcontract or lower tier subcontract under this Contract. Seller shall indemnify, defend and save harmless MDC, its officers, agents and employees, from all losses, costs, fees and damages resulting, directly or indirectly, in whole or in part, from any conduct prohibited as aforesaid in which Seller, any immediate or lower-tier subcontractor of Seller or any person acting on behalf of any of them has engaged or hereafter engages relating to this Contract or any lower-tier subcontract under this Order. MDC shall have the right to withhold from any sums due Seller under this Contract: (1) if so directed pursuant to Section 6 of the aforesaid Act or pursuant to the Anti-Kickback Act Procedures Clause of the prime contract or higher-tier subcontract under which this Contract has been issued by the contracting officer or agency cognizant of the prime contract under which the contract was awarded; or (2) to recoup losses, costs, fees and damages against the incurrence of which Seller has agreed in this Clause to indemnify MDC. For purposes of this Clause, the definitions of the terms "subcontractor", "subcontract" and "person" shall be deemed to be those set forth in Section 2 of said Act.

c. Any report made pursuant to this Clause also shall be made to the Vice President-General Manager, Supplier Component Management, Transport Aircraft.

33. RESTRICTIVE MARKINGS ON SELLER DATA

In the event that Seller data which are supplied to MDC for subsequent delivery to the U.S. Government bear restrictive markings which are not in compliance with the data marking requirements of the U.S. Government contract, Seller shall correct the restrictive markings on the data at Seller's expense.

34. FOREIGN OBJECT DAMAGE/CONTROL

Seller shall establish and maintain systems and procedures necessary to provide a program of foreign object damage/control.

35. INFRINGEMENT INDEMNITY

Seller agrees to indemnify and hold harmless MDC, its customers and users of its products, against any expense, loss or liability for any actual or alleged infringement of any patent, trademark or copyright, arising from or related to the use, sale, manufacture or disposal of the goods furnished to MDC under this Contract. Upon receipt of timely notice of any claim or suit alleging such infringement, Seller agrees to defend MDC, its customers and users of its products, or any of them, at Seller's expense. This Article shall not apply to an infringement of an United States patent if this contract is issued as a lower-tier subcontract under a U.S. Government Contract and MDC's contract with its customer contains FAR 52.227-1, Authorization and Consent.

36. GOVERNMENT CONTRACT REQUIREMENTS

The requirements of this Article 36 shall apply to this Contract if this contract is for Government work and a Government contract number or management risk is noted therein.

(A) The following contract clauses are incorporated by reference from the Federal Acquisition Regulation and apply to the extent indicated. In all of the following clauses, "Contractor" and "Offeror" mean Seller. Unless otherwise provided, the clauses are those in effect as of the date of this contract.

(1) 52.203-6 Restrictions on Subcontractor Sales to the Government.

(2) 52.203-7 Anti-Kickback Procedures (excluding subparagraph (c)(1)). MDC may withhold sums owed Seller the amount of any kickback paid by Seller or its subcontractors at any tier if (a) the Contracting Officer so directs, or (b) the Contracting Officer has offset the amount of such kickback against money owed MDC under the prime contract.

(3) 52.203-10 Price or Fee Adjustment for Illegal or Improper Activity. This clause applies only if this contract exceeds the FAR small purchase limitation. If the Government reduces MDC's price or fee for violations of the Act by Seller or its subcontractors at any tier, MDC may withhold from sums owed Seller the amount of the reduction.

(4) 52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions. This clause applies only if this contract exceeds \$100,000.

(5) 52.203-12 Limitation on Payments to Influence Certain Federal Transactions. This clause applies only if this Contract exceeds \$100,000.

(6) 52.204-2 Security Requirements. "Changes clause" means the changes clause of this contract. This clause applies only if access to classified material is required.

(7) 52.208-1 Required Sources for Jewel Bearings and Related Items.

(8) 52.210-5 New Material. Any notice will be given to MDC rather than the Contracting Officer.

(9) 52.210-7 Used or Reconditioned Material, Residual Inventory and Former Government Surplus Property. The terms "Contracting Officer" and "Government" mean MDC.

- (10) 52.212-8 Defense Priority and Allocation Requirements. This clause is applicable if a priority rating is noted in this contract.
- (11) 52.212-13 Stop Work Order. The terms “Contracting Officer” and “Government” mean MDC.
- (12) 52.215-1 Examination of Records by Comptroller General. This clause applies only if this contract exceeds \$25,000.
- (13) 52.215-2 Audit — Negotiation. This clause applies only if this contract exceeds \$25,000.
- (14) 52.215-26 Integrity of Unit Prices (excluding paragraph (c)).
- (15) 52.215-27 Termination of Defined Benefit Pension Plans. This Clause applies to this contract if it meets the requirements of FAR 15.804-8(e).
- (16) 52.215-39 Reversion or Adjustment of Plans for Postretirement Benefits Other Than Pensions (PRB). This Clause applies to this contract if it meets the requirements of FAR 15.804-8(f).
- (17) 52.219-8 Utilization of Small Business Concerns and Small Disadvantaged Business Concerns.
- (18) 52.219-9 Small Business and Small Disadvantaged Business Subcontracting Plan. In paragraph (c), “Contracting Officer” means MDC. This clause applies only if this contract exceeds \$500,000. and Seller is not a small business concern.
- (19) 52.220-3 Utilization of Labor Surplus Area Concerns. This clause applies only if this contract exceeds \$25,000.
- (20) 52.220-4 Labor Surplus Area Subcontracting Program. This clause applies only if this contract exceeds \$500,000.
- (21) 52.222-1 Notice to Government of Labor Disputes. “Contracting Officer” means MDC.
- (22) 52.222-4 Contract Work Hours and Safety Standards Act — Overtime Compensation. MDC may withhold or recover from Seller the amount of any sums the Contracting Officer withholds or recovers from MDC because of liabilities of Seller or its subcontractors under this clause.
- (23) 52.222-20 Walsh-Healy Public Contracts Act. This clause applies only if this contract exceeds \$10,000.
- (24) 52.222-26 Equal Opportunity (subparagraph (b)(1) through (11)).
- (25) 52.222-35 Affirmative Action for Special Disabled and Vietnam Era Veterans. This clause applies only if this contract exceeds \$10,000.
- (26) 52.222-36 Affirmative Action for Handicapped Workers. This clause applies only if this contract exceeds \$2,500.
- (27) 52.222-37 Employment Reports on Special Disabled Veterans and Veterans of the Viet Nam Era. This clause applies only if this contract exceeds \$10,000.
- (28) 52.223-2 Clean Air and Water. This clause applies only if this contract exceeds \$100,000.
- (29) 52.223-3 Hazardous Material Identification and Material Safety Data. This clause applies only if Seller delivers hazardous material under this contract.
- (30) 52.223-7 Notice of Radioactive Materials. The period for giving the notice is 60 days.
- (31) 52.225-3 Buy American Act — Supplies. This clause does not apply if this contract is placed under a Department of Defense contract.

- (32) 52.225-10 Duty-free Entry. This clause applies only if this contract identifies supplies to be afforded duty-free entry or if foreign supplies in excess of \$10,000 may be imported into the customs territory of the United States.
- (33) 52.225-11 Restrictions on Certain Foreign Purchases.
- (34) 52.227-1 Authorization and Consent.
- (35) 52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement. A copy of each notice sent to the Government will be sent to MDC. This clause applies only if this contract exceeds the FAR small purchase limitation.
- (36) 52.227-10 Filing of Patent Applications — Classified Subject Matter.
- (37) 52.227-11 Patent Rights - Retention by the Contractor (Short Form). This clause only applies if this Contract is for experimental, developmental, or research work and Seller is a small business firm or nonprofit organization.
- (38) 52.227-12 Patent Rights - Retention by the Contractor (Long Form). This clause only applies if this Contract is for experimental, developmental, or research work and Seller is other than a small business firm or nonprofit organization.
- (39) 52.227-14 Rights in Data — General. This clause applies only if data will be produced, furnished or acquired under this contract. This clause does not apply if this contract is placed under a Department of Defense contract.
- (40) 52.227-16 Additional Data Requirements. This clause applies only if this contract involves experimental, developmental, research or demonstration work. This clause does not apply if this contract is placed under a Department of Defense contract.
- (41) 52.245-2 Government Property.
- (42) 52.246-23 Limitation of Liability.
- (43) 52.247-63 Preference for U.S.-Flag Air Carriers.
- (44) 52.247-64 Preference for Privately Owned U.S.-Flag Commercial Vessels. This clause applies only if this contract exceeds \$25,000.
- (45) 52.248-1 Value Engineering (excluding subparagraph (f)). The term "Contracting Officer" means MDC. This clause applies only if this contract is for \$100,000 or more. If Value Engineering Change Proposal is accepted by the Government, Seller's share will be 50% of the instant, concurrent and future contract net acquisition savings and collateral savings that MDC receives from the Government. Seller's negotiated share of the net acquisition savings and collateral savings shall not reduce the Government's share of concurrent or future savings or collateral savings. MDC's payments to Seller under this clause are conditioned upon MDC's receipt of authorization for such payments from the Government.
- (B) DoD Contracts. If this Contract is placed under a Department of Defense Contract, the following contract clauses are incorporated by reference from the Department of Defense Federal Acquisition Regulation Supplement and apply to the extent indicated. In all of the following clauses, "Contractor" and "Offeror" mean Seller except as otherwise noted. Unless otherwise provided, the clauses are those in effect as of the date of this contract.
- (1) 252.203-7001 Special Prohibition on Employment (excluding paragraph (g)). This clause applies only if this contract exceeds the FAR small purchase limitation.
- (2) 252.204-7000 Disclosure of Information. Seller will submit requests for authorization to release through MDC.
- (3) 252.209-7000 Acquisition From Subcontractors Subject to On-site Inspection Under the Intermediate-Range Nuclear Forces Treaty. This clause applies only if this contract exceeds the FAR small purchase limitation and is not for commercial or commercial-type products.

- (4) 252.210-7003 Acquisition Streamlining. This clause applies only if this contract exceeds \$1 million.
- (5) 252.215-7003 Industrial Modernization Incentive Program. This clause applies only if Seller is participating in a Government approved IMIP.
- (6) 252.223-7001 Hazard Warning Labels. This clause applies only if Seller delivers hazardous material under this contract.
- (7) 252.223-7002 Safety Precautions for Ammunition and Explosives. This clause applies only if Seller delivers ammunition or explosives under this contract.
- (8) 252.223-7003 Change in Place of Performance — Ammunition and Explosives. “Contracting Officer” means MDC. This clause applies only if Seller delivers ammunition or explosives under this contract.
- (9) 252.225-7001 Buy American Act and Balance of Payment Program.
- (10) 252.225-7009 Duty-free Entry — Qualifying Country End Products and Supplies.
- (11) 252.225-7010 Duty-free Entry — Additional Provisions. This clause applies in addition to FAR 52.225-10. Additional information referenced in this clause is available on request.
- (12) 252.225-7014 and Alt. 1 Preference for Domestic Specialty Metals.
- (13) 252.225-7022 Restriction on Acquisition of Polyacrylonitrile (PAN) Based Carbon Fiber. “Contracting Officer” means MDC.
- (14) 252.225-7023 Restriction on Acquisition of Carbonyl Iron Powders.
- (15) 252.225-7024 Restriction on Night Vision Intensifier Tubes and Devices.
- (16) 252.225-7025 Foreign Source Restrictions.
- (17) 252.225-7026 Reporting of Contract Performance Outside the United States. This clause applies only if this contract exceeds \$100,000.
- (18) 252.225-7027 Limitation on Sales Commissions and Fees. This clause applies only if this contract is for Foreign Military Sales.
- (19) 252.225-7028 Exclusionary Policies and Practices of Foreign Governments. This clause applies only if this contract is for Foreign Military Sales.
- (20) 252.227-7013 Rights in Technical Data and Computer Software. This clause applies only if the delivery of data is required or if computer software may be originated, developed or delivered under this contract.
- (21) 252.227-7018 Restrictive Markings on Technical Data. This clause applies only if the delivery of data is required or if computer software may be originated, developed or delivered under this contract.
- (22) 252.227-7019 Identification of Restricted Rights Computer Software. This clause applies only if computer software may be originated, developed, or delivered under this contract.
- (23) 252.227-7026 Deferred Delivery of Technical Data or Computer Software. This clause applies only if the delivery of data is required or if computer software may be originated, developed or delivered under this contract.
- (24) 252.227-7027 Deferred Ordering of Technical Data or Computer Software. This clause applies only if technical data or computer software may be generated as part of the performance of this contract.

- (25) 252.227-7030 Technical Data — Withholding of Payment. “Government” and “Contracting Officer” mean MDC. This clause applies only if the delivery of data is required by this contract.
- (26) 252.227-7036 Certification of Technical Data Conformity. This clause applies only if the delivery of data is required by this contract.
- (27) 252.227-7037 Validation of Restrictive Markings on Technical Data. This clause applies only if the delivery of data is required by this contract.
- (28) 252.228-7005 Accident Reporting and Investigation Involving Aircraft, Missiles, and Space Launch Vehicles.
- (29) 252.235-7003 Frequency Authorization. This clause applies only if this contract requires the development, production, construction, testing, or operation of a device for which a radio frequency authorization is required.
- (30) 252.239-7016 Telecommunications Security Equipment, Devices, Techniques and Services. This clause applies only if this contract requires securing telecommunications.
- (31) 252.243-7001 Pricing of Contract Modifications.
- (32) 252.246-7001 Warranty of Data. The warranty period in paragraph (b) is three years from the Government’s acceptance of the final items of data under this contract. “Government” and “Contracting Officer” mean MDC.
- (33) 252.247-7023 Transportation of Supplies by Sea. This clause applies only if this contract exceeds the FAR small purchase limitation.
- (34) 252.247-7024 Notification of Transportation of Supplies by Sea. “Contracting Officer” and, in the first sentence of paragraph (a), “Contractor” mean MDC.
- (35) 252.249-7001 Notification of Substantial Impact on Employment. This clause applies only if this contract is for \$500,000 or more.
- (36) 252.249-7002 Notification of Proposed Program Termination or Reduction. This clause applies only if this contract is for \$500,000 or more.
- (C) NASA Contracts. If this contract is placed under a National Aeronautics and Space Administration contract, the following contract clauses are incorporated by reference from the National Aeronautics and Space Administration Federal Acquisition Regulation Supplement and apply to the extent indicated. In all of the following clauses, “Contractor” means Seller. Unless otherwise provided, the clauses are those in effect as of the date of this contract.
- (1) 18-52.204-70 Report on NASA Subcontracts (excluding paragraph (e)). This clause applies only if this contract exceeds \$50,000.
- (2) 18-52.219-74 Use of Rural Area Small Businesses.
- (3) 18-52.223-70 Safety and Health. This clause applies only if this contract exceeds \$1,000,000 or construction, repairs or alteration in excess of \$25,000 is involved, or it involve the use of hazardous materials or operations.
- (4) 18-52.223-71 Frequency Authorization. This clause applies only if this contract requires the development, production, construction, testing or operation of a device for which a radio frequency authorization is required.
- (5) 18-52.227-14 Rights in Data — General. This clause applies only if data will be produced, furnished or acquired under this contract except contracts for basic or applied research with universities or colleges.
- (6) 18-52.227-70 New Technology. This clause only applies if this Contract is for experimental, developmental, or research work and Seller is other than a small business firm or nonprofit organization.

- (7) 18-52.244-70 Geographic Participation in the Aerospace Program. This clause applies only if this contract is for \$100,000 or more.
- (8) 18-52.245-73 Financial Reporting of Government-Owned/Contractor-Held Property.