



Terms & Conditions:

MODIFICATIONS TO GENERAL TERMS AND CONDITIONS B-1B PRIME CONTRACT F33657-98-C-2000

MD-1870-29 (1 SEP 98) NEW

GOVERNMENT CONTRACT REQUIREMENTS

If Form GP1 is applicable to this procurement, this Attachment constitutes the Government clauses contemplated by Article 29. If Form 70-C-33 (MD-1965-02) is applicable to this procurement, this Attachment constitutes the Government clauses contemplated by Article 30.

1. 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.

52.203-6 Restrictions on Subcontractor Sales to the Government. This clause applies only if this contract exceeds \$100,000.

52.203-7 Anti-Kickback Procedures (excluding subparagraph (c)(1)). Buyer 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 Buyer under the prime contract. This clause applies only if this contract exceeds \$100,000.

52.203-8 Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity. This clause applies to this contract if the Seller, its employees, officers, directors or agents participated personally and substantially in any part of the preparation of a proposal for this contract. The Seller shall indemnify Buyer for any and all losses suffered by the Buyer due to violations of the Act (as set forth in this clause) by Seller or its subcontractors at any tier.

52.203-10 Price or Fee Adjustment for Illegal or Improper Activity. This clause applies only if this contract exceeds

the simplified acquisition threshold. If the Government reduces Buyer's price or fee for violations of the Act by Seller or its subcontractors at any tier, Buyer may withhold from sums owed Seller the amount of the reduction.

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

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

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.

52.211-5 New Material. Any notice will be given to Buyer rather than the Contracting Officer.

52.211-15 Defense Priority and Allocation Requirements. This clause is applicable if a priority rating is noted in this contract.

52.215-2 Audit and Records - Negotiation. This clause applies only if this contract exceeds the simplified acquisition threshold.

52.215-14 Integrity of Unit Prices (excluding subparagraph (b)). This clause applies except for contracts at or below the simplified acquisition threshold (as defined in FAR Part 2; construction or architect-engineer services under FAR Part 36; utility services under FAR Part 41; services where supplies are not required; commercial items; and petroleum products.

52.215-15 Termination of Defined Benefit Pension Plans. This Clause applies to this contract if it meets the requirements of FAR 15.408(g).

52.215-18 Reversion or Adjustment of Plans for Post Retirement Benefits Other Than Pensions (PRB). This Clause applies to this contract if it meets the requirements of FAR 15.408(j).

52.215-21 Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data - Modifications. The term "Contracting Officer" shall mean Buyer's Purchasing Representative.

52.219-8 Utilization of Small, Small Disadvantaged and Woman-Owned Small Business Concerns.

52.222-1 Notice to Government of Labor Disputes. "Contracting Officer" means Buyer.

52.222-20 Walsh-Healy Public Contracts Act. This clause applies only if this contract exceeds \$10,000.

52.222-26 Equal Opportunity (subparagraph (b)(1) through (11)). Subparagraph (b) (1) is changed to read as follows: "The Seller shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. Note: It shall not be a violation of E.O. 11246 for Seller to extend a publicly announced preference in employment to Indians living on or near an Indian reservation in connection with employment opportunities on or near an Indian reservation. See FAR 22.807(b)(4)."

52.222-35 Affirmative Action for Special Disabled and Vietnam Era Veterans. This clause applies only if this contract exceeds \$10,000.

52.222-36 Affirmative Action for Handicapped Workers. This clause applies only if this contract exceeds \$2,500.

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.

52.223-2 Clean Air and Water. This clause applies only if this contract exceeds \$100,000.

52.225-11 Restrictions on Certain Foreign Purchases.

52.227-1 Authorization and Consent.

52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement. A copy of each notice sent to the Government will be sent to Buyer. This clause applies only if this contract exceeds the simplified acquisition threshold.

52.234-1 Industrial Resources Developed Under Defense Production Act Title III.

52.242-15 Stop Work Order. The terms "Contracting Officer" and "Government" mean Buyer.

52-244-6 Subcontracts for Commercial Items and Commercial Components.

52.245-2 Government Property (APR 1984 Version).

52.248-1 Value Engineering (excluding subparagraph (f)). The term "Contracting Officer" means Buyer. 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 Buyer 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. Buyer's payments to Seller under this clause are conditioned upon Buyer's receipt of authorization for such payments from the Government.

2. 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.

252.203-7001 Special Prohibition on Employment (excluding paragraph (g)). This clause applies only if this contract exceeds the FAR Part 13 simplified acquisition threshold and does not apply to the purchase of commercial items or commercial components.

252.204-7000 Disclosure of Information. Seller will submit requests for authorization to release through Buyer.

252.208-7000 Intent to Furnish Precious Metals as Government-Furnished Material. The term "Offeror" shall mean Seller.

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 Part 13 simplified acquisition threshold and does not apply to the purchase of commercial items or commercial components.

252.219-7004 Small, Small Disadvantaged and Woman-Owned Small Business Subcontracting Plan (Test Program).

252.225-7001 Buy American Act and Balance of Payment Program.

252.225-7009 Duty-free Entry — Qualifying Country End Products and Supplies.

252.225-7014 and Alt. 1 Preference for Domestic Specialty Metals.

252.225-7026 Reporting of Contract Performance Outside the United States. This clause applies only if this contract exceeds \$500,000.

252.227-7013 Rights in Technical Data - Noncommercial Items (NOV 1995 Version). This clause applies only if the delivery of data is required for noncommercial items under this contract.

252.227-7014 Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation (JUN 1995 Version). This clause applies only if the delivery of noncommercial computer software or noncommercial computer documentation may be originated, developed or delivered under this contract.

252.227-7019 Validation of Asserted Restrictions - Computer Software (JUN 1995 Version). This clause applies only if computer software may be originated, developed, or delivered under this contract.

252.227-7030 Technical Data — Withholding of Payment (OCT 1988 Version). "Government" and "Contracting Officer" mean Buyer. This clause applies only if the delivery of data is required by this contract.

252.227-7036 Certification of Technical Data Conformity (JAN 1997 Version). This clause applies only if the delivery of data is required by this contract.

252.227-7037 Validation of Restrictive Markings on Technical Data (NOV 1995 Version). This clause applies only if the delivery of data is required by this contract.

252.244-7000 Subcontracts for Commercial Items and Commercial Components (DoD Contracts).

252.245-7001 Reports of Government Property.

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 Buyer.

252.247-7023 Transportation of Supplies by Sea. This clause applies only if this contract exceeds the Simplified Acquisition Threshold in FAR Part 13.

252.247-7024 Notification of Transportation of Supplies by Sea. "Contracting Officer" and, in the first sentence of paragraph (a), "Contractor" mean Buyer. This clause does not apply to the procurement of commercial items or commercial components.

252.249-7002 Notification of Proposed Program Termination or Reduction. This clause applies only if this contract is for \$500,000 or more.

3. If goods or services being procured under this contract are for commercial items and Clause 1086 is set forth in the purchase order, the foregoing Government clauses in Sections 1 and 2 above are deleted and the following FAR and DFARS clauses are inserted in lieu thereof:

52.222-26 Equal Opportunity (subparagraph (b)(1) through (11)).

52.222-35 Affirmative Action for Special Disabled and Vietnam Era Veterans. This clause applies only if this contract exceeds \$10,000.

52.222-36 Affirmative Action for Handicapped Workers. This clause applies only if this contract exceeds \$2,500.

252.225-7014 and Alt. 1 Preference for Domestic Specialty Metals.

4. The following prime contract special provisions apply to this purchase order:

A. PROHIBITION OF SEGREGATED FACILITIES

(a) "Segregated facilities," as used in this provision, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, or national origin because of written or oral policies, or employee custom. The term does not include separate or single-user rest rooms and necessary dressing or sleeping areas, which shall be provided to assure privacy between sexes.

(b) The Seller agrees that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Seller agrees that a breach of this clause is a violation of the Equal Opportunity clause in the contract.

(c) The Seller shall include this clause in every subcontract that contains the clause of this contract entitled "Equal Opportunity".

B. PROGRESS PAYMENTS

If Clause 2404 or 2405 is included in this contract, DFARS 252.232-7004, DoD Progress Payments Rate, November 1993 version, is incorporated herein by this reference. In such Clauses, the term "Contractor" shall mean Seller.

C. NOTIFICATION OF DEBARMENT/SUSPENSION STATUS

Seller shall provide immediate notice to MDC in the event of being suspended, debarred or declared ineligible by any Department or other Federal Agency, or upon receipt of a notice of proposed debarment from any DoD Agency, during the performance of this Contract.

D. USE OF GOVERNMENT SUPPLY SOURCE FOR ACQUISITION OF JAN CLASS S PARTS

(a) Definition.

"JAN Class S parts" as used in this clause means space-quality military standard electronic parts as described in MIL-S-19500 for semiconductors, MIL-M-38510 for microcircuits, and associated specifications for passive electronic parts.

(b) The Seller is authorized and encouraged to acquire JAN Class S parts in FSC 5961 and 5962 as defined on the list* from the Defense Supply Center Columbus (DSCC) using Military Standard Requisitioning and Issue Procedures (MILSTRIP). If the parts are not available from DSCC to meet contractual time requirements or if the Seller intends to acquire the parts from sources other than DSCC, the Seller shall advise the Parts Control Board of the alternate source.

*JAN Class S NSN List. This list will change from time to time. For the most recent version, contact SMC/SDFP, 160 Skynet Street, Suite 2315, El Segundo, CA 90245-4683, (310) 363-2406 or DSN 833-2406.

(c) To use MILSTRIP, the Seller shall obtain a letter of authorization from the acquisition activity which includes the list of parts (including national stock numbers and order quantities) authorized to be ordered through MILSTRIP.

(d) JAN Class S parts obtained from DSCC under this clause shall be considered contractor-furnished material (CFM) since the items are acquired directly by the Seller. The Seller shall retain responsibility for assuring timely delivery of parts to support this contract.

(e) DSCC shall be responsible for reimbursing or replacing any defective part from the operating-stock, provided the defect was not caused by the Seller. Defective DSCC parts shall be reported to DSCC-TE, Dayton, Ohio 45444, (513) 296-8477.

(f) The Seller shall be responsible for rework, repair, retest, and schedule impacts of defective assemblies or systems caused by parts failures, including those caused by JAN Class S parts acquired from DSCC, in the same manner as if the defective material has been acquired from sources other than DSCC. The Government's liability for parts failure shall not exceed the cost of the JAN Class S part and this limitation of liability shall apply in lieu of any other liability provision of this contract.

(g) The Seller shall follow AFM 67-1, Volume 1, MILSTRIP Requisitioning Procedures, as specified by the acquisition activity.

(h) The Seller agrees to include a clause substantially the same as this clause, including this paragraph (h), in every subcontract or purchase order issued in performance of this contract, unless it is known that the item purchased does not contain any electronic parts identified in paragraph (b) above.

(i) The Seller shall from DSCC promptly upon receipt of billings.

(j) The Seller agrees that JAN Class S parts acquired under this clause shall only be used in the performance of this contract.

E. EXPORT-CONTROLLED DATA RESTRICTIONS

(a) For the purpose of this clause,

(1) Foreign person is any person who is not a citizen or national of the U.S. or lawfully admitted to the U.S for permanent residence under the Immigration and Nationality Act, and includes foreign corporations, international organizations, and foreign Governments.

(2) Foreign representative is anyone, regardless of nationality or citizenship, acting as an agent, representative, official, or employee of a foreign government,

a foreign-owned or influenced firm, corporation or person.

(3) Foreign sources are those sources (vendors, subcontracts, and suppliers) owned and controlled by a foreign person.

(b) The Seller shall place a clause in subcontracts containing appropriate export control restrictions, set forth in this clause.

(c) Nothing in this clause waives any requirement imposed by any other U.S. Government agency with respect to employment of foreign nations or export controlled data and information.

(d) Equipment and technical data generated or delivered under this contract are controlled by the International Traffic in Arms Regulation (ITAR), 22 CFR Sections 121 through 128. An export license is required before assigning any foreign source to perform work under this contract or before granting access to foreign persons to any equipment and technical data generated or delivered during performance (see 22 CFR Section 1250). The Seller shall notify the Buyer's purchasing representative and obtain the written approval of such representative prior to assigning or granting access to any work, equipment, or technical data generated or delivered under this contract to foreign persons or their representatives. The notification shall include the name and country of origin of the foreign person or representative, the specific work, equipment, or data to which the person will have access, and whether the foreign person is cleared to have access to technical data (DoD 5220.22-M, National Security Program Operating Manual (NISPOM)).

F. OZONE DEPLETING SUBSTANCES.

The Seller shall notify Buyer's purchasing representative if any Class 1 Ozone Depleting Substances (ODS) are used or anticipated to be used in the design, manufacture, test, operation, or maintenance of any system, subsystem, item, component or process set forth in this contract.