



Mesa Terms & Conditions

General Provisions and FAR, DFARS and NASA Provisions for Government Cost Type Contracts

1. FORMATION OF THE CONTRACT

This Contract purchase order is MDHS's offer to Seller, and acceptance by Seller is expressly limited to the terms of this offer. MDHS objects to any additional terms stated in Seller's acceptance. Acceptance may be by prompt written acknowledgement or by beginning performance.

2. MODIFICATIONS

None of the terms and conditions of this Contract may be contradicted, modified, supplemented, explained, waived or rescinded except as provided in this Contract or in a written agreement signed by both parties. Only a MDHS purchasing representative may sign on behalf of MDHS.

3. INSPECTIONS

(A) Seller will provide and maintain an inspection system acceptable to MDHS 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 MDHS and the Government during contract performance and for three years after final payment.

(B) MDHS and the Government may inspect and test all goods and services under this Contract. Such inspections and tests, to the extent practicable, may occur at all times and places, including the period and place of manufacture or performance, and in any event, before acceptance. MDHS and the Government will perform any inspections and tests in a manner that will not unduly delay the work.

(C) If MDHS or the Government performs an inspection or test on the premises of Seller or its subcontractor, Seller will furnish, and require its subcontractor to furnish, without additional charge, all reasonable facilities and assistance for the safe and convenient performance of these duties. Except as may be otherwise provided in this Contract, MDHS or the Government will bear the expense of inspection or tests made at other than Seller's or Seller's subcontractor's premises; provided, that in case of rejection, MDHS and the Government will not be liable for any reduction in the value of samples inspected or tested.

4. QUALITY CONTROL

Seller will provide and maintain a quality control system acceptable to MDHS and the Government for the goods and services purchased under this Contract and Seller will permit MDHS and the Government to review procedures, practices, processes and related documents to determine such acceptability.

5. DELIVERY

Seller will 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 will immediately notify MDHS in writing of the probable length of any anticipated delay and the reasons for it, and will provide MDHS with a written recovery schedule. Seller will continue to notify MDHS of any material change in the situation. If Seller fails to deliver goods within the delivery schedule, MDHS may require Seller to ship goods, at Seller's expense, by air freight or expedited routing.

6. ACCEPTANCE AND REJECTION

(A) MDHS will accept or give notice of rejection of goods delivered and services performed within ninety (90) calendar days of receipt of goods or completion of services.

(B) Goods

(1) At any time during contract performance, but no later than six (6) months after acceptance of the goods to be delivered under this Contract, MDHS may, at its option, require Seller to replace or correct any nonconforming goods. Except as otherwise provided in paragraph (B) (3) below, the cost of replacement or correction will be included in allowable cost, but no fee will be paid. Seller will not tender for acceptance corrected or rejected goods without disclosing the former rejection or requirement for correction, and, when required, will disclose the corrective action taken.

(2) If Seller fails to proceed with reasonable promptness to perform required replacement or correction, MDHS may - (a) by contract or otherwise, perform the replacement or correction and charge to Seller any increased cost or make an equitable reduction in any fixed fee paid or payable under this Contract; (b) require delivery of undelivered goods at any equitable reduction in any fixed fee paid or payable under this Contract; or (c) cancel this Contract for default.

(3) Notwithstanding paragraphs (1) and (2), MDHS may at any time require Seller to correct or replace, without cost to MDHS, nonconforming supplies if the nonconformities are due to (a) fraud, lack of good faith on the part of Seller's managerial personnel or (b) the conduct of one or more of Seller's employees selected or retained by Seller after any of Seller's managerial personnel has reasonable grounds to believe that the employee is habitually careless or unqualified.

(C) Services

(1) If services do not conform with Contract requirements, MDHS may require Seller to perform the services again in conformity with contract requirements, for no additional fee. When the defects in services cannot be corrected by re-performance, MDHS may (a) require Seller to take necessary action to ensure that future performance conforms to contract requirements; and (b) reduce any fee payable under the Contract to reflect the reduced value of the services performed.

(2) If Seller fails to promptly perform the services again or to take the action necessary to ensure future performance in conformity with contract requirements, MDHS may (a) by Contract or otherwise, perform the services and reduce any fee payable by an amount that is equitable under the circumstances or (b) cancel this Contract for default.

(D) This Article applies to corrected or replacement goods or services in the same manner as to goods or services originally delivered or performed.

7. DAMAGES

MDHS may deduct from the price due under this or any other Contract all or any part of any damages resulting from any breach of this Contract, including damages incurred as a result of late delivery, rework, return, removal, replacement, correction, reinstallation, or rejection of nonconforming goods or services. MDHS will not deduct damages pursuant to this paragraph before (i) notifying Seller of MDHS's intent to do so and (ii) providing Seller with documentation reasonably supporting the amount of the deduction.

8. WARRANTY

(A) Goods. Seller warrants that all goods furnished under this Contract will be free from defects, will conform with all requirements of this Contract, and, to the extent not manufactured pursuant to designs furnished by MDHS, will be free from defects in design. Any goods corrected or replaced will be covered by this warranty. Seller agrees to immediately notify MDHS upon becoming aware of a potential problem with product previously delivered to MDHS. Such notification shall include a recommended course of action.

(B) Services. Seller warrants that all services performed under this Contract will be free from defects and will conform to the requirements of the Contract. Any services corrected or reperfomed will be covered by this warranty.

(C) If Seller breaches this warranty, MDHS may, at no increase in Contract price -- (i) Require Seller to promptly repair or replace, at Seller's election, defective or nonconforming goods; (ii) Require Seller to promptly furnish materials or parts and installation instructions required to successfully accomplish the correction of defective or nonconforming goods, and equitably reduce the contract price to account for the cost of removal and installation; (iii) Require Seller to promptly redesign defective or nonconforming goods not manufactured pursuant to designs furnished by MDHS and require Seller to promptly repair or replace goods manufactured in accordance with such defective design; (iv) Require Seller to promptly Correct or reperform, at Seller's election, defective or nonconforming services; or (v) Equitably reduce the Contract price.

(D) Notwithstanding any disagreement regarding the existence of a breach of this warranty, Seller will comply with MDHS's direction to (i) repair or replace, at the Seller's election, the goods or (ii) furnish materials or parts and installation instructions required to successfully repair the goods. If it is later determined that Seller did not breach this warranty, the contract price will be equitably adjusted.

9. CHANGES

(A) MDHS may at any time, by written order signed by its authorized purchasing representative, and without notice to sureties, if any, make changes within the general scope of this Contract in any one or more of the following: (1) drawings, designs, or specifications; (2) method of shipment or packing; (3) place of delivery; (4) description of services to be performed; (5) time of performance of services (i.e., hours of the day, days of the week, etc.); or (6) place of performance of services.

(B) If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the work under this Contract, whether or not changed by the Contractor, or otherwise affects any other terms and conditions of this Contract, MDHS will make an equitable adjustment in the (i) estimated cost, delivery or completion schedule, or both; (ii) amount of any fixed fee; and (iii) other affected terms, and the parties will modify the contract in writing.

(C) Unless otherwise agreed in writing, Seller must assert its claim for adjustment under this clause within thirty (30) calendar days from the date of receipt of the written change order.

(D) Notwithstanding any dispute under this Article, Seller will proceed with performance of the Contract as changed.

(E) Notwithstanding the terms of this Article, the estimated cost and, if this Contract is incrementally funded, the funds allotted for the performance of this Contract, will not be increased or considered to be increased except by specific written notification by an authorized purchasing representative of MDHS indicating the new estimated cost and, if this Contract is incrementally funded, the new amount allotted to the Contract. Until this notification is given, Seller may decline to incur costs in excess of estimated cost or allotted funds.

10. LIMITATIONS OF COST

(A) The parties estimate that performance of this Contract, exclusive of any fee, will not cost MDHS more than the estimated cost specified in the Contract. Seller will use its best efforts to perform its obligations under this Contract within the estimated cost.

(B) If Seller has reason to believe that, within the next sixty (60) calendar days, incurred costs will exceed 75 percent (75%) of the estimated cost, Seller will notify MDHS in writing.

(C) If Seller has reason to believe that the total cost to perform this Contract, exclusive of any fee, will be either greater or substantially less than the estimated cost, Seller will notify MDHS in writing. In its notification, Seller will provide MDHS with a revised projection of the total cost of performing this Contract.

(D) MDHS will not reimburse Seller for costs incurred in excess of the estimated cost; and Seller may discontinue performance of this Contract or otherwise decline to incur costs in excess of the estimated cost until MDHS (1) notifies Seller in writing that the estimated cost has been increased and (2) revises the contract to reflect a revised estimated total cost of performing the Contract.

(E) If the estimated cost is increased, any costs Seller incurs before the increase in excess of the previously estimated cost will be allowable to the same extent as if incurred afterward, unless MDHS directs in its notice that the increase is solely to cover termination or other specified expenses.

(F) Change orders will not be considered an authorization to exceed the estimated cost to MDHS, unless they contain a statement increasing the estimated cost.

11. INVOICE AND PAYMENT

(A) For each shipment of goods or completed item of services, Seller will submit an original invoice marked "original" and one copy marked "copy" to the appropriate MDHS Accounts Payable Department. Taxes, if any, must be separately itemized. ContractPurchase Order number and line item number must appear on all invoices, shipping documents, quality certificates, and packing sheets.

(B) Determination of payment due date, whether under net or discount terms, will be based on the latest of (i) the date goods are received or services performed; (ii) the date provided in this Contract for receipt of goods or completion of services; or (iii) the date an accurate invoice is received.

(C) Payment of fee will be made in monthly installments based upon the percentage of completion of this Contract, as determined by MDHS. Payment will be deemed to have been made when deposited in the mail.

(D) Except as provided in this Article, payment will be made in accordance with the following clauses of the Federal Acquisition Regulation ("FAR") in effect on the date of this Contract, which are incorporated by reference. In each of the following clauses, "Contractor" means Seller, "Contracting Officer" and "Government" mean MDHS, and "Disputes Clause" means the Disputes Clause of this Contract.

(1) FAR 52.216–7 Allowable Cost and Payment.

(2) FAR 52.216–8 Fixed Fee, if this is a cost-plus-fixed fee contract.

(3) FAR 52.216–10 Incentive Fee, if this is a cost-plus-incentive fee contract.

(4) FAR 52.216–11 Cost Contract - No Fee, if this is a cost contract with no fee.

(5) FAR 52.216–12 Cost Sharing Contract - No Fee, if this is a cost sharing contract with no fee.

12. AUDIT

(A) Until three years after final payment, Seller will maintain, and MDHS will have the right to examine and audit, books, records, documents, and accounting procedures and practices sufficient to reflect properly all direct and indirect costs of whatever nature claimed to have been incurred and anticipated to be incurred for the performance of this Contract.

(B) Before making each payment under this Contract, MDHS may require Seller to submit vouchers, receipts, payroll information and labor and material releases.

13. TITLE

The Government will have title to (i) all work under this Contract, completed or in the course of manufacture or assembly in Seller's plant; and (ii) all Seller-purchased material, parts, assemblies, tools, machinery, equipment and supplies (collectively "Seller-purchased material") for which Seller is entitled to reimbursement under this Contract.

14. TERMINATION

(A) MDHS may terminate performance of work under this Contract in whole or, from time to time, in part in accordance with FAR 52.249–6 Termination (Cost Reimbursement), in effect on the date of this Contract, which clause is incorporated by reference, except for paragraphs (d) and (i). "Contractor" means Seller, and "Government" and "Contracting Officer" mean MDHS. The period for submitting Seller's termination settlement proposal is reduced to six months, and Seller will not be obligated to pay interest in excess of the maximum rate allowed by law.

(B) Unless prohibited by law, MDHS may cancel this Contract in whole or in part without liability in the event of Seller's suspension of business, insolvency, institution of bankruptcy or 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 its creditors.

15.MDHS PROPERTY

Seller will clearly mark, maintain an inventory of, and keep segregated or identifiable all MDHS property and all property to which MDHS acquires an interest by virtue of this Contract. Seller assumes all risk of loss, destruction or damage to such property while in Seller's possession, custody or control, and will not use such property other than in performance of this Contract without MDHS's written consent. Seller will notify MDHS if MDHS property is lost, damaged or destroyed. As directed by MDHS, upon completion, termination, or cancellation of this Contract, Seller will deliver such property, to the extent not incorporated in delivered end products, to MDHS 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.

16.SELLER'S NONDISCLOSURE

Seller shall not, without the written consent of MDHS, either during or after the performance of the work required hereunder, use, other than for such performance, or disclose to any person other than a duly authorized representative of MDHS any information, data, material or exhibit created, developed, produced or otherwise obtained in the course of the work required hereunder, or any information contained in reports, drawings, documents or other records furnished to Seller by MDHS. Seller further agrees that it will not divulge any matter, the disclosure of which would be detrimental to the interests of MDHS as determined by MDHS. Nothing contained herein shall prevent Seller from making proper use of its experience gained in the performance of the work required hereunder. The restrictions of this provision shall not apply to information in the prior possession of Seller or to information acquired by Seller from a source other than MDHS that has the right to disclose such information to Seller, and which Seller, in turn, has the right to disclose, nor shall it limit any rights the Government may have in such information.

17.DELEGATION AND SUBCONTRACTING

Without MDHS's written consent, Seller will not delegate any duty of performance, or subcontract for the design, development or procurement of any substantial portion of goods or services under this Contract. This clause does not limit Seller's purchases of standard commercial supplies or raw materials.

18.DISPUTES

(A) Any dispute which arises under or is related to this contract and which relates to a matter that gives MDHS recourse against the Government under the prime contract or applicable law may be resolved, at MDHS's option, in accordance with the Disputes clause of the prime contract as follows: (i) Seller will give MDHS a fully supported written claim concerning any such dispute within one year after the claim accrues, but in no event later than final payment under this contract, or be barred from any remedy for such claim. (ii) Seller will cooperate fully with MDHS in prosecuting any such dispute and will be bound by the outcome unless (a) MDHS does not afford Seller an opportunity to participate in the conduct of the dispute; (b) without Seller's written consent, MDHS settles or takes other action to prejudice Seller's rights in the dispute; or (c) MDHS, having decided to discontinue its own prosecution of the dispute, does not afford Seller an opportunity to continue to prosecute the dispute in MDHS'S name. MDHS and Seller will bear their own costs of prosecuting any such dispute. (iii) If MDHS elects not to proceed in accordance with this paragraph, the dispute will be decided in accordance with paragraph (B). (iv) Nothing in this contract grants Seller a direct right of action under the Disputes clause of the prime contract. Pending the final resolution of any dispute involving this Contract, Seller agrees to proceed with performance of this Contract, including the delivery of goods, in accordance with MDHS's instructions. Seller shall submit to MDHS's authorized Purchasing Representative, a written demand for MDHS's final decision regarding the disposition of any dispute between the parties relating to this Contract, unless MDHS, on its own initiative, has already rendered such a final decision. Any MDHS final decision shall be expressly identified as such, shall be in writing, and shall be signed by MDHS's authorized Purchasing Representative, except that MDHS's failure to render a final decision within

ninety (90) calendar days after receipt of Seller's demand shall be deemed a final decision adverse to Seller's contentions.

(B) Any other dispute that arises under or is related to this contract will be decided by a court of competent jurisdiction. MDHS'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 within one (1) year following the accrual of the cause of action, whichever is later.

(C) Pending final resolution of any dispute arising under or related to this contract, Seller will proceed with performance of this contract in accordance with MDHS's instructions. Seller shall cooperate fully with MDHS in seeking a resolution of any dispute involving this Contract under the disputes procedure set forth in any applicable Government prime or higher-tier contract. If MDHS elects to follow such procedures, Seller shall be bound by the final outcome of the disputes procedure if:

(1) MDHS has afforded Seller an opportunity to participate in MDHS's conduct of the dispute; or

(2) MDHS, having decided to discontinue its own processing of the dispute has afforded Seller an opportunity to take over such processing completely; provided however, that Seller agrees to inform and notify MDHS as to status and outcome of the dispute processing.

(D) MDHS and Seller shall each bear its own costs of processing any dispute hereunder.

19. APPLICABLE LAW

This Contract will be governed by and construed in accordance with the law of the state in which the MDHS Purchasing Department placing this Contract is located, with no consideration given to that state's conflict of laws rules, regardless of the places of execution or performance of this Contract.

20. RIGHTS AND REMEDIES

The rights and remedies of the parties set forth in this Contract are cumulative and in addition to any other rights or remedies that they may have at law or in equity.

21. COMPLIANCE WITH STATUTES AND REGULATIONS

Seller will comply with all applicable statutes and government rules, regulations, and orders.

22. PRECEDENCE

If the various parts of this Contract are inconsistent, the following order of precedence will apply: (1) special terms and conditions; (2) the terms and conditions in these General Provisions; (3) specifications; (4) all other attachments incorporated in this Contract by reference.

23. FAR, DFARS, AND NASA PROVISIONS FOR GOVERNMENT COST TYPE CONTRACTS

(A) The following contract clauses are incorporated by reference from the Federal Acquisition Regulation and apply to the extent indicated. The following contract clauses are incorporated by reference from the Federal Acquisition Regulation (FAR) and apply to the extent indicated. In addition, all FAR clauses required by the U.S. Government by statute, regulation or otherwise to be flowed down to Seller are hereby incorporated into this Contract by this reference, whether or not they are explicitly referenced in this Article 23. In all of the following clauses, "Contractor" and "Offeror" mean Seller, and "Government" and "Contracting Officer" mean MDHS and/or Government. 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)). MDHS may withhold from 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 MDHS 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 MDHS's price or fee for violations of the Act by Seller or its subcontractors at any tier, MDHS 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. The notice referenced to in subparagraph (d) shall be made to MDHS.
- (8) 52.210–5 New Material. Any notice will be given to MDHS rather than the Contracting Officer.
- (9) 52.210–7 Used or Recondition Material, Residual Inventory, and Former Government Surplus Property. "Contracting Officer" means MDHS.
- (10) 52.212–8 Defense Priority and Allocation Requirements.
- (11) 52.212–13 Stop–Work Order. "Contracting Officer" and "Government" mean MDHS.
- (12) 52.215–1 Examination of Records by Comptroller General. This clause applies only if this Contract exceeds \$10,000.
- (13) 52.215–2 Audit - Negotiation. This clause applies only if this Contract exceeds \$10,000\$25,000.
- (14) 52.215–26 Integrity of Unit Prices (excluding paragraph (c)).
- (15) 52.219–8 Utilization of Small Business Concerns and Small Disadvantaged Business Concerns.
- (16) 52.219–9 Small Business and Small Disadvantaged Business Subcontracting Plan. In paragraph (c), "Contracting Officer" means MDHS. This clause applies only if this Contract exceeds \$500,000 and Seller is not a small business concern.
- (17) 52.220–3 Utilization of Labor Surplus Area Concerns. Applicable if this Contract is for more than \$25,000 or is expected to exceed \$25,000 and is not for personal services.
- (18) 52.220–4 Labor Surplus Area Subcontracting Program. This clause applies only if this Contract exceeds \$500,000.
- (19) 52.222–1 Notice to the Government of Labor Disputes. "Contracting Officer" means MDHS.
- (20) 52.222–4 Contract Work Hours and Safety Standards Act - Overtime Compensation. MDHS may withhold or recover from Seller the amount of any sums the Contracting Officer withholds or recovers from MDHS because of liabilities of Seller or its subcontractors under this clause. Applicable if this Contract is for \$2,500 or more.
- (21) 52.222–20 Walsh–Healey Public Contracts Act. This clause applies only if this Contract exceeds \$10,000.
- (22) 52.222–26 Equal Opportunity (subparagraph (b)(1) through (11)).
- (23) 52.222–35 Affirmative Action for Special Disabled and Vietnam Era Veterans. This clause applies only if this Contract is for \$10,000 or more.
- (24) 52.222–36 Affirmative Action for Handicapped Workers. This clause applies only if this Contract exceeds \$2,500\$10,000.

(25) 52.222–37 Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era. This clause applies only if this Contract is for \$10,000\$25,000 or more. Alternate I applies if prime contract is awarded by an agency other than DoD.

(26) 52.223–2 Clean Air and Water. This clause applies only if this Contract exceeds \$100,000.

(27) 52.223–3 Hazardous Material Identification and Material Safety Data. This clause applies only if Seller

and Alt. I delivers hazardous material under this Contract.

(28) 52.223–7 Notice of Radioactive Materials. The period for giving notice is 60 days.

(29) 52.225–3 Buy American Act - Supplies. This clause does not apply if this Contract is placed under a Department of Defense contract.

(30) 52.225–10 Duty–Free Entry. This clause applies only if supplies are to be afforded duty–free entry or foreign supplies in excess of \$10,000 may be imported into the customers territory of the United States.

(31) 52.225–11 Restrictions on Certain Foreign Purchases.

(32) 52.227–1 Authorization and Consent. Applicable if this Contract exceeds \$25,000.

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(33) 52.227–2 Notice and Assistance Regarding Patent and Copyright Infringement. A copy of each notice sent to the Government will be sent to MDHS. This clause applies only if this Contract exceeds the FAR small purchase limitation.

(34) 52.227–10 Filing of Patent Applications - Classified Subject Matter.

(35) 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.

(36) 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.

(37) 52.228–5 Insurance - Work on a Government Installation.

(38) 52.232–17 Interest. The parenthetical phrase "(net of any applicable tax credit under the Internal Revenue Code (26 U.S.C. 1481))" is deleted from the first sentence. Paragraph (c) is deleted.

(39) 52.333–3 Protest after Award.

(40) 52.245–2 Government Property. "The language 'Special tooling accountable to the contract is subject to the provisions of the special tooling clause and is not subject to the provisions of this clause' in 52.245–2, Paragraph (c)(2), is waived for a period of one year ending October 1994 or until the FAR is revised, whichever comes first."

(41) 52.245–17 Special Tooling.

(42) 52.245–18 Special Test Equipment.

(43) 52.246–23 Limitation of Liability.

(44) 52.247–63 Preference for U.S.–Flag Air Carriers. This clause applies only if this Contract exceeds \$25,000.

(45) 52.247–64 Preference for Privately Owned U.S.–Flag Commercial Vessels. This clause applies only if this Contract exceeds \$25,000.

(46) 52.248–1 Value Engineering (excluding paragraph (f) and substitute the following clause (applicable if this Contract exceeds \$100,000)):

Sharing rates. If a Value Engineering Change Proposal (VECP) is accepted by the Government, Seller the subcontractor shall share in the instant, concurrent, and future contract net acquisition savings, and collateral savings as negotiated with McDonnell Douglas Helicopter Systems (MDHS). The subcontractors negotiated share of net acquisition savings or collateral savings shall not reduce the Governments share of concurrent or future contract savings or collateral savings. The value engineering clause is applicable to Purchase Orders Contracts of \$100,000 or more.

(47) 52.249–6 Termination (Cost Reimbursement).

52.249–14 Excusable Delays. "Contracting Officer" and "Government" mean MDHS.

(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. The following contract clauses are incorporated by reference from the Department of Defense (DoD) Federal Acquisition Regulation Supplement (DFARS) and apply to contracts placed by MDHS in connection with DoD contracts to the extent indicated. In addition, all DFARS clauses required by the U.S. Government by statute, regulation or otherwise to be flowed down to Seller are hereby incorporated into this Contract by this reference, whether or not they are explicitly referenced in this Article 23. In all of the following clauses, "Contractor" and "Offeror" mean Seller, and "Government" and "Contracting Officer" mean MDHS and/or Government. 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 MDHS.

(3) 252.208–7000 Intent to Furnish Precious Metals or Government–Furnished Material.

(4) 252.209–7000 Acquisition From Subcontractors Subject to On–site Inspection under the Intermediate–Range Nuclear Forces (INF) Treaty. This clause applies only if this Contract exceeds the FAR small purchase limitation and is not for commercial or commercial–type products.

(5) 252.210–7003 Acquisition Streamlining. This clause applies only if this Contract exceeds \$1 million.

(6) 252.215–7003 Industrial Modernization Incentive Program. This clause applies only if Seller is participating in a Government approved IMIP.

(7) 252.219–7003 Small Business and Small Disadvantaged Business Subcontracting Plan.

(8) 252.223–7001 Hazard Warning Labels. This clause applies only if Seller delivers hazardous material under this Contract.

(9) 252.223–7002 Safety Precautions for Ammunition and Explosives. This clause applies only if Seller delivers ammunition or explosives under this Contract.

(10) 252.223–7003 Change in Place of Performance - Ammunition and Explosives. "Contracting Officer" means MDHS. This clause applies only if Seller delivers ammunition or explosives under this Contract.

(11) 252.223–7005 Hazardous Waste Liability and Indemnification.

(12) 252.225–7001 Buy American Act and Balance of Payments Program.

(13) 252.225–7002 Qualifying Country Sources as Subcontractors.

(14) 252.225–7009 Duty–Free Entry - Qualifying Country End Products and Supplies. Seller shall provide MDHS with copies of all notices sent to the Government under this clause. Upon request from

Seller, MDHS will provide the information required under paragraphs (e) and (h).

(15) 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.

(16) 252.225–7011 Certificate and Agreement by Sellers Currently Providing Petroleum Products in Angola.

(17) 252.225–7014 Preference for Domestic Specialty Metals. Applicable to contracts exceeding \$25,000.

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(18) 252.225–7022 Restriction on Acquisition of Polyacrylonitrile (PAN) Based Carbon Fiber. "Contracting Officer" means MDHS.

(19) 252.225–7023 Restriction on Acquisition of Carbonyl Iron Powders.

(20) 252.225–7024 Restriction on Acquisition of Night Vision Image Intensifier Tubes and Devices.

(21) 252.225–7025 Foreign Source Restrictions. Applicable unless the supplies purchased hereunder contain none of the restrictive items identified in DFARS 52.225–7102.

(22) 252.225–7026 Reporting of Overseas Subcontracts. This clause applies only if this Contract exceeds \$100,000, unless this Contract is for a commercial item as defined in DFAR 52.211–7001..

(23) 252.225–7027 Limitation on Sales Commissions and Fees. This clause applies only if this Contract is for Foreign Military Sales.

(24) 252.225–7028 Exclusionary Policies and Practices of Foreign Governments. This clause applies only if this Contract is for Foreign Military Sales.

(25) 252.225–7032 Waiver of United Kingdom Levies. Applicable to contracts with U.K. firms that exceed \$1 million.

(26) 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.

(27) 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.

(28) 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.

(29) 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.

(30) 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.

(31) 252.227–7029 Identification of Technical Data.

(32) 252.227–7030 Technical Data - Withholding of Payment. "Government" and "Contracting Officer" means MDHS. This clause applies only if the delivery of data is required by this Contract.

(33) 252.227–7037 Validation of Restrictive Markings on Technical Data. This clause applies only if the delivery of data is required by this Contract.

(34) 252.228–7005 Accident Reporting and Investigation Involving Aircraft, Missiles, and Space Launch Vehicles.

(35) 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.

(36) 252.239–7016 Telecommunications Security Equipment, Devices, Techniques and Services. This clause applies only if this Contract requires securing telecommunications.

(37) 252.243–7001 Pricing of Contract Modifications.

(38) 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 MDHS.

(39) 252.247–7023 Transportation of Supplies by Sea. The clause applies only if this Contract exceeds the FAR small purchase limitation.

(40) 252.247–7024 Notification of Transportation of Supplies by Sea. "Contracting Officer" and, in the first sentence of Paragraph (a), "Contractor" mean MDHS.

(41) 252.249–7001 Notification of Substantial Impact on Employment. 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. The following contract clauses are incorporated by reference from the National Aeronautics and Space Administration (NASA) Federal Acquisition Regulation Supplement and apply to contracts placed by MDHS in connection with NASA contracts to the extent indicated. In addition, all NASA FAR Supplement clauses required by the U.S. Government by statute, regulation or otherwise to be flowed down to Seller are hereby incorporated into this Contract by this reference, whether or not they are explicitly referenced in this Article 23. In all of the following clauses, "Contractor" and "Offeror" mean Seller and "Government" and "Contracting Officer" mean MDHS and/or Government. Unless otherwise provided, the clauses are those in effect as of the date of this Contract.

(1) 1852.204–70 Report on NASA Subcontracts (excluding paragraph (e)). This clause applies only if this Contract exceeds \$50,000.

(2) 1852.219–14 Use of Rural Area Small Businesses.

(3) 1852.223–70 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 involves the use of hazardous materials or operations.

(4) 1852.223–71 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) 1852.223–72 Potentially Hazards Items.

(6) 1852.227–14 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.

(7) 1852.227–70 New Technology.

(8) 1852.227–72 Designation of New Technology Representative and Patent Representative.

(9) 1852.244–70 Geographic Participation in the Aerospace Program. This clause applies only if this Contract is for \$100,000 or more.

(10) 1852.245–73 Financial Reporting of Government–Owned/Contractor–Held Property.

(11) 1852.252–70 Compliance with NASA FAR Supplement.

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