

TAXES—FIXED PRICE (11-96)

FEDERAL, STATE, AND LOCAL TAXES

(a) Definitions. As used throughout this clause, the following terms shall have the meaning set forth below:

(1) The term "direct tax" means any tax or duty directly applicable to the completed supplies or services covered by this subcontract, or any other tax or duty from which the Seller or this transaction is exempt. It includes any tax or duty directly applicable to the importation, production, processing, manufacture, construction, sale, or use of such supplies or services; it also includes any tax levied on, with respect to, or measured by sales, receipt from sales, or use of the supplies or services covered by this subcontract. The term does not include transportation taxes, unemployment compensation taxes, social security taxes, income taxes, excess-profits taxes, capital stock taxes, property taxes, and such other taxes as are not within the definition of the term "direct tax" as set forth above in this paragraph.

(2) The term "subcontract date" means the effective date of this subcontract if it is a negotiated subcontract, or the date set for the opening of bids if it is a subcontract entered into as a result of formal advertising.

(b) Federal Taxes. Except as may be otherwise provided in this subcontract, the subcontract price includes all applicable Federal taxes in effect on the subcontract date.

(c) State or Local Taxes. Except as may be otherwise provided in this subcontract, the subcontract price does not include any State or local direct tax in effect on the subcontract date.

(d) Evidence of Exemption. The Company agrees, upon request of the Seller, to furnish a tax exemption certificate or other similar evidence of exemption with respect to any direct tax not included in the subcontract price pursuant to this clause; and the Seller agrees, in the event of the refusal of the applicable taxing authority to accept such evidence of exemption, (1) promptly to notify the Company of such refusal, (2) to cause the tax in question to be paid in such manner as to preserve all rights to refund thereof, and (3) if so directed by the Company to take all necessary action, in cooperation with and for the benefit of the Government, to secure a refund of such tax (in which event the Company agrees to reimburse the Seller for any and all reasonable expenses incurred at its direction).

(e) Price Adjustment. If, after the subcontract date, the Federal Government or any State or local Government either (1) imposes or increases (or removes an exemption with respect to) any direct tax, or any tax directly applicable to the materials or components used in the manufacture or furnishing of the completed supplies or services covered by this subcontract, or (2) refuses to accept the evidence of exemption, furnished under paragraph (d), hereof, with respect to any direct tax excluded from the subcontract price, and if under either (1) or (2) the Seller is obliged to and does pay or bear the burden of any such tax (and does not secure a refund thereof), the subcontract price shall be correspondingly increased. If, after the subcontract date, the Seller is relieved in whole or in part from the payment or the burden of any direct tax included in the subcontract price, or any tax directly applicable to the materials or components used in the manufacture or furnishing of the completed supplies or services covered by this subcontract, the Seller agrees promptly to notify the Company of such relief, and the subcontract price shall be correspondingly decreased or the amount of such relief paid over to the Company for the benefit of the Government. Invoices or vouchers covering any increase or decrease in the subcontract price pursuant to the provisions of this paragraph shall state the amount thereof, as a separate added or deducted item, and shall identify the particular tax imposed, increased, eliminated, or decreased.

(f) Refund or Drawback. If any tax or duty has been included in the subcontract price or the price as adjusted under paragraph (e) of this clause, and if the Seller is entitled to a refund or drawback by reason of the export or reexport of supplies covered by this subcontract, or of materials or components used in the manufacture or furnishing of the completed supplies or services covered by this subcontract, the Seller agrees that he will promptly notify the Company thereof and that the amount of any such refund or drawback obtained will be paid over to the Company for the benefit of the Government or credited against amounts due from the Company under this subcontract: Provided, however, That the Seller shall not be required to apply for such refund or drawback unless so requested by the Company.