

confirms contractor-caused nonconformances, acceptance of the items, or the lots or shipments of which they are representative, shall be rescinded, and the contractor shall be obligated to provide such remedies to the Government as are set forth in (e), below.

(3) The contractor shall make note of the existence of this clause, and all rights and remedies afforded to the Government thereby, on all shipping documents for items delivered under this contract.

(4) The contractor shall be expected to quote two separate prices for the supplies furnished under this contract: one for the items without reference to this coverage, and another reflecting the price increase (if any) that is a consequence of this clause's inclusion.

(d) *Notification.* The contracting officer shall give written notification to the contractor of any nonconformance within one year after delivery of the nonconforming items.

(e) *Remedies.* With respect to each item or lot in which a nonconformance is discovered and confirmed, the contracting officer shall require the prompt repair or replacement of the item or lot. If this remedy is impractical under the particular circumstances, the contracting officer shall retain the item or lot and require, in lieu of repair or replacement, monetary restitution in the form of a decrease in contract price on any remaining open contract(s) with the contractor, or refund of the price of the nonconforming items or lots, at the election of the contracting officer.

(f) *Transportation costs.* The contractor shall bear the cost of transportation of items for return, replacement, or correction from the place of delivery specified in the contract

to the contractor's plant. Any additional transportation costs (e.g., shipment from other than the original delivery site) shall be borne by the Government. Responsibility for supplies while in transit remains with the contractor.

(g) *Contractor's failure to remedy.* The contracting officer may, by contract or otherwise, correct or replace the nonconforming supplies with similar supplies and charge to the contractor the cost occasioned thereby if the contractor: (1) fails to make redelivery of the corrected or replaced supplies within the time established for their return; or (2) fails either to accept return of the nonconforming supplies or fails to make progress after their return; or (3) fails to make restitution for same.

(h) *Timeframe for correction, repair, replacement, or reimbursement.* Unless otherwise set forth in this contract, the contractor shall have 90 days from the date of notification of the defect or return of the items/lots, whichever is later, within which to effect the required restitution.

(i) *Continuing liability.* Any supplies or parts thereof, corrected or furnished in replacement under this clause, shall also be subject to the terms of this clause to the same extent as supplies initially delivered. The period during which the Government can require correction of these defective replacements shall also be one year from the date of delivery thereof.

(j) *Government property.* Items accepted by the Government and subsequently returned to the contractor under the terms of this clause remain the property of the Government. Disposal and replacement of these items are subject to the terms and

conditions of the Government property clause(s) set forth elsewhere in this contract.

(k) *Disposition instructions from contractor.* When the Government elects the equitable adjustment remedy, in lieu of correction or replacement, the contractor shall provide disposition instructions for the nonconforming items within 60 days of notification thereof.

(l) *Contract closeout.* Notwithstanding the contract closeout timeframes established for contracts of this type, and notwithstanding the fact that final payment has already been effected, this contract shall remain open solely for purposes of enforcement of this clause for one year subsequent to Government acceptance of the items, lots, or shipments delivered under this contract.

(m) *Rights and remedies: scope.* The rights and remedies of the Government provided in this clause are in addition to and do not limit any rights afforded to the Government by any other clause of this contract.

(n) *Price consequences.* As stated in (c)(4), above, you must indicate the amount, if any, by which the item price you have quoted is affected by, or raised in response to, inclusion of this clause. You should express any such change by means of a second quoted price for the items that takes this coverage into account.

[End of clause]

Dated: June 30, 1995.

Margaret J. Janes,

Assistant Executive Director (Procurement Policy).

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