

# SECTION 16

## SPECIAL PROVISIONS (SP's)

"Subject" headings and/or titles herein are solely for the convenience of reference and shall not have any effect upon its interpretation. Should any document in the contract refer to POSP (Purchase Order Special Provision) it shall mean "SP".

### SP SECTION 0100 - SPECIAL NOTES

#### SP 0100

SUBJECT: Order of Precedence. Precedence.

**SPECIAL PROVISION TEXT:**

- (A) In the event of any inconsistency between or among the provisions, articles, attachments, or specifications that constitute this Contract, the following order of precedence shall apply:
- (1) The Purchase Order,
  - (2) All Special Provisions, including any attachments referenced or incorporated by those Special Provisions;
  - (3) The General Provisions (the Boeing-Mesa Terms and Conditions of Purchase);
  - (4) The specifications;
  - (5) All other attachments incorporated in this contract by reference.
- (B) Boeing-Mesa'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 Boeing-Mesa's Purchasing Representative.

#### SP 0101

SUBJECT: Assignment. Transfer of PO.

**SPECIAL PROVISION TEXT:**

Boeing-Mesa reserves the right to transfer or assign this Purchase Order to its successors, assigns or purchasers.

#### SP 0102 (SP 0102 Canceled Effective 10 June 2002.)

SUBJECT: Diminishing Manufacturing Sources (DMS). Obsolescence.

**SPECIAL PROVISION TEXT:**

Diminishing Manufacturing Sources (DMS)

Upon determination, by the Seller, that a process/component required in the delivery of the end item(s) ordered hereunder is unavailable during the performance of this purchase order due to obsolescence/diminishing sources, the Seller shall notify the Buyer of this condition. Upon written request, the Seller shall provide the Buyer with satisfactory evidence that a prudent effort was made to obtain the affected parts or has initiated preliminary investigation of alternate parts (i.e. parts that are technically and physically compatible with hardware design.)

Within sixty (60) days after notification, the Buyer shall:

1. Request and authorize the preparation and submittal of a Supplier Change Proposal (SCP) for the procurement of the life-time buy of the obsolete part(s), or
2. Authorize the redesign effort necessary to deliver the end product(s) either with the affected part(s) removed or alternate part(s) used as a replacement for the affected part(s) , via Purchase Order Change Notice, or
3. Terminate the order for convenience in accordance with the applicable Purchase Order General Provisions.

When a SCP is submitted to the Buyer, the Buyer shall, within sixty (60) days of receipt of the SCP, either:

1. Authorize the procurement of the life-time buy parts, or
2. Authorize the redesign and associated testing effort under a Purchase Order or Purchase Order Change Notice, or
3. Terminate the order for convenience in accordance with the applicable Purchase Order General Provisions.

## **SP 0103**

SUBJECT: Diminishing Manufacturing Sources (DMS). Obsolescence.

### **SPECIAL PROVISION TEXT:**

Diminishing Manufacturing Sources (DMS)

#### **Obsolescence Shortage Definition**

Upon determination, by the Seller, that a process/component required in the delivery of the end item(s) ordered hereunder is unavailable during the performance of this purchase order due to obsolescence / diminishing sources, the Seller shall notify the Buyer of this condition. The Seller shall immediately define the shortage by providing the Buyer with:

1. Satisfactory evidence that a prudent effort was made to obtain the affected parts required to meet current contractual requirements and has initiated preliminary investigation of alternate parts (i.e. parts that are technically and physically compatible with hardware design.); and,
2. Identify / Propose if any Economic Order Quantity (EOQ) funding is required to procure enough parts in the current year to meet the total contractual requirements via Supplier Change Proposal (SCP); and,
3. Determine whether there is an opportunity for a life-time buy beyond the current contractual requirement, to include price and availability information via SCP.

#### **Obsolescence Issues Requiring Redesign**

If, upon determination by the Seller, that there are insufficient parts to meet current contractual requirements, and that redesign is required to meet current requirements, the Seller shall submit an SCP for the redesign effort.

When a SCP is submitted to the Buyer, the Buyer shall, within sixty (60) days of receipt of the SCP, take any of the following actions:

- a. Provide EOQ funding to buy enough parts to meet current contractual requirements; or
- b. Authorize the procurement of the life-time buy parts; or
- c. Authorize the redesign and associated testing effort under a Purchase Order or Purchase Order Change Notice; or
- d. Terminate the order for convenience in accordance with the applicable Purchase Order General Provisions.

## **SP 0107**

SUBJECT: Memorandum of Agreement. MOA.

### **SPECIAL PROVISION TEXT:**

This Purchase Order confirms Boeings acceptance of Seller's offer contained in Memorandum of Agreement (number) \_\_\_\_\_\* dated \_\_\_\_\_\*. This Purchase Order is a binding contractual document between Boeing-Mesa and Seller in the implementation of the aforementioned Memorandum of Agreement.

\* NOTE: Buyer to add agreement number and date

## SP 0147

SUBJECT: Data, Export. Foreign. ITAR.

### **SPECIAL PROVISION TEXT:**

Notwithstanding the other provisions in International Traffic in Arms Regulations (ITAR) Part 124, the Office of Munitions Control may authorize by means of a license (DSP-5) the export of unclassified technical data to foreign persons for offshore procurement of defense articles, provided that:

1. The subcontract or purchase order for offshore procurement limits delivery of the defense articles to be produced only to the person in the United States or to an agency of the U.S. Government; and
2. The technical data of U.S. origin to be used in the foreign manufacture of the product does not and will not disclose the details of the design, development, production or manufacture of the product; and
3. The subcontract or purchase order between the Seller and the Buyer;
  - (A) Limits the use of the technical data to the manufacture of the articles required by the subcontract or purchase order only; and
  - (B) Prohibits the disclosure of the data to any other person except duly qualified subcontractors within the Seller's country; and
  - (C) Seller and its duly qualified subcontractors, and any other foreign persons shall not acquire rights in the technical data; and
  - (D) Provides that any subcontract or purchase order between foreign persons in the approved country for manufacture of equipment for delivery pursuant to the subcontract or purchase order contain all the limitations of this paragraph; and
  - (E) Requires the Seller, including subcontractors, to destroy or return to the Buyer upon completion of manufacture of the product or sooner if requested by the Buyer, all of the technical data exported pursuant to the subcontract or purchase order upon fulfillment of their terms; and
  - (F) Requires delivery of the product manufactured abroad only to the Buyer; and
4. Each such contract, purchase order or subcontract must clearly identify the article to be produced and must identify the U.S. Department of State export license number (DSP-5) or exemption under which the technical data is approved for export to the Seller. License number \_\_\_\_\_\* Expiration Date \_\_\_\_\_\*; and
5. Licenses issued pursuant to this section must be renewed upon their expiration if offshore procurement is to extend beyond the period of validity of the license. If the technical data involved in an offshore procurement arrangement is otherwise exempt from the licensing requirements pursuant to Sec. 126.4 or Sec. 126.5, the DSP-5 referred to in the first sentence of this section is not required. However, the exporter must comply with the other requirements of this section; and
6. Any subcontract or purchase order which the Seller may enter into must contain all of the clauses which are stipulated in this provision; and
7. The subcontract or purchase order related hereto is subject to the approval by the U.S. Department of State and no exports of technical data or hardware related to the manufacture of the product shall be made without obtaining prior U.S. Government approval.  
\* Buyer add number and date.

**SP 0148 (09/03) Effective September 2003**

SUBJECT: Export Requirements - U. S. Suppliers

**SPECIAL PROVISION TEXT:**

Technical data provided, activities undertaken, and articles produced in support of this purchase contract are subject to the International Traffic in Arms Regulations (22 CFR Part 120 et seq.), as authorized by the Arms Export Control Act (Title 22, U.S.C., Sec. 2751, et seq.) as authorized by the Export Administration Act of 1979, as amended, (Title 50, U.S.C. 1701, et seq.) and the Foreign Asset Control Regulations, (31 CFR Part 505, et seq.) as authorized by various statutes, including the International Emergency Powers Act and the Trading with the Enemy Act. It is the responsibility of the recipient of the purchase contract to ensure their compliance with all applicable U.S. Export regulations.

**SP 0149**

SUBJECT: Duty Free - No. No Duty Free.

**SPECIAL PROVISION TEXT:**

DoD Duty-Free Entry is not applicable to goods purchased from foreign suppliers to fulfill the requirements of this Purchase Order. Boeing-Mesa must be notified of the origin of all goods Seller acquires from foreign suppliers to fulfill this Purchase Order.

**SP 0151**

SUBJECT: Transaction Value Statement, U.S. Customs duty.

**SPECIAL PROVISION TEXT:**

Transaction Value Statement: A transaction value statement must be included in the shipping documentation and must include the PO number, part number, PO line item number, quantity, unit of measure, and unit price.

**SP 0153**

SUBJECT: Material provided by seller. Seller furnished material.

**SPECIAL PROVISION TEXT:**

Material for this Purchase Order is provided by Seller. Material costs are included in unit price.

**SP 0154**

SUBJECT: Tooling. Tooling completion reports.

**SPECIAL PROVISION TEXT:**

Tooling for performance of this Purchase Order is designed to support projected production based upon current market estimates. Fabrication of tooling applicable to this Purchase Order is reported on tooling completion report(s).

Item No.	Tool Completion	Report No./Dated	Amount/Unit Price
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**SP 0162**

SUBJECT: Accounting – duty. U.S. Customs duty.

**SPECIAL PROVISION TEXT:**

Accounting principles used in construction of transaction value statement are as follows:

1. Material costs are reported using the moving average cost method of inventory valuation.
2. Tooling costs are based upon specification of tooling capability to support projected production derived from current market estimates. Charging rate is equal to total cost incurred as reported on tooling completion reports divided by the estimated number of parts which will be fabricated using this tooling.
3. Transportation costs are reported as the standard cost per piece of transporting material from Boeing-Mesa stores and suppliers to the foreign destination. Standard costs are adjusted to actual costs as data becomes available.
4. Material on this Purchase Order may include interchangeable lots which will not be assigned control numbers or be segregated in Boeing-Mesa stores. Quantity reported in SP 0151 represents that lot portion attributed to dutiable contracts.