

Ann Grace

From: Dan Manning
Sent: Thursday, June 16, 2011 1:07 PM
To: Ann Grace
Subject: Recommendation for Rooftop Units at AMS

I recommend approval of proposal #K9-39662-2, a TCPN quote from Trane for replacement rooftop air conditioning units at the Middle School and MPC.

Thank you.

Dan Manning
Interim Superintendent
Aledo ISD
817-441-8327

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Revised Proposal

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Prepared For:
Aledo ISD

Date: April 29, 2011

Job Name:
Aledo ISD Aledo Middle School
990 Bailey Ranch Road
ALEDO, TX 76008

Proposal Number: K9-39662-2
TCPN #01-10003-11-002
CRM #1170814

Delivery Terms:
Freight Allowed and Prepaid - F.O.B. Factory

Payment Terms:
Net 30 Days

Trane U.S. Inc. is pleased to provide the enclosed proposal for your review and approval.

NOTE: Due to the limited information we were able to obtain from the Carrier model numbers provided, the replacement Trane units were selected to be as similar to the existing units as possible. Please be sure to field verify the unit voltage prior to placing an order. When we were able to obtain the unit's gas heat capacity, the Trane units are quoted with similar capacities. On the larger 20 & 25 ton units, the capacities were unknown and are therefore being quoted with our high heat capacity to ensure the units will meet your heating requirements.

Tag Data - 3-10 Ton R410A PKGD Unitary Gas/Electric Rooftop

Item	Tag(s)	Qty	Description	Model Number
A1	M School	8	5 Ton R410A PKGD Unitary Gas/Electric	YSC060E3RMA
A2	MPC Lobby	2	7.5 Ton R410A PKGD Unitary Gas/Electric	YSC092E3RLA

Product Data - 3-10 Ton R410A PKGD Unitary Gas/Electric Rooftop

Item: A1 Qty: 8 Tag(s): M School

5 Ton

DX cooling with gas heat

Medium gas heat

Standard efficiency

Convertible configuration

208-230/60/3

PLEASE FIELD VERIFY PRIOR TO ORDERING

Microprocessor controls

Low ambient operation to 0°F

Manual outside air damper 0-50%

Condenser coil hail guard **

Adapter curb transitioning from existing Carrier #48LDT006510 to above proposed unit(s)

1 year parts warranty

2nd thru 5th year compressor parts warranty

Item: A2 Qty: 2 Tag(s): MPC Lobby

7.5 Ton Dual compressor

DX cooling with gas heat

Low gas heat

Standard efficiency

Convertible configuration

208-230/60/3 PLEASE FIELD VERIFY PRIOR TO ORDERING

Microprocessor controls
 Low ambient operation to 0°F
 Manual outside air damper 0-50%

Condenser coil hail guard **

Adapter curb transitioning from existing Carrier #48LV008510 to above proposed unit(s)
 1 year parts warranty
 2nd thru 5th year compressor parts warranty

Tag Data - Packaged Gas/Electric Rooftop Units

Item	Tag(s)	Qty	Description	Model Number
B1	MP Ctr Gym	1	20 Ton Packaged Unitary Gas/Electric	YCD240E3H
B2	MP Ctr Gym	4	25 Ton Packaged Unitary Gas/Electric	YCD300E3H

Product Data - Packaged Gas/Electric Rooftop Units

Item: B1 Qty: 1 Tag(s): MP Ctr Gym

20 ton Nominal cooling capacity R410A
 Standard gas/electric unit
 Dedicated downflow airflow

208-230 Volt 60 Hertz 3 phase

PLEASE FIELD VERIFY PRIOR TO ORDERING

High heat capacity
 Low ambient operation to 0°F
 0-25% Manual outside air damper (Field Installed)

Condenser coil hail guard **

Adapter curb transitioning from existing Carrier #48DP020 to above proposed unit(s)
 1 year parts warranty
 2nd thru 5th year compressor parts warranty

Item: B2 Qty: 4 Tag(s): MP Ctr Gym

25 ton Nominal cooling capacity R410A
 Standard gas/electric unit
 Dedicated downflow airflow

208-230 Volt 60 Hertz 3 phase

PLEASE FIELD VERIFY PRIOR TO ORDERING

High heat capacity
 Low ambient operation to 0°F
 0-25% Manual outside air damper (Field Installed)

Condenser coil hail guard **

Adapter curb transitioning from existing Carrier #48DF028D to above proposed unit(s)
 1 year parts warranty
 2nd thru 5th year compressor parts warranty

Total Net Price (Excluding Sales Tax)\$ 122,409.00

Note: Rigging, installation, start-up, smoke detectors, thermostats, sensors, controls, refrigerant specialties, hail guards, external vibration isolation, extra belts, sheaves, filters, and/or any options, products, services, and warranties not specifically listed above are excluded by Trane.

MIDDLE SCHOOL KITCHEN UNIT

Tag Data - 3-10 Ton R410A PKGD Unitary Gas/Electric Rooftop

Item	Tag(s)	Qty	Description	Model Number
C1	Kitchen Add	1	5 Ton R410A PKGD Unitary Gas/Electric	YSC060E3RMA

Item: C1 Qty: 1 Tag(s): Kitchen Add

- 5 Ton
- DX cooling with gas heat
- Medium gas heat
- Standard efficiency
- Convertible configuration
- 208-230/60/3 PLEASE FIELD VERIFY PRIOR TO ORDERING**
- Microprocessor controls
- Low ambient operation to 0°F
- Manual outside air damper 0-50%
- Condenser coil hail guard ****
- Standard 14" flat roof curb (Fld)

Total Net Price (Excluding Sales Tax)\$ 3,401.00

Note: Rigging, installation, start-up, smoke detectors, thermostats, sensors, controls, refrigerant specialties, hail guards, sloped curbs, external vibration isolation, extra belts, sheaves, filters, and/or any options, products, services, and warranties not specifically listed above are excluded by Trane.

Tag Data - 3-10 Ton R410A PKGD Unitary Gas/Electric Rooftop

Item	Tag(s)	Qty	Description	Model Number
D1	Kitchen Add	1	4 Ton R410A PKGD Unitary Gas/Electric	YSC048E3RMA

Item: D1 Qty: 1 Tag(s): Kitchen Add

- 4 Ton
- DX cooling with gas heat
- Medium gas heat
- Standard efficiency
- Convertible configuration
- 208-230/60/3 PLEASE FIELD VERIFY PRIOR TO ORDERING**
- Microprocessor controls
- Low ambient operation to 0°F
- Manual outside air damper 0-50%
- Condenser coil hail guard ****
- Standard 14" flat roof curb (Fld)

Total Net Price (Excluding Sales Tax)\$ 3,030.00

Note: Rigging, installation, start-up, smoke detectors, thermostats, sensors, controls, refrigerant specialties, hail guards, sloped curbs, external vibration isolation, extra belts, sheaves, filters, and/or any options, products, services, and warranties not specifically listed above are excluded by Trane.

Sincerely,

Shirley Hernandez Ross – Account Manager

Rich Powers

Trane U.S. Inc.

4200 N. Sylvania Avenue

Fort Worth, TX 76137-6603

Phone: (817) 838-1300

Cell:

Fax: (817) 831-8135

This proposal is subject to your acceptance of the attached Trane terms and conditions.

TERMS AND CONDITIONS - EQUIPMENT

"Company" shall mean Trane U.S. Inc..

1. **Acceptance.** These terms and conditions are an integral part of Company's offer and form the basis of any agreement (the "Agreement") resulting from Company's proposal (the "Proposal") for the sale of the described equipment and any ancillary services (the "Equipment"). The Proposal is subject to acceptance in writing by the party to whom this offer is made or an authorized agent ("Customer") delivered to Company within 30 days from the date of the Proposal. If Customer's order is an acceptance of the Proposal, without the addition of any other terms and conditions of sale or any other modification, this document shall be treated solely as an acknowledgment of such order. If Customer's order is expressly conditioned upon Company's acceptance or assent to terms and/or conditions other than those expressed herein, return of such order by Company with these terms and conditions attached or referenced serves as Company's notice of objection to Customer's terms and as Company's counter-offer to provide Equipment in accordance with scope and terms and condition of the Proposal. If Customer does not reject or object in writing to Company within 10 days, Company's counter-offer will be deemed accepted. Customer's acceptance of goods and/or Work by Company will in any event constitute an acceptance by Customer of these terms and conditions. This Agreement is subject to credit approval by Company. Upon disapproval of credit, Company may delay or suspend performance or, at its option, renegotiate prices and/or terms and conditions with Customer. If Company and Customer are unable to agree on such revisions, this Agreement shall be cancelled without any liability.
2. **Title and Risk of Loss.** All Equipment sales with destinations to Canada, Mexico or the U. S. shall be made FCA Company's U.S. manufacturing facility or warehouse (Incoterms 2000) and shall be invoiced to and shall become the property of Customer upon tender of delivery thereof to the carrier. All Equipment sales with destinations outside Canada, Mexico and the U. S. shall be made Ex Works "EXW" (Incoterms 2000) Company's U.S. manufacturing facility or warehouse and shall be invoiced to and shall become the property of Customer upon tender of delivery thereof to the carrier. Customer shall have the right to specify the method of transportation for the Equipment and the common carrier to be used. Absent such specification, The Company shall ship the Equipment by a reliable common carrier of its own selection in order to meet the delivery schedule and invoice Customer for all applicable charges associated with such shipment. Title and risk of loss or damage to Equipment will pass to Customer upon tender of delivery of such to carrier at Company's U.S. manufacturing facility or warehouse.
3. **Pricing and Taxes.** Following acceptance without addition of any other terms and condition of sale or any other modification by Customer, the prices stated are firm provided that notification of release for immediate production and shipment is received at Company's factory not later than 3 months from order acceptance. If such release is received later than 3 months from order acceptance date, prices will be increased a straight 1% (not compounded) for each 1 month period (or part thereof) beyond the 3 month firm price period up to the date of receipt of such release. If such release is not received within 6 months after the date of order acceptance, the prices are subject to renegotiation or at Company's option, the order will be cancelled. Any delay in shipment caused by Customer's actions will subject prices to increase equal to the percentage increase in list prices during that period of delay and Company may charge Customer with incurred storage fees. In no event will prices be decreased. The price of Equipment does not include any present or future foreign, federal, state, or local property, license, privilege, sales, use, excise, value added, gross receipts or other like taxes or assessments. Such amounts will be itemized separately to Customer, who will make prompt payment to Company. Company will accept valid exemption documentation for such from Customer, if applicable. All prices include packaging in accordance with Company's standard procedures. Charges for special packaging, crating or packing are the responsibility of Customer.
4. **Delivery and Delays.** Delivery dates are approximate and not guaranteed. Company will use commercially reasonable efforts to deliver the Equipment on or before the estimated delivery date and will notify Customer if the estimated delivery dates cannot be honored and will deliver the and services as soon as practicable thereafter. In no event will Company be liable for any damages or expenses caused by delays in delivery times.
5. **Performance.** Company shall be obligated to furnish only the Equipment described in the Proposal, and submittal data (if such data is issued in connection with the order), and Company may rely on the acceptance of the Proposal and submittal data as acceptance of the suitability of the Equipment for the particular project or location. If Company and Customer are unable to agree on revised prices or terms, the order may be cancelled without any liability. Unless specifically stated in the Proposal, compliance with any local building codes or other laws or regulations relating to specifications or the location, use or operation of the Equipment is the sole responsibility of Customer. If Equipment is tendered which does not fully comply with the provisions of this Agreement, and Equipment is rejected by Customer, Company will have the right to cure within a reasonable time after notice thereof by substituting a conforming tender whether or not the time for performance has passed.
6. **Force Majeure.** Company's duty to perform under this Agreement and the Equipment prices are contingent upon the non-occurrence of an Event of Force Majeure. If the Company shall be unable to carry out any material obligation under this Agreement due to an Event of Force Majeure, this Agreement shall at Company's election (i) remain in effect but Company's obligations shall be suspended until the uncontrollable event terminates or (ii) be terminated upon 10 days notice to Customer, in which event Customer shall pay Company for all parts of the Work furnished to the date of termination. An "Event of Force Majeure" shall mean any cause or event beyond the control of Company. Without limiting the foregoing, "Event of Force Majeure" includes: acts of God; acts of terrorism, war or the public enemy; flood; earthquake; tornado; storm; fire; civil disobedience; pandemic insurrections; riots; labor/labour disputes; labor/labour or material shortages; sabotage; restraint by court order or public authority (whether valid or invalid); and action or non-action by or inability to obtain or keep in force the necessary governmental authorizations, permits, licenses, certificates or approvals if not caused by Company; and the requirements of any applicable government in any manner that diverts either the material or the finished product to the direct or indirect benefit of the government.
7. **Warranty (not applicable to microturbines; see separate warranty attached).** Company warrants that, for a period of the lesser of 12 months from initial start-up or 18 months for HVAC Equipment and 15 months for refrigeration Equipment from date of shipment, whichever is less, that the Equipment manufactured by Company: (1) is free from defects in material and manufacture and (2) has the capacities and ratings set forth in Company's catalogs and bulletins ("Warranty"). Company obligations of equipment start-up, if any are stated in the Proposal, are coterminous with the Warranty period. Exclusions from this Warranty include damage or failure arising from: wear and tear; corrosion, erosion, deterioration; modifications made by others to the Equipment; repairs or alterations by a party other than Company that adversely affects the stability or reliability of the Equipment; vandalism; neglect; accident; adverse weather or environmental conditions; abuse or improper use; improper installation; commissioning by a party other than Company; unusual physical or electrical or mechanical stress; operation with any accessory, equipment or part not specifically approved by Company; and/or lack of proper maintenance as recommended by Company. Company shall not be obligated to pay for the cost of lost refrigerant or lost product. Company's obligations and liabilities under this Warranty are limited to furnishing replacement equipment or parts, at its option, FCA (Incoterms 2000) factory or warehouse (f.o.b. factory or warehouse for US domestic purposes) at Company-designated shipping point, freight-allowed to Company's warranty agent's stock location, for all non-conforming Company-manufactured Equipment (which have been returned by Customer to Company.) Returns must have prior written approval by Company and are subject to restocking charge where applicable. **UNLESS EXPRESSLY WARRANTED IN WRITING FOR CERTAIN HUSSMANN BRANDED EQUIPMENT, COMPANY MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, REGARDING PREVENTION OF MOLD/MOULD, FUNGUS, BACTERIA, MICROBIAL GROWTH, OR ANY OTHER CONTAMINATES.** No liability whatsoever shall attach to Company until Customer's complete order has been paid for in full and Company's liability under this Warranty shall be limited to the purchase price of the Equipment shown to be defective. Additional warranty protection is available on an extra-cost basis and must be in writing and agreed to by an authorized signatory of the Company. Additional terms and conditions of warranty coverage are applicable for refrigeration equipment. **EXCEPT FOR COMPANY'S WARRANTY EXPRESSLY SET FORTH HEREIN, COMPANY DOES NOT MAKE, AND HEREBY EXPRESSLY DISCLAIMS, ANY WARRANTIES, EXPRESS OR IMPLIED CONCERNING ITS PRODUCTS, EQUIPMENT OR SERVICES, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF DESIGN, MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE, OR OTHERS THAT ARE ALLEGED TO ARISE FROM COURSE OF DEALING OR TRADE.**
8. **Indemnity.** Company and Customer shall indemnify, defend and hold harmless each other from any and all claims, actions, costs, expenses, damages and liabilities, including reasonable attorneys' fees, resulting from death or bodily injury or damage to real or personal property, to the extent caused by the negligence or misconduct of their respective employees or other authorized agents in connection with their activities within the scope of

this Agreement. Neither party shall indemnify the other against claims, damages, expenses or liabilities to the extent attributable to the acts or omissions of the other party. If the parties are both at fault, the obligation to indemnify shall be proportional to their relative fault. The duty to indemnify will continue in full force and effect, notwithstanding the expiration or early termination hereof, with respect to any claims based on facts or conditions that occurred prior to expiration or termination.

9. Insurance. Upon request, Company will furnish evidence of its standard insurance coverage. If Customer has requested to be named as an additional insured under Company's insurance policy, Company will do so subject to Company's manuscript additional insured endorsement. Company does not waive any rights of subrogation.

10. Customer Breach. Each of the following events or conditions shall constitute a breach by Customer and shall give Company the right, without an election of remedies, to terminate this Agreement, require payment prior to shipping, or suspend performance by delivery of written notice declaring termination, upon which event Customer shall be liable to the Company for all Equipment furnished to date and all damages sustained by Company (including lost profit and overhead): (1) Any failure by Customer to pay amounts when due; or (2) any general assignment by Customer for the benefit of its creditors, or if Customer becomes bankrupt or insolvent or takes the benefit of any statute for bankrupt or insolvent debtors, or makes or proposes to make any proposal or arrangement with creditors, or if any steps are taken for the winding up or other termination of Customer or the liquidation of its assets, or if a trustee, receiver, or similar person is appointed over any of the assets or interests of Customer; (3) Any representation or warranty furnished by Customer in connection with this Agreement is false or misleading in any material respect when made; or (4) Any failure by Customer to perform or comply with any material provision of this Agreement.

11. Limitation of Liability. NOTWITHSTANDING ANYTHING TO THE CONTRARY, IN NO EVENT SHALL COMPANY BE LIABLE FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL (INCLUDING WITHOUT LIMITATION REFRIGERANT LOSS, PRODUCT LOSS, LOST REVENUE OR PROFITS), OR PUNITIVE DAMAGES WHETHER CLAIMED UNDER CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY OR ANY OTHER LEGAL THEORY OF FACTS. In no event will Company's liability in connection with the provision of products or services or otherwise under this Agreement exceed the entire amount paid to Company by Customer under this Agreement.

12. Nuclear Liability. In the event that the Equipment sold hereunder is to be used in a nuclear facility, Customer will, prior to such use, arrange for insurance or governmental indemnity protecting Company against all liability and hereby releases and agrees to indemnify Company and its suppliers for any nuclear damage, including loss of use, in any manner arising out of a nuclear incident, whether alleged to be due, in whole or in part to the negligence or otherwise of Company or its suppliers.

13. Intellectual Property; Patent Indemnity. Company retains all ownership, license and other rights to all patents, trademarks, copyrights, trade secrets and other intellectual property rights related to the Equipment, and, except for the right to use the Equipment sold, Customer obtains no rights to use any such intellectual property. Company agrees to defend any suit or proceeding brought against Customer so far as such suit or proceeding is solely based upon a claim that the use of the Equipment provided by Company constitutes infringement of any patent of the United States of America, provided Company is promptly notified in writing and given authority, information and assistance for defense of same. Company will, at its option, procure for Customer the right to continue to use said Equipment, or modify it so that it becomes non-infringing, or replace same with non-infringing Equipment, or to remove said Equipment and to refund the purchase price. The foregoing will not be construed to include any Agreement by Company to accept any liability whatsoever in respect to patents for inventions including more than the Equipment furnished hereunder, or in respect of patents for methods and processes to be carried out with the aid of said Equipment. The provision of Equipment by Company does not convey any license, by implication, estoppel, or otherwise, under patent claims covering combinations of said Equipment with other devices or elements. The foregoing states the entire liability of Company with regard to patent infringement. Notwithstanding the provisions of this paragraph, Customer will hold Company harmless against any expense or loss resulting from infringement of patents or trademarks arising from compliance with Customer's designs or specifications or instructions.

14. Cancellation. Equipment is specially manufactured in response to orders. An order placed with and accepted by Company cannot be delayed, canceled, suspended, or extended except with Company's written consent and upon written terms accepted by Company that will reimburse Company for and indemnify Company against loss and provide Company with a reasonable profit for its materials, time, labor, services, use of facilities and otherwise. Customer will be obligated to accept any Equipment shipped, tendered for delivery or delivered by Company pursuant to the order prior to any agreed delay, cancellation, suspension or extension of the order. Any attempt by Customer to unilaterally revoke, delay or suspend acceptance for any reason whatever after it has agreed to delivery of or accepted any shipment shall constitute a breach of this Agreement. For purposes of this paragraph, acceptance shall be any waiver of inspection, use or possession of Equipment, payment of the invoice, or any indication of exclusive control exercised by Customer.

15. Payment. Customer shall pay Company's invoices within net 30 days of shipment date. Company reserves the right to add to any account outstanding for more than 30 days a service charge equal to the lesser of the maximum allowable legal interest rate or 1.5% of the principal amount due at the end of each month. Customer shall pay all costs (including attorneys' fees) incurred by Company in attempting to collect amounts due and otherwise enforcing these terms and conditions. If requested, Company will provide appropriate lien waivers upon receipt of payment. Company may at any time decline to ship, make delivery or perform work except upon receipt of cash payment, letter of credit, or security, or upon other terms and conditions satisfactory to Company in accordance with its credit and collections policy. Customer agrees that, unless Customer makes payment in advance, Company will have a purchase money security interest in all Equipment to secure payment in full of all amounts due Company and its order for the Equipment, together with these terms and conditions, form a security agreement (as defined by the UCC in the United States and as defined in the Personal Property Security Act in Canada). Customer shall keep the Equipment free of all taxes and encumbrances, shall not remove the Equipment from its original installation point and shall not assign or transfer any interest in the Equipment until all payments due Company have been made. The purchase money security interest granted herein attaches upon Company's acceptance of Customer's order and on receipt of the Equipment described in the accepted Proposal but prior to its installation. The parties have no agreement to postpone the time for attachment unless specifically noted in writing on the accepted order. Customer will have no rights of set off against any amounts, which become payable to Company under this Agreement or otherwise.

16. Claims. Company will consider claims for concealed shortages in shipments or rejections due to failure to conform to an order only if such claims or rejections are made in writing within 15 days of delivery and are accompanied by the packing list and, if applicable, the reasons in detail why the Equipment does not conform to Customer's order. Upon receiving authorization and shipping instructions from authorized personnel of Company, Customer may return rejected Equipment, transportation charges prepaid, for replacement. Company may charge Customer any costs resulting from the testing, handling, and disposition of any Equipment returned by Customer which are not found by Company to be nonconforming. All Equipment damaged during shipment and all claims relating thereto must be made with the freight carrier in accordance with such carrier's policies and procedures. Claims for Equipment damaged during shipment are not covered under the warranty provision stated herein.

17. Export Laws. The obligation of Company to supply Equipment under this Agreement is subject to the ability of Company to supply such items consistent with applicable laws and regulations of the United States and other governments. Company reserves the right to refuse to enter into or perform any order, and to cancel any order, under this Agreement if Company in its sole discretion determines that performance of the transaction to which such order relates would violate any such applicable law or regulation. Customer will pay all handling and other similar costs from Company's factories including the costs of freight, insurance, export clearances, import duties and taxes. Customer will be "exporter of record" with respect to any export from the United States of America and will perform all compliance and logistics functions in connection therewith and will also comply with all applicable laws, rules and regulations. Customer understands that Company and/or the Equipment are subject to laws and regulations of the United States of America which may require licensing or authorization for and/or prohibit export, re-export or diversion of Company's Equipment to certain countries, and agrees it will not knowingly assist or participate in any such diversion or other violation of applicable United States of America laws and regulations. Customer agrees to hold harmless and indemnify Company for any damages resulting to Customer or Company from a breach of this paragraph by Customer.

18. General. Except as provided below, to the maximum extent provided by law, this Agreement is made and shall be interpreted and enforced in accordance with the laws of the state of New York for Equipment shipped to a US location and the laws of the province to which Equipment is shipped within Canada, without regard to its conflict of law principles, and not including the United Nations Convention on Contracts for the International Sale of Goods. To the extent the Equipment is being used at a site owned and/or operated by any agency of the Federal Government, determination of any substantive issue of law shall be according to the Federal common law of Government contracts as enunciated and applied by Federal judicial bodies and boards of contract appeals of the Federal Government. This Agreement contains all of the agreements, representations and understandings of the parties and supersedes all previous understandings, commitments or agreements, oral or written, related to the subject matter hereof. This Agreement may not be amended, modified or terminated except by a writing signed by the parties hereto. No documents shall be incorporated herein by reference except to the extent Company is a signatory thereon. If any term or condition of this Agreement is invalid, illegal or incapable of being enforced by any rule of law, all other terms and conditions of this Agreement will nevertheless remain in full force and effect as long as the economic or legal substance of the transaction contemplated hereby is not affected in a manner adverse to any party hereto. Customer may not assign, transfer, or convey this Agreement, or any part hereof, or its right, title or interest herein, without the written consent of the Company. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of Customer's permitted successors and assigns. This Agreement may be executed in several counterparts, each of which when executed shall be deemed to be an original, but all together shall constitute but one and the same Agreement. A fully executed facsimile copy hereof or the several counterparts shall suffice as an original.

19. U.S. Government Work. The following provision applies only to direct sales by Company to the US Government. The Parties acknowledge that Equipment ordered and delivered under this Agreement are Commercial Items as defined under Part 12 of the Federal Acquisition Regulation (FAR). In particular, Company agrees to be bound only by those Federal contracting clauses that apply to "commercial" suppliers and that are contained in FAR 52.212-5(e)(1). **This provision applies only to indirect sales by Company to the US Government.** As a Commercial Item Subcontractor, Company accepts only the following mandatory flow down provisions: 52.219-8; 52.222-26; 52.222-35; 52.222-36; 52.222-39; 52.247-64. If the sale of the Equipment is in connection with a U.S. Government contract, Customer certifies that it has provided and will provide current, accurate, and complete information, representations and certifications to all government officials, including but not limited to the contracting officer and officials of the Small Business Administration, on all matters related to the prime contract, including but not limited to all aspects of its ownership, eligibility, and performance. Anything herein notwithstanding, Company will have no obligations to Customer unless and until Customer provides Company with a true, correct and complete executed copy of the prime contract. Upon request, Customer will provide copies to Company of all requested written communications with any government official related to the prime contract prior to or concurrent with the execution thereof, including but not limited to any communications related to Customer's ownership, eligibility or performance of the prime contract. Customer will obtain written authorization and approval from Company prior to providing any government official any information about Company's performance of the work that is the subject of the Proposal or this Agreement, other than the Proposal or this Agreement.

1-26.130-4(0710)

Supersedes 1-26.130-4(0610)