

THIS AGREEMENT made this 10<sup>th</sup> day of November, 1955, between the COMMANDER IN CHIEF, UNITED STATES PACIFIC FLEET, hereinafter called the "Contracting Officer", for and on behalf of the Saipan District Government of the Trust Territory of the Pacific Islands, hereinafter called the "Government", and MICRONESIA METAL & EQUIPMENT CO., INC., hereinafter called the "Contractor", provides as follows:

WHEREAS there is now situated, in the Saipan District, Trust Territory of the Pacific Islands, scrap metals, supplies, machinery, equipment, war materials, and fixed installations which are by virtue of transfer, donation, abandonment or operation of law the property of the Government, and,

WHEREAS the Government has determined that such of this property as is no longer needed by it or by the indigenous people of said District or by any agency of the United States for any purpose whatsoever should be sold and removed from the Saipan District, Trust Territory of the Pacific Islands.

NOW THIS AGREEMENT WITNESSES:

1. SALE OF ALL SURPLUS PROPERTY. The Government agrees to sell exclusively to the Contractor, and the Contractor agrees to buy, all such above described property as shall, during the life of this contract, be determined by the Naval Administrator, Saipan to be available for sale by reason of the fact that it is no longer needed by the Government or by the indigenous people of said District or by any agency of the United States for any purpose whatsoever, subject to the terms and conditions of this Contract.

2. BILLS OF SALE. Contractor may from time to time request in writing of the Naval Administrator, Saipan, that certain such property be made available for sale. Such request shall describe the property item by item or lot by lot, it being agreed that bills of sale by general areas of location shall not be utilized. It shall be suitable, in describing items of property, to describe property as "scrap", mentioning the tonnage thereof only if such material shall not be capable of more accurate description. The Naval Administrator or his representative will after the receipt of such

request inspect such property and make a determination within 15 days as to whether or not it shall be made available for sale. If such property shall be made available for sale, the Naval Administrator will, on behalf of the Government, deliver to the Contractor a bill of sale embracing such material, and thereupon the Contractor shall acquire title to and ownership of all property described in said bill of sale subject to the conditions hereinafter stated. Any refusal to make any of such property available for sale to the Contractor shall be communicated to the Contractor in writing. The Contractor may appeal to the Commander, United States Naval Forces, Marianas, for a review of any such decision. The decision of the Commander, Naval Forces, Marianas, shall be final in any such appeal.

3. DUTIES OF CONTRACTOR. The Contractor will carry out the following duties and meet the following obligations:

a. Labor and Materials. Furnish and pay for all labor, parts, materials and equipment necessary to remove the property covered by the contract and place the same in such conditions for resale as will bring the best market price.

b. Claims for Damages. Pay promptly all just claims for damages arising out of the Contractor's operations in the Saipan District, Trust Territory, including, but not limited to, liability for damages arising out of the use or operation of any equipment, piers, wharves, docks, ramps, jetties, highways, buildings, warehouses, stockpiling facilities and other such property furnished to the Contractor or used by any of its agents or employees, including claims of personal injury or death. The right of Contractor to a trial of any disputed claims before the courts of the Saipan District, Trust Territory, shall not be abridged by this obligation.

c. Liability and Workmen's Compensation Insurance. Bear the cost, by insurance or otherwise, of all medical expenses incurred by any employee of the Contractor as a result of any injury suffered by such employee in the course of employment with the Contractor and provide workmen's compensation benefits to employees, in the same manner and for the same amounts as if the employees were covered under the provisions of the United States Longshore-

d. Shipping. Secure, acquire and pay for all shipping facilities necessary to remove the property.

e. Insurance. Obtain adequate insurance where available for property being removed from the Saipan District during transportation and after arrival until sold. It is recognized that some cargoes may not be eligible for insurance within normal underwriting practices due to the nature of the cargo or of the vessel carrying the property. The Contractor will be responsible for royalties due the Government on all property transferred to it under this contract regardless of whether later lost or whether insured.

f. Resales. Resell all property transferred to the Contractor under this contract, exerting every effort to resell such property at the highest price obtainable; and to collect all revenues from such resales.

g. Receipts. Render a complete accounting of all receipts from resales of property, and to pay the Naval Administrator, Saipan, promptly all sums due as provided herein.

4. ACCOUNTING. In keeping accounts of the proceeds from resales, and in reporting the same to the Naval Administrator, Saipan, as required herein, the following principles will be observed:

a. Evidence of Shipment. There will be retained for submission to the Naval Administrator, Saipan, with each report of resale, evidence of shipment in the form of either a copy of a bill of lading or a copy of other shipping or delivery receipt. Such evidence of shipment shall reveal upon its face the estimated quantity and type of material being shipped, the buyer, consignee or party to be notified of arrival, and the means of shipment.

b. Provisional Payment. In all instances in which Contractor receives an initial payment upon the making of a shipment, such partial payment shall be reported to the Naval Administrator, Saipan, as provided hereinafter, and payment of the Government's share of such partial payment shall be made as required herein.

c. Final Payment. In the case of shipment of material that is not resold at the time of shipment (it being recognized that sometimes the very presence of available shipping opportunities makes it necessary to transport some materials not yet resold), or in the event of shipment against initial partial payment only, Contractor upon receipt of payment in full for the material shipped or resold shall submit to the Naval Administrator, Saipan, a copy of the final invoice of the resale, together with evidence from an independent public weighmaster or surveyor, if such certificate is obtainable, revealing the weights and grades of materials delivered.

d. Time of Payment to the Government. Settlements and payments under the terms of this contract shall be made quarterly, commencing with the quarter January 1, 1955 - April 1, 1955, except that the first quarter settlement shall cover the period from December 1, 1954 to April 1, 1955, and shall be submitted within fifteen (15) days of the end of each such quarter. Such settlements shall be in the form of statements of account, accompanied by payments, and shall be submitted to the Naval Administrator, Saipan, via Air Mail. Statements of account shall contain the following information, verified by the documents recited above:

- (1) Resale or Shipment Identification Number.
- (2) Date of Shipment.
- (3) Commodity.
- (4) Name of Carrying Vessel.
- (5) Port of Loading.
- (6) Destination.
- (7) Estimated weight when Shipped.
- (8) Actual weight upon Arrival.
- (9) Terms of Resale.
- (10) Name of Buyer, Consignee or Notify Party.
- (11) Total Revenue.
- (12) Amount Due Government.
- (13) Amount Being Paid Government.
- (14) Location of Materials if not Resold.
- (15) Comments.

e. Arbitrary Settlements. Contractor shall not take arbitrary credit for prior overpayments, revenues due from the Government to the Contractor or other credits between the parties without the prior agreement of the Government to such a credit. Contractor in quarterly reports may set up for allowance or disallowance any proposed credit, which shall be substantially verified as to details, and may consider such claim as a provisional

credit until disposed of otherwise. Contractor shall remit promptly if such credit shall be disallowed upon review. The Government, on the other hand, shall not unduly delay settlement of any claim for credit but shall consider the same promptly, and any claim shall be considered as accepted unless the Contractor is notified in writing within ninety (90) days that the Government disputes such claim.

f. Credit. Contractor will submit to the Naval Administrator, Saipan, as well as the Contracting Officer an annual audit of its sales by a certified public accountant. Such certified public accountant shall be approved by the Contracting Officer prior to the making of any such audit. Such audit shall be completed and submitted to the aforementioned representatives of the Government not later than the fifteenth day of March following the close of the previous year.

5. PAYMENT SCHEDULE. The Contractor will pay the Government at the following rates:

a. Ferrous Scrap. \$4.00 per long ton of scrap or sixteen and one half (16½) percent of Contractor's gross receipts from the sale thereof, whichever results in a higher return to the Government.

b. Copper Scrap. \$150.00 per long ton of scrap or twenty-six and one half (26½) percent of Contractor's gross receipts from the sale thereof, whichever results in a higher return to the Government.

c. Brass Scrap. \$100.00 per long ton of scrap or twenty-six and one half (26½) percent of Contractor's gross receipts from the sale thereof, whichever results in a higher return to the Government.

d. Lead Scrap. \$50.00 per long ton of scrap or twenty-six and one half (26½) percent of Contractor's gross receipts from the sale thereof, whichever results in a higher return to the Government.

e. Lead Cable. \$40.00 per long ton of scrap or twenty-six and one half (26½) percent of Contractor's gross receipts from the sale thereof, whichever results in a higher return to the Government.

f. Battery Lead. \$50.00 per long ton of scrap or twenty-six and one half (26½) percent of Contractor's gross receipts from the sale thereof, whichever results in a higher return to the Government.

g. Aluminum. As melted for shipment, \$60.00 per long ton of scrap or twenty-six and one half (26½) percent of Contractor's gross receipts from the sale thereof, whichever results in a higher return to the Government.

h. Other Nonferrous Scrap, Machinery, Equipment and Material.

(1) Twenty-six and one half (26½) percent of the Contractor's gross receipts from the sale of other Nonferrous Scrap, Machinery, equipment and Material when delivery is made by the Contractor to a purchaser residing within the United States, its territories and possessions.

(2) Thirty-one and one half (31½) percent of the Contractor's gross receipts from the sale of other Nonferrous Scrap, Machinery, equipment and Material when delivery is made by the Contractor to a purchaser who accepts delivery of the property in the Saipan District or is ultimately responsible for the freight or other shipping expenses.

(3) Twenty-six and one half (26½) percent of the Contractor's gross receipts from the sale of other Nonferrous Scrap, Machinery, equipment and Material when delivery is made elsewhere than noted in subparagraphs (1) and (2) above.

6. TIME AND PLACE OF PAYMENTS. Payments will be made to the Naval Administrator, Saipan, at the time of submission of quarterly reports described in paragraph 4. above, by check payable at par in United States currency to the Naval Administrator, Saipan.

7. CONSENT REQUIRED FOR CERTAIN SHIPMENTS. Contractor agrees that no resales of materials will be made for ultimate consumption at any place other than the United States, its territories and possessions without the prior written consent of the Contracting Officer.

8. NO RESALE IN PLACE, IN WAREHOUSE, FAS OR FOB WITHOUT CONSENT. Since one of the objects of this contract is to limit recovery operations to a single company, resales by the Contractor of property in place in the Saipan District are not permitted under this contract without the prior written permission of the Naval Administrator, Saipan. Resales in warehouse, FAS or FOB are not permitted in the Saipan District under this contract without the prior written permission of the Naval Administrator, Saipan.

9. PERMISSION TO ENTER TRUST TERRITORY. No person is authorized by virtue of this Contract to enter the Saipan District, Trust Territory. Each person desiring to enter will apply to appropriate Naval authorities for necessary permission to enter. Permission may be granted or withheld without the assignment of reasons therefor.

10. APPLICABLE LAWS. All persons, including organizations, entering the Saipan District, Trust Territory or conducting operations therein are subject to the civil and criminal laws thereof and to such military orders and directives as may be applicable. The Naval administrator, Saipan, may direct the removal of any person from the Saipan District, Trust Territory assigning no cause for his action.

11. USE OF FACILITIES. The Contractor may have access without charge to all piers, wharves, docks, ramps, jetties, warehouses and stockpiling facilities which are under the Control of the Government and which were granted to the Contractor without charge under Trust Territory Contract No. T. T. 17, dated 30 November 1951. Charges assessed for the Contractor's use of warehouses and stockpiling facilities under Contract No. T. T. 17 shall continue to be a liability of the Contractor as long as such facilities are in use by the Contractor. In the event additional facilities and areas are used by the Contractor, a charge may be established by the Government on a square footage basis for warehousing facilities and on an acreage basis for stockpiling areas proportionate to the said maximum monthly charge for facilities and areas presently in use by the Contractor. The Government shall not be liable for any loss or damages resulting from failure to provide dock or wharf facilities at a specified time or for a specified period.

12. COOPERATION BY THE GOVERNMENT. The Government is not obligated to provide any logistical support to the operations of the Contractor. The Naval Administrator, Saipan, will assist, whenever practicable, in the recruitment of local labor, on a voluntary basis, in the number required to expedite the collection, handling and loading of the property. Employment of all labor is subject to local laws and directives in force at the time of such employment. Without obligation to do so, the Government may make available to the Contractor supplies and equipment, if not generally available

through private sources in the Saipan District, upon a reimbursable basis.

13. FIREARMS AND EXPLOSIVES. The Contractor will not remove any rifles, field pieces or other firearms without specific authorization from the Naval Administrator, Saipan, or his duly authorized representative. The Contractor will not knowingly remove any explosives or ammunition from the area, and will exercise diligence in endeavoring to prevent explosives from being shipped. Contractor will stand liable for and absorb all costs, penalties or other liabilities arising out of or resulting from any such shipment; and the incurring of such costs, penalties or other liabilities shall in no way reduce the royalties which would otherwise be due the Government.

14. CLEANUP OPERATIONS. The Contractor agrees to conduct its operations in such a manner as to maintain stockpiling and warehouse areas in a clean and orderly condition to the satisfaction of the Naval Administrator, Saipan, or his duly authorized representative. Prior to the commencement of the removal of any property from a given area the Contractor shall notify the Naval Administrator, Saipan, of such intention and the Contractor and Naval Administrator, Saipan, shall reduce to writing the specific extent of the Contractor's responsibility for cleanup operations. For any area covered by a single bill of sale the monetary limit of said responsibility shall not be more than five hundred dollars (\$500.00) out of pocket expense on the part of the Contractor for labor and materials, or a greater amount as may be mutually agreed upon by the Contractor and the Naval Administrator, Saipan. Any additional cleanup work shall be performed at the direction of the Naval Administrator, Saipan, and all costs thereof shall be borne by the Government. The Naval Administrator, Saipan, may refuse to make additional property available to Contractor until such areas are properly cleared.

15. RECAPTURE OF MATERIALS. The Naval Administrator, Saipan, may recapture from Contractor, against written receipt and at any time after the Contractor has taken materials into its possession, any specific materials desired by the Government for further use, reimbursing the Contractor for



its expenditure of time and materials (excluding overhead) in connection therewith. Specific materials not yet taken into the possession of Contractor may be withdrawn by written notice to the Contractor if such materials are desired by the Government for any future use. Such recapture of materials will be without compensation to Contractor. Any recapture of materials under this paragraph shall automatically nullify and void the bill of sale or any portion of the bill of sale which covers such materials.

16. DURATION. This Contract shall continue in force and effect until June 1, 1956, unless the work of the Contractor shall have been sooner completed, and shall remain in force continuously thereafter, subject to termination on or after June 1, 1956, by either party upon the giving to the other written notice of such desire and intention to so terminate. Filing of written notice on the part of either the Contracting Officer or the Contractor shall immediately render null and void any bills of sale covering property which has not been removed to the stockpiling areas of the Contractor and title to all such property shall automatically revert to the Government. Following the filing of such written notice, the Contractor shall have ninety (90) days in which to remove all property from its stockpiling areas. Any property not so removed at the expiration of said ninety (90) days shall revert to and become the sole property of the Government.

17. TAXES. During the existence of this Contract, no taxes, excises, fees, duties, levies, assessments, tolls nor imposts of any kind, other than those existing as of January 1, 1955, shall be levied, assessed or imposed by authority of or under the control of the Contracting Officer within the Saipan District on the Contractor.

18. CANCELLATION FOR NON PERFORMANCE. In the event that the Contractor shall fail to engage with due diligence in the recovery and sale of scrap and salvage materials within the Saipan District the Contracting Officer or his duly authorized representative may in his discretion notify the Contractor in writing of such deficiency, give the details of such deficiency and require the correction thereof by the Contractor within thirty (30) days. If the Contractor shall fail to remedy such deficiency, then the Contracting Officer or his duly authorized representative may in

his discretion terminate this Contract by written notice mailed to the Contractor at his last known address. Such a termination shall have the same effect as a termination as provided under paragraph 16. above. This shall not be construed to require Contractor to conduct operations in any particular area or as to any particular property embraced by a bill of sale provided Contractor is otherwise engaged with due diligence in the recovery and sale of scrap and salvage materials within the Saipan District during such period.

19. CANCELLATION OF BILLS OF SALES. In consideration of this Contract and to facilitate accounting, all bills of sale issued under Trust Territory of the Pacific Islands Contracts of 1 August 1950 and 30 November 1951 (T.T. 17) are hereby declared null and void except as they relate to property lawfully removed to the Contractor's stockpiling or warehouse area, to property which has been lawfully shipped from Saipan or Tinian for resale and to property lawfully sold by the Contractor in the Trust Territory. It is understood and agreed that this cancellation is not to result in interference with Contractor's lawful operations and that bills of sale will be issued as expeditiously as practicable to permit the Contractor to remove such of the property as was covered by previous bills of sale as can lawfully be disposed of and is not being retained for a use which would permit recapture under paragraph 15. above.

20. SETTLEMENT OF DISPUTES. Except as provided in paragraph 2. of this Contract, any disputes arising in regard to this Contract shall be presented to the Contracting Officer or his duly authorized representative who will interpret this Contract and make a decision on any such dispute. The Contracting Officer shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the Contractor. The decision of the Contracting Officer shall be final unless written appeal shall be taken by the Contractor within thirty days from the date of receipt of such copy of said decision. Any appeal from a decision of the Contracting Officer shall be taken by the Contractor to the Head of the Administering Agency. The decision of the Head of the Administering Agency shall be final. In connection with any appeal proceeding under this paragraph, the Contractor shall

be afforded the opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the Contract and in accordance with the Contracting Officer's decision.

21. ASSIGNMENT. This Contract is not assignable except upon the written agreement of the Contracting Officer. All commitments and obligations of the Contractor shall be fully binding on any assignees.

22. EFFECTIVE DATE. This Contract shall become effective as of January 1, 1955.

IN WITNESS WHEREOF the parties hereto have executed this agreement the day and year first above written.

COMMANDER IN CHIEF, UNITED STATES  
PACIFIC FLEET

BY 15/ F. B. STAMP

Title: Contracting Officer

MICHIGAN METAL & EQUIPMENT CO., INC.

BY 15/ BRUCE MITCHISON

Title: ~~Vice~~ President