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1. "LM Aero" means LOCKHEED MARTIN CORPORATION acting through its Lockheed Martin Aeronautics Company-Palmdale operating unit.
2. "Contractor" means the party identified on the face of the purchase order as Seller; as well as that party's agent or other person authorized to represent Contractor, such as the Contractor's superintendent or foreman, and Contractor's subcontractors at any tier.
3. "LM Aero Procurement Representative" means the person or persons, identified in the contract who are authorized by LM Aero to administer, alter, modify or change the provisions of the contract.
4. "Coordinator" means the LM Aero Contractor Job Coordinator, the individual designated by the Facilities or other organization as responsible for overseeing non-contractual aspects of the contracted-for project or operation.
5. "Contract" and "Purchase Order" are used synonymously and interchangeably herein.
6. "LM Aero ESH Manual" means the [PM-8013 Contractor Environmental Safety and Health Handbook](#)
7. "Acceptance," shall mean either (i) a signed written acknowledgement of these terms, or any modified version thereof, or; (ii) the commencement of performance by Seller under this Purchase Order.

ARTICLE 1

INTERPRETATION AND APPLICABILITY

Acceptance of these terms shall be in accordance with the definition set forth above. PARTS A, B, and C of these Terms and Conditions shall be applicable when the contract block on the face of the LM Aero Purchase Order incorporating the document references a prime contract with the U.S. Government. Without such a reference on the Purchase Order, only PARTS A and B hereof shall be applicable. These terms and conditions supersede and replace the Terms and Conditions preprinted as part of the LM Aero Purchase Order form. In the event of any inconsistency between the provisions of these Terms and Conditions, the face of the LM Aero Purchase Order to which it applies and any other attachments, the order of precedence shall be:

- (a) Face of the Purchase Order

- (b) These Terms and Conditions
- (c) Other Attachments in alpha sequence

ARTICLE 2

STATEMENT OF WORK

Contractor shall furnish all material, equipment, and labor necessary to perform all work specified in the Purchase Order in strict accordance with the specifications and drawings attached thereto or incorporated by reference therein (which together herewith shall be referred to as the "Contract Document"), at the price or prices and within the period of time specified in such Purchase Order.

ARTICLE 3

LOCATIONS OF WORK, SITE INVESTIGATION AND REPRESENTATIONS

(a) The work under this contract shall be performed at such place or places as shall be designated in the Purchase Order and at such other place or places as may be necessary. Contractor acknowledges that it has satisfied itself as to the nature and location of the work and as to the general and local conditions, particularly those bearing upon (i) transportation, (ii) clarification of clean up and disposal requirements (as further set forth in the ARTICLE hereof entitled Cleaning Up), (iii) handling and storage of materials, (iv) availability of labor, (v) security requirements, (vi) water, (vii) electric power, (viii) roads, (ix) the conformation and condition of the ground, (x) the character, quality and quantity of surface and subsurface materials to be encountered, (xi) equipment and facilities needed preliminary to and during the prosecution of the work, (xii) uncertainties of weather, and (xiii) all other matters which can, in any way, affect the work or the cost thereof under this contract. Any failure by the Contractor to acquaint itself with all the available information concerning these conditions shall not relieve Contractor from responsibility for estimating properly the difficulty or cost of successfully performing the work, without additional expense to LM Aero.

(b) LM Aero assumes no responsibility for any understanding or representation made by any of its employees, agents or representatives prior to the execution of this contract, unless such understanding or representation by LM Aero is expressly stated in this contract. Any such representations or understanding made but not expressly stated in the contract and for which liability is not expressly assumed by LM Aero herein shall be deemed only for the information of the Contractor and LM Aero and shall not render LM Aero responsible or liable therefor.

ARTICLE 4

SUPERINTENDENCE BY CONTRACTOR

Contractor shall give efficient supervision to the work using its best skill and attention. The Contractor's general

- (1) Act as liaison between LM Aero and the Contractor at the job site;
 - (2) Make field decisions on behalf of LM Aero;
 - (3) Inspect and approve details of the work as it progresses; and
 - (4) Suspend the Contractor's operations for unsafe practices, or any other act or omission detrimental to sound construction practice. In such event Contractor shall not be entitled to an adjustment in schedule or price
- (b) A field decision shall be binding on the Contractor and LM Aero when such decision is in writing and signed by LM Aero's Field Engineer provided that such decision (i) relates to changes in the work at no additional cost to LM Aero, and (ii) does not change the date of completion of the work. A fi

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the case may be, LM Aero (i) may, by contract or otherwise, replace such material, correct such work, or both and charge the cost thereof to the Contractor or (ii) may terminate the right of the Contractor to proceed as provided in the Article hereof entitled TERMINATION FOR DEFAULT.

(b) The Contractor shall furnish promptly without additional charge all reasonable facilities, labor and materials necessary for the safe and convenient inspection and testing that may be required by LM Aero inspectors. All inspections and tests by LM Aero shall be performed in such manner as not to unreasonably delay the work. Special performance and all other tests shall be performed as described in this contract. The Contractor shall be charged with any additional costs of inspection when material and work are not ready at the time inspection is specified by the Contractor for its inspection.

(c) Should it be necessary or advisable by LM Aero at any time before final acceptance of the entire work to make an examination of work already completed, by removing or tearing out same, Contractor shall on request promptly furnish all necessary facilities, labor and material. If such work is found to be defective or nonconforming in any respect due to fault of the Contractor or its subcontractors, contractor shall defray all the expenses of such examination and of satisfactory reconstruction. If, however, such work is found to meet the requirements of the contract, the actual cost of labor and material necessarily involved in the examination and replacement, plus a negotiated overhead and profit rate mutually agreed to, shall be allowed the Contractor, and it shall, in addition, if completion of the work has been delayed thereby, be granted a suitable extension of time.

(d) Unless otherwise provided in this contract, acceptance of all work required by this contract shall be made as promptly as practicable after completion and final inspection thereof. Acceptance shall be final and conclusive except as regards latent defects, fraud, such gross mistakes as amount to fraud or LM Aero's rights under any warranty or guarantee.

ARTICLE 17

WARRANTY

Contractor for itself, its successors and assigns, does hereby warrant to LM Aero that all materials and equipment furnished under this contract shall be new unless otherwise specified by LM Aero, and that:

(a) The materials (herein defined as including but not limited to fixtures, articles, supplies, equipment, and parts thereof) provided for the work under said contract shall be of good quality and free from fault or defect due to design (except to the extent such design is prescribed in the specification furnished by LM Aero), work, or material content, shall be free from fault under conditions of proper and normal use, and be in conformance with the Contract Documents.

Should any materials not be free of such fault or defect or otherwise fail to meet the requirements of the contract, LM Aero may, within one (1) year after completion of the work or for such longer period as provided in any manufacturer's warranty, reject the materials and direct the Contractor to proceed at once to make alterations or furnish new materials. All costs of removing such defective or nonconforming materials, furnishing and installing new materials or making alterations of materials, and all costs of tests made necessary by failure of the materials to meet this Warranty and other requirements of the contract, and all costs resulting from damage to other materials, work or the work site due to the defective or faulty materials, shall be borne by the Contractor.

work, or otherwise performing, and all costs of tests made necessary by the failure of the work to meet this Warranty or other requirements of said contract, and all costs resulting from damage to other work, materials, or the work site due to the improper workmanship, shall be borne by the Contractor.

(d) The provisions hereof are applicable to any new materials installed, any alteration to presently installed materials, and any work corrected or otherwise performed pursuant to this Warranty.

(e) The terms and conditions of this Warranty are supplementary to and not in lieu of, a manufacturer's or any other warranty for any materials provided for the work under the contract.

(f) Upon the Contractor's failure to proceed promptly to comply with the terms of this Warranty, LM Aero may perform, or may have performed, such work as LM Aero deems necessary to fulfill such Warranty and the Contractor shall reimburse LM Aero promptly for all costs incurred by LM Aero for such work.

ARTICLE 18

RIGHT OF ENTRY

LM Aero, or anyone designated by it, may at any time, and from time to time, during the performance of the work, enter the area or structure for the purpose of performing other work by contract, or otherwise, and for any other purpose in connection with the installation of facilities. In so entering, LM Aero shall endeavor not to interfere with the Contractor and the Contractor shall not interfere with other work being done by or on behalf of LM Aero in the area or structure, and Contractor shall remain responsible for compliance with the terms of the contract.

ARTICLE 19

POSSESSION PRIOR TO COMPLETION

If prior to completion and final acceptance of all the work, LM Aero takes possession of any structure with the intent of retaining possession thereof, the Contractor, notwithstanding any of the other provisions herein, shall be relieved of the responsibility for loss or damage to such structure, other than that resulting from the Contractor's fault or negligence. Retaining possession, as described in this paragraph, does not constitute final acceptance of such structure, and Contractor shall remain responsible for compliance with the terms of the contract.

If such prior possession or use by LM Aero unreasonably delays the progress of the work or causes additional expense to the Contractor, LM Aero agrees to negotiate an equitable adjustment in the contract price, the time of completion or other, provided LM Aero is notified in writing and furnished satisfactory evidence that such entry or possession is, in fact, unreasonably delaying the progress of the work or causing additional expense to the

and premises in a condition satisfactory to LM Aero. Hazardous waste shall be disposed of in accordance with the PART hereof entitled ENVIRONMENTAL PROTECTION HEALTH AND SAFETY.

Contractor shall comply with all instructions from LM Aero with respect to conditions at the site, and shall remove all its rubbish, debris and unnecessary materials, tools, and equipment, or upon failure to so do, to pay actual cost of such removal. Storage of all materials shall be under the supervision of LM Aero, but at the expense, if any, of Contractor. All salvageable materials shall be delivered to the on-site storage area as designated by LM Aero.

ARTICLE 21

INDEPENDENT CONTRACTOR

It is understood and agreed that Contractor shall perform its work hereunder as an independent contractor and at its sole risk and responsibility. It is further understood and agreed that:

(a) Neither Contractor nor LM Aero intends by this contract that Contractor shall be an employee of LM Aero, and Contractor is not authorized to enter into, or create any obligations on behalf of LM Aero with any third parties. It is specifically understood and agreed that Contractor shall not act in any sense as an agent or representative of LM Aero.

(b) Contractor agrees that any and all persons who may be employed or whose services may be retained by Contractor in order to perform the work provided for hereinabove are to remain the Contractor's employees, representatives, or agents, exclusively, without any relationship whatsoever to LM Aero. Any such employees, representatives, or agents of Contractor shall be promptly paid by Contractor for all services furnished hereunder. Contractor specifically understands and agrees that Contractor and any such employees, representatives, or agents are not entitled to any compensation or employment benefits that are or may be made available to LM Aero's employees, which benefits include, but are not limited to benefits under any group life insurance policies, group accident and sickness policies, retirement plans, or any other fringe benefit whatsoever.

(c) Contractor shall be responsible for all obligations and responsibilities covering and related to Social Security, Unemployment Insurance, Workers' Compensation Insurance, taxes, and all other reports and deductions required by state and federal law, if any.

(d) Contractor agrees to indemnify and hold harmless LM Aero, its officers, and employees, for any loss, cost, damage, expense, claim, and/or liabilities whatsoever, arising or resulting from any act or failure to act by

Contractor agrees to indemnify Lockheed Martin Corporation, its officers, agents and employees, and each of them, and hold them harmless from any and all claims, costs, damages, expenses, judgments, liabilities and losses of any nature or kind whatsoever, including but not limited to, legal costs and expenses, by reason of injury or death or damage to persons or property or otherwise arising out of or in any way connected with the work (referred to in the Article hereof entitled STATEMENT OF WORK) under this agreement including, without limitation, those damages caused by the negligence (act or omission), willful misconduct or other fault of Contractor, its officers, agents, and employees and subcontractors. Said agreements to indemnify and hold harmless shall apply to any operations under any subcontract(s), and Contractor further agrees that any subcontract let under this Contract will contain provisions whereby the subcontractor agrees to indemnify and hold harmless Lockheed Martin Corporation, its officers, agents and employees, and each of them, in the aforesaid manner.

ARTICLE 28

PERFORMANCE BOND

Contractor shall, if requested by LM Aero before or within ten (10) days after execution of this contract, furnish a performance bond and a bond to protect against liens of materialmen, laborers and other claimants, each in the amount and form and issued by suretit

ARTICLE 31

NOTICE OF LABOR DISPUTES

(a)

(a) The Contractor agrees to report to LM Aero, promptly and in reasonable written detail, each notice or claim of patent or copyright infringement based on the performance of this contract and asserted against it or against any of its subcontractors if it has knowledge thereof.

(b) In the event of any claim or suit against LM Aero on account of any alleged patent or copyright infringement arising out of the performance of this contract or out of the use of any supplies furnished or work or service performed hereunder, the Contractor shall furnish to LM Aero, when requested by LM Aero, all evidence and information in possession of the Contractor pertaining to such suit or claim. Such evidence and information shall be furnished at the expense of LM Aero except where the Contractor has agreed to indemnify LM Aero.

(c) This clause shall be included in all lower tier subcontracts.

ARTICLE 35

RESERVATION OF RIGHTS

The failure of LM Aero to insist, in any one or more instances, upon the performance of any of the term, covenants or conditions of this contract or the related Purchase Orders, or other documents shall not be construed as a waiver or a relinquishment of the future performance of any term, covenant or condition, but Contractor's obligation with respect to such performance shall continue in full force and effect.

ARTICLE 36

SUBCONTRACTORS

(a) LM Aero, upon notice to Contractor, may make payment directly to any subcontractor in accordance with the subcontract price for work performed under this contract. To the extent of any such direct payments to a subcontractor, payments made to Contractor, to be made, or both shall be adjusted and any refund due LM Aero as a result of such adjustments shall be promptly paid.

(b) In addition, LM Aero may terminate the work under the contract being performed by any subcontractor in accordance with the Article hereof entitled TERMINATION FOR CONVENIENCE and (i) contract directly with such subcontractor, or (ii) upon request by LM Aero, Contractor shall assign the subcontract involved to LM Aero. The terms and conditions of Contractor's subcontracts shall be consistent with the provisions of this paragraph (b).

ARTICLE 37

CANCELLATION FOR INSOLVENCY

In the event of the institution of any proceeding by or against either party, voluntary or involuntary, in bankruptcy or insolvency, or under any provisions of the United States Bankruptcy Act, or for the appointment of a receiver or trustee or an assignment for the benefit of creditors of either party, the other party shall be entitled to cancel this contract forthwith, without liability for loss of anticipated profits.

ARTICLE 38

TERMINATION FOR CONVENIENCE

In addition to the rights of LM Aero under the Article hereof entitled TERMINATION FOR DEFAULT, LM Aero may, at any time, for its own convenience, terminate this contract in whole or part, by written Notice of Termination for Convenience. Such Notice shall state the extent to which and the date on which such termination shall be effective. Upon such Termination for Convenience, the rights of LM Aero and Contractor shall be controlled by, and equitable

settlement shall be made according to the principles of Subpart 52.249-2 and Alternate I of the Federal Acquisition Regulations (FAR) in effect as of the date hereof. Failure of Contractor to submit notice of its intention to file a claim within thirty (30) days, unless such period is extended by LM Aero in writing, shall constitute an absolute

Except for the Contractor's obligation to comply with environmental and related laws, which shall be determined in accordance with the law of the jurisdiction where the work is to be performed, this Contract shall be construed and performance thereof shall be determined according to the Laws of the State of California, exclusive of its conflicts-of-law rules.

ARTICLE 44

EQUAL OPPORTUNITY

The Equal Employment Opportunity clause in Section 202 of Executive Order (E.O.) 11246 as amended and the

ARTICLE 50

SECURITY

Contractor, Contractor's agents, employees, representatives, and subcontractors if any, assigned to perform work under this Agreement may be required to be citizens or permanent legal residents of the United States of America. Personal viewing of Birth Certificates/Naturalization papers is acceptable as proof. Contractor agrees to comply with all LM Aero and U.S. Government security requirements that are now, or will become effective, and that are applicable to Contractor's performance hereunder. Contractor further agrees to establish rules and regulations for

3. "Coordinator" means the designated LM Aero individu

Contractor the location of the confined space, and known and potential hazards associated therewith.

(2) To ensure the safety of Contractor personnel during entry into confined spaces (such as tanks, manholes and sewers, vessels, etc.) Contractor shall furnish to LM Aero a copy of the written Confined Space Program, which Contractor will adhere to during performance of the contract. Contractor will use monitoring equipment and perform appropriate testing procedures which includes, but is not limited to testing for oxygen deficiency and explosive gas levels, to supplement established confined space entry procedures.

(c) **LOCK OUT/LINE BREAKING**

(1) If Contractor is required to lock out LM Aero equipment, Contractor shall notify the Coordinator. Contractor shall not enter an electrical control room unless escorted by the Coordinator or other authorized LM Aero representative.

(2) Contractors servicing LM Aero machinery and equipment subject to lockout/tag out requirements shall conform to LM Aero lockout/tagout procedures. as contained within the LM Aero Safety and Health Manual.

(3) Contractor shall not perform work on electrical circuits, machinery or lines (or connected equipment) carrying hazardous liquids or gases under pressure until all energy sources including controlling switches and valves, have been identified, and positively locked out and appropriately tagged, to prevent personal injury to its employees or others and/or damage to equipment due to unexpected start-up of electrical or mechanical equipment.

(4) Upon completion of the job and before locks or tags have been removed, Contractor shall notify the Coordinator so power can be resumed to the equipment after the lockouts have been removed.

(d) **USE OF LM Aero MATERIALS AND EQUIPMENT**

Contractor shall not start, stop, adjust or relocate any LM Aero production or process equipment without the prior approval of the Coordinator.

(e) **DANGEROUS OPERATIONS - WARNINGS AND BARRICADES**

(1) Prior to commencing work, Contractor must inform the Coordinator of any work posing a potential danger to LM Aero personnel and obtain written authorization from the Coordinator to proceed.

(i) Utilizing warning signs and/or barricades, or stationing a Contractor employee to warn passers-by, and

(ii) Effectively barricading excavations, floor openings, etc.

(f) **ELECTRICAL SAFETY**

Contractor shall ensure that all electrical equipment used in the performance of this contract complies with applicable electrical codes for the work to be done.

(g) **USE OF HAZARDOUS MATERIALS - HAZARD COMMUNICATION**

(1) Contractor personnel shall not bring any hazardous substances (as defined by CAL/OSHA) onto LM Aero premises unless the Contractor maintains copies of the MSDS for those substances on-site and makes them readily available to LM Aero personnel. Contractor shall inform LM Aero of any hazardous substances used in Contractor's operations that LM Aero employees will be exposed to while performing work under this contract.

(2) Contractor shall ensure all containers of hazardous materials are labeled in compliance with CAL/OSHA regulations including the product name, appropriate hazard warnings, and the name and address of the manufacturer.

(3) LM Aero shall:

(a) Advise the Contractor concerning the hazardous substances used in LM Aero operations that the Contractor's employees will be exposed to while performing work under this contract.

(b) Make available to the Contractor Material Safety Data Sheets (MSDS) and sufficient information to permit the Contractor to train its employees.

(h) **ASBESTOS AND LEAD HAZARDS**

(1) General:

(a) Contractor warrants for itself, its officers, employees, agents and subcontractors at any tier, that it understands the currently known hazards which are presented to persons, property and the environment by asbestos and lead.

(b) Prior to commencement of work on this contract, Contractor will be provided an Asbestos Notification identifying LM Aero asbestos construction materials, as required by California law. This notification will be updated as necessary during the period of performance of the contract.

(2) Requirements for Contractors Working on Asbestos:

(a) Contractors performing maintenance, construction, repair, renovation, demolition, removal or salvage activities in which any materials containing asbestos **or** lead are sanded, abrasive blasted, sawed, cut, shoveled, removed, or otherwise handled in such a manner that asbestos or lead dust would be raised shall comply with all the applicable requirements of CAL/OSHA General Industry

Safety Orders (GISO) Sections 5208 and 5216 and Construction Safety Orders, Sections 1529 and 1532.1.

(b) In addition to the foregoing, on request, the Contractor shall provide to LM Aero, or its designated representative, copies of CAL/OSHA notifications, monitoring results, and other documentation to demonstrate compliance with regulatory requirements.

(3) Incidental Contact with Asbestos and Lead:

This section applies to contractors who incidentally come into contact with asbestos or lead containing materials; i.e., contractors who have not been specifically hired to perform maintenance, construction, repair, renovation, demolition, salvage, or any other operation in which any material suspected of containing asbestos or lead is sanded, abrasive blasted, sawed, shoveled, removed, or otherwise handled in a manner that would raise asbestos or lead dust.

(a) Contractor shall immediately report to the Coordinator, or if the Coordinator is not available, directly to LM Aero Safety and Health, any work, spill or suspected spill of asbestos or lead containing materials. Contractor is to cease all operations in the immediate area of the spill. The approval of the coordinator and LM Aero Safety and Health is required before resuming operations.

(b) Contractor shall not disturb any pipe insulation, boiler insulation, or any other material reasonably suspected of containing asbestos or lead until the Contractor notifies the Coordinator. LM Aero Safety and Health's approval is required. W 487.506(eal)2. 11.04 -0 0 11.04 72 431.52(

(4) Identification of the type of contract proposed to be used.

(c)