

DATE LAST REVISED: 9 JULY 2003

APPENDIX 1C

**LOCKHEED MARTIN AERONAUTICS COMPANY - PALMDALE
CONSTRUCTION CONTRACTS TERMS AND CONDITIONS**

PART A

DEFINITIONS

The following definitions are applicable to PARTS A, B, and C.

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

reference therein (which together herewith shall be referred to as the "Contract Document"), at the price or prices

(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 field decision that affects cost or schedule must be authorized by LM Aero's authorized purchasing representative and will be processed as a change in accordance with the Article hereof entitled CHANGES.

ARTICLE 6

OPERATIONS AND STORAGE AREAS

All operations of the Contractor (including storage of materials) upon LM Aero premises shall be confined to areas authorized or approved by LM Aero. No unauthorized or unwarranted entry upon, passage through, or storage or disposal of materials shall be made upon premises of LM Aero. At LM Aero's option, such premises adjacent to the construction site may be made available for use by the Contractor without cost if such use will not interfere with other use or purposes of LM Aero. The Contractor shall hold and save Lockheed Martin Corporation, its officers, employees and agents, free and harmless from liability of any kind or character arising from any use, trespass or damage occasioned by Contractor's operations on the premises of third persons. Temporary buildings (storage sheds, shops, office or other structures) may be erected by the Contractor upon premises of LM Aero only with the approval of LM Aero, and if such temporary buildings are constructed, they shall be built with labor and materials furnished by the Contractor, without additional expense to LM Aero and in conformance with all building codes, laws, regulations and statutes. All such buildings shall remain the property of the Contractor and must be removed and the premises restored to its original condition by the Contractor at its expense promptly upon completion of the work. Upon written application of the Contractor and written approval of LM Aero, such buildings may be abandoned and need not be removed. The Contractor shall use only established roadways or construct and use such temporary roadways as may be authorized by LM Aero. Where materials are transported in the prosecution of the work, vehicles shall not be loaded beyond the loading capacity recommended by the manufacturer of the vehicle or prescribed by any Federal, state, municipal or other regulation. If it is necessary to cross curbing or sidewalks, protection against damage shall be provided by the Contractor, and any damage to roads, curbing or sidewalks shall be promptly repaired by Contractor without additional expense to LM Aero.

ARTICLE 7

LAYOUT OF THE WORK

Unless otherwise specified in Purchase Orders hereunder, Contractor shall set, cut and lay out the work as necessary and shall furnish all stakes, templates, platforms, equipment, and ranges and labor that may be required in performing such part of the work. All stakes or other marks shall be preserved by the Contractor until their removal is authorized by LM Aero's Field Engineer. LM Aero will furnish, on request from the Contractor, all location and limit marks reasonably necessary for the conduct of the work.

ARTICLE 8

PROGRESS CHARTS

ARTICLE 9

CONFORMANCE WITH SCHEDULE

- (a) Contractor shall furnish such labor, facilities and equipment and shall work such hours, including nigh

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

(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 of LM

such insurance shall be filed with LM Aero before commencement of performance of the work and shall carry a provision that no cancellation or material change in the policy shall become effective except on thirty (30) days advance written notice thereof to LM Aero.

(c) Contractor shall furnish to LM Aero on a recurring basis certificates of all such insurance policies required by this contract, which certificates shall contain a provision that LM Aero shall not be liable for payment of any premium due under any such policies. Contractor agrees that it will take all necessary and proper steps to have any subcontract under this contract include LM Aero, its directors, officers, agents and employees, and each of them, as additional named insured in any policies of insurance required of and secured by any subcontractor.

ARTICLE 23

OTHER CONTRACTORS

(a) LM Aero may undertake or award other contracts for additional work, and the Contractor shall fully cooperate with such other contractors and LM Aero employees and carefully fit its own work to such additional work as may be directed by LM Aero. The Contractor shall not commit or permit any act which will interfere with the performance of work by any other contractor or by LM Aero employees.

(b) In the event there is more than one contractor engaged in the work or engaged in the construction of the entire project of which the work under this contract is a part, each such contractor shall be responsible to the other for damages to the work, injury to any person or persons, loss of life, or for any loss, cost, claims or damages arising out of or in connection with the work performed by each contractor including any loss, cost, expense or damage caused by the neglect or failure to finish or satisfactorily complete its part of the work within the time prescribed, time being of the essence. A similar provision is or will be in the contract between LM Aero and each other contractor of LM Aero that is performing or will perform part of such work or construction project. Contractor shall recover directly and only from the other contractor or contractors of LM Aero for any loss, cost, expense or damage occasioned by the actions or omissions of such contractor.

ARTICLE 24

COST AND PERFORMANCE

(a) LM Aero shall at all times have access to all work being performed hereunder by Contractor or by any of its subcontractors and suppliers, and shall have access to all books, records, correspondence, instructions, plans, specifications, drawings, memoranda, payroll records, vouchers, bills, receipts and all other information of whatsoever kind relating to performance of this contract (or otherwise evidencing Contractor's subcontractor's and supplier's, costs and expenses, and their payment thereof). Contractor shall preserve all such records, data and information and shall provide LM Aero with reasonable access thereto for not less than thirty-six (36) months after final payment of the contract price. Contractor shall ensure that its subcontractors and suppliers agree to the above provisions in their agreements with Contractor.

(b) Prior to acceptance of the work hereunder, Contractor agrees to provide LM Aero with a construction and equipment cost breakdown for all items of labor, materials, equipment, supplies, services and all other expenditures of whatever nature which may be chargeable to the work by Contractor and each of its subcontractors. The construction and equipment cost breakdown requirements shall be provided to LM Aero in such a manner as to provide reasonable cost allocations and description for depreciation and insurance purposes.

ARTICLE 25

TERMINATION FOR DEFAULT

(a) If the Contractor refuses or fails to prosecute the work, or any separable part thereof, with such diligence as will insure its completion within the time specified in the Purchase Order, or any extension thereof, or fails to

(3) All material delivered on the site, or incorporated into the work, and any other work covered by progress payments made shall thereupon become the sole property of LM Aero, but this provision shall not be construed as relieving Contractor from the sole risk and responsibility for such materials and work upon which payments have been made, or to relieve Contractor from the obligation to restore or replace any damaged work or materials, or as a waiver of the right of LM Aero to require the fulfillment of all of the terms of this contract on schedule.

(4) After completion of all work hereunder by Contractor, and acceptance by LM Aero, and after Contractor shall have furnished to LM Aero full and complete waivers of all materialmen's and mechanics' liens, and thirty-

Except as may otherwise be provided in Purchase Orders hereunder, the prices indicated in such Purchase Orders include all applicable Federal, state, and local taxes and duties. Contractor agrees to pay, when and as the same become due and payable, all taxes, assessments and similar charges which at any time prior to final settlement of this contract are properly and legally levied, assessed or imposed upon the Contractor, arising out of or in connection with the performance of any work, furnishing of any materials, or performing any

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 waiver of any right to make such a claim.

ARTICLE 39

LICENSES, PERMITS AND COMPLIANCE WITH FEDERAL AND LOCAL LAWS

Contractor agrees to comply with all applicable provisions of Federal and State statutes, municipal ordinances, codes, regulations and requirements issued or imposed by any governmental authority and to indemnify and save harmless LM Aero against any damage or liability resulting from Contractor's failure to comply. Without limiting the generality of the foregoing and without additional expense to LM Aero, the Contractor shall obtain all necessary licenses and permits required in connection with the performance of this contract.

Contractor shall take proper safety and health precautions to protect the work, the workers, the public, and the property of others. Contractor shall also be responsible for all materials delivered and work performed until completion and acceptance of the entire construction work, except for any completed unit of construction thereof

which theretofore may have been accepted.

ARTICLE 40

ASBESTOS HAZARDS (See the "ASBESTOS HAZARDS" Section of the Article of PART B entitled SAFETY AND HEALTH)

ARTICLE 41

CONTRACTOR INSPECTION SYSTEMS

- (a) The Contractor shall (i) maintain an adequate inspection system and perform such inspections as will assure that the work performed under the contract conforms to contract requirements and all applicable codes, and (ii) maintain and make available to LM Aero adequate records of such inspections.
- (b) Contractor shall provide and maintain a quality control system acceptable to LM Aero.

ARTICLE 42

GRATUITIES AND KICKBACKS

LM Aero may, by written notice to Contractor, terminate for default the right of Contractor to proceed under this order if LM Aero has reasonable cause to believe that gratuities (in the form of entertainment, gifts or otherwise) or kickbacks were offered or given by Contractor, or any agent or representative of Contractor with a view toward securing this order or securing favorable treatment with respect to, awarding or amending or the making of any determinations with respect to the performance of this order.

ARTICLE 43

APPLICABLE LAW

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 implementing rules and regulations (Title 41, Code of Federal Regulations, Part 60) are incorporated herein by

The Affirmative Action clause in Title 41, Code of Federal Regulations, Part 60, Subsection 741.4 and the implementing rules and regulations of the Department of Labor associated therewith are incorporated herein by reference unless the purchase order is under \$2,500.

ARTICLE 46

AFFIRMATIVE ACTION FOR DISABLED VETERANS AND VETERANS OF VIETNAM ERA

The Affirmative Action clause in Title 41, Code of Federal Regulations, Part 60, Subsection 250.4 and the implementing rules and regulations of the Department of Labor associated therewith are incorporated herein by reference unless the purchase order is under \$10,000.

ARTICLE 48

REMEDIES

The rights and remedies of LM Aero provided herein shall be cumulative and in addition to any other rights and remedies provided by law or equity.

ARTICLE 29

NONDISCLOSURE OF INFORMATION

Contractor agrees not to disclose to any third party or use any information or other matter furnished by or acquired from LM Aero or developed as a result of the services rendered herein except to the extent required by law and as otherwise may be authorized in writing by an authorized agent of LM Aero. Upon LM Aero's request, Contractor agrees to obtain from Contractor's employees, representatives, and agents, if any, a signed nondisclosure agreement acceptable to LM Aero.

ARTICLE 51

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 its employees, representatives, and agents while on the prem

restricted materials or information. If it becomes necessary for Contractor to store classified material at Contractor's place of business, a facilities clearance will be required. In this event and at no additional cost to LM Aero, Contractor agrees to enter into a security agreement with the cognizant government agency and to maintain a system of security controls in accordance with the requirements set forth in the "Department of Defense Industrial Security Manual for Safeguarding Classified Security Information" (DoD 5220.220M), or any other required manual which will be an attachment to the security agreement. Contractor further agrees that all classified or restricted materials and such other unclassified materials furnished to it by LM Aero will be returned to LM Aero upon termination of Contractor's security clearance, or this Contract, whichever shall first occur. In the event any information furnished to Contractor is LM Aero Private Data or data that is Competition Sensitive, or otherwise proprietary to LM Aero, LM Aero shall so inform Contractor and Contractor shall handle this information strictly in accordance with Article 50, NONDISCLOSURE OF INFORMATION.

ENVIRONMENTAL PROTECTION HEALTH AND SAFETY

PART B

ARTICLE 52

DEFINITIONS

The following definitions are applicable to PART B.

1. "AVAPCD" means the Antelope Valley Air Pollution Control District.
2. "CAL/OSHA" means the California Division of Occupational Safety and Health.
3. "Coordinator" means the designated LM Aero individual responsible for interfacing with the Contractor on non-contractual aspects of the contracted-for project or operation.
4. "Employees" unless otherwise limited, means the employees of the contractor, any other contractors on the site, all subcontractors, and any and all agents of any of the foregoing.
5. "Hazard Communication Program" means a program meeting the requirements of Title 8 of the California Code of Regulations, Section 5194.
6. "LM Aero Environmental" means the Lockheed Martin Skunk Works Environmental Division.
7. "LM Aero Safety & Health" means the Lockheed Martin Skunk Works Safety and Health Department.
8. "Work Site" means the area marked off by warning tape, barricades, or other effective means of isolation., after the date of commencement of work.

ARTICLE 53

GENERAL

All work required or permitted to be performed hereunder shall be in compliance with all Federal, state, local, municipal and any other applicable environmental, safety and health statutes, rules,

ordinances, regulations and requirements, including, but not limited to, those regarding occupational safety and health, protective clothing, personal protective equipment, air and water quality, hazardous materials and hazardous and solid waste. Contractor shall be solely responsible for the performance of work hereunder, and shall be solely responsible for the supervision and compliance of its officers, employees and agents, and subcontractors and subcontractor employees at any tier, while performing work hereunder.

notify the Coordinator so power can be resumed to the equipment after the lockouts have been removed.

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 before operations may commence.

(i) **EMERGENCIES**

(1) Upon discovering a fire or other emergency, Contractor shall notify LM Aero's Central

the areas, go to a safe location, inform response personnel, and notify the LM Aero Building Manager and coordinator as soon as practicable.

(2) If an evacuation alarm sounds while Contractor is working, Contractor shall evacuate all personnel in the worksite to a safe place, then notify the LM Aero Building Manager as soon as practicable.

(3) Contractor shall immediately report any spills or releases of hazardous materials to LM Aero Central Dispatcher at Ext. F-I-R-E. Immediately thereafter, Contractor shall advise the Coordinator of the incident.

ARTICLE 55

FIRE PREVENTION

(a) CUTTING AND WELDING

Prior to performing any welding or cutting operation outside of a welding booth, Contractor will contact the Coordinator to obtain a Cutting and Welding Permit from the LM Aero Safety and Health Department.

(b) SMOKING

(1) Contractor employees shall not smoke inside buildings or within 25 feet from any building entrance.. Smoking outside buildings is allowed only where a potential for fire does not exist. No smoking is allowed within 50 feet of aircraft, within paint hangars or spray booths, within 20 feet of any painting operations, or where prohibited by safety rules and regulations.

ARTICLE 56

ENVIRONMENTAL

Contractors shall comply with applicable provisions of Federal, State, municipal, local and other environmental statutes, rules, and regulations. Contractor shall take all necessary precautions for the protection of the environment and to prevent storage, transport or disposal of hazardous wastes, non-hazardous wastes, air emissions, or water discharges that are in violation of governmental regulations.

generated by its operations must be labeled in accordance with all rules and regulations.

(4) All Contractor-generated hazardous waste shall be disposed of by LM Aero Environmental unless otherwise specified in the statement of work.

(5) Contractor shall be liable for the costs of LM Aero's response to any spill resulting from Contractor's actions, including, but not limited to, costs of containment, cleanup and disposal.

(b) NON-HAZARDOUS WASTE DISPOSAL

(1) Contractor shall handle, transport and dispose of all non-hazardous wastes in accordance with Federal, state, municipal, local and other rules, regulations, ordinances and requirements.

(2) Contractor shall not dispose of any non-hazardous wastes on LM Aero property.

(c) WORK INVOLVING AIR EMISSIONS

(1) If Contractor's operations require air pollution permit(s), Contractor shall maintain copies of Permit(s) to Operate (or Applications for Permits to Operate), or documentation to show an exemption from the permit requirements, on-site and make them readily available to LM Aero for all equipment and materials to be used by the Contractor on LM Aero property.

(2) Contractor shall maintain on-site, and make readily available to LM Aero, daily records of all coatings, solvents and other materials used where an **AVAPCD** Permit is required, or where documentation justifying an **AVAPCD** permit exemption is required.

(d) WORK INVOLVING WATER DISCHARGES

Contractor shall notify and obtain the written approval of the Coordinator before discharging any material regulated by State of Federal waste water discharge requirements into sinks, floor drains, storm drains or sewers.

TERMS AND CONDITIONS

PART C

Applicable to Contracts awarded under a U.S. Government Prime contract in accordance with the Article in PART A hereof entitled INTERPRETATION AND APPLICABILITY. In the event of any inconsistencies between PART A and PART C, PART C shall have prec 46rnle

Contracting Officer) authorized to act for the head of the agency or the Secretary.

2. "Contracting Officer" as used herein means the person executing LM Aero's Prime Contract on behalf of the Government and includes a duly appointed successor or authorized representative.

ARTICLE 60

PATENT INDEMNIFICATION

In addition the Article in PART A entitled PATENT INDEMNIFICATION, TRADEMARK, TRADE SECRETS, COPYRIGHTS, the following provisions shall apply to any Purchase Order hereunder which is subject to this PART C in accordance with the Article in PART A entitled INTERPRETATION AND APPLICABILITY.

(a) The Contractor shall indemnify the Government and its officers, agents, and employees against liability, including costs, for infringement of any United States Letters Patent (except Letters Patent issued upon an application which is now or may hereafter be kept secret or otherwise withheld from issue by order of the Government) arising out of the manufacture of delivery of supplies or component parts thereof, or out o

52.222-37	JAN 1999	exceed \$10k and for commercial items) Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era (Applicable to orders expected to exceed \$10,000 unless the prime is for a commercial item and includes FAR 52.212-5 or 52.244-6.)
52.223-3	JAN 1997	Hazardous Material Identification and Material Safety Data (Applies if this contract

52.242-14	APR 1984	Suspension of Work
52.244-5	APR 1984	Competition in Subcontracting (Applicable to all orders expected to exceed \$25,000)
52.245-2	DEC 1989	Government Property (Fixed Price Contracts) (Applicable where Government Property may be acquired by, fabricated by, or furnished to a supplier)
52.245-18	FEB 1993	Special Test Equipment (Applicable if exact identification of STE is unknown at time of order)
52.247-63	APR 1984	Preference for U.S. Flag Air Carriers (Applicable to orders of \$25,000 or more)
52.247-64	APR 1984	Preference for Privately Owned U.S. Flag Commercial Vessels
52.248-1	MAR 1989	Value Engineering (Applicable to orders of \$100,000 or more for supplies other than for research and development)
52.249-1	APR 1984	Termination for Convenience of the Government (Fixed-Price)(Short Form) identification 8 8

252.249-7001 MAY 1991 of computer equipment to process classified information)
Notification of Substantial Impact on Employment (Applicable to all orders of
\$500,000 or more)