

APPENDIX 'X'
AERONAUTICS SECTOR STANDARD COMMERCIAL
TERMS & CONDITIONS

1. Definitions

As used herein "Buyer" means Lockheed Martin Corporation, acting through its Aeronautics Material Management Center; "Seller" means the party identified on the face of this PO; "Items" means all required articles, materials, supplies and services (singular "Item," plural "Items"); and "PO" means this purchase order or subcontract; "Buyer's Authorized Representative" means the person or persons from the Aeronautics Sector Procurement Department, and any other person or persons authorized by Buyer to alter, modify or change the provisions of this PO.

2. Delivery

- (a) Delivery shall be made in strict accordance with the provisions of this PO.
- (b) In the event of termination or change, no claim will be allowed for any manufacture or procurement by Seller in advance of reasonable flow time unless Buyer's prior written consent has been obtained by Seller for such advance manufacture or procurement. Buyer shall have the right to return or store at Seller's expense any Item delivered in advance of the scheduled delivery date specified for such Item unless Buyer has given such prior written consent for such advance delivery.
- (c) If, at any time, it appears to Seller that any delivery schedule cannot be met, Seller shall notify Buyer as soon as possible as to the cause or causes thereof, action being taken to remove such cause or causes and when on-schedule status will be achieved. Seller, at its expense, shall take reasonable action necessary, with or without request of Buyer, to meet such schedules as set forth herein or to recover to the maximum extent possible any delay caused by Seller in meeting such schedule. Notification under this Article shall in no way limit Buyer's rights under other provisions of this PO, at law, or in equity.

3. Inspection

- (a) Buyer and Buyer's customer may inspect the Items supplied hereunder before, during or after the manufacture, fabrication or performance thereof at facilities which will or may be used in the performance of this PO and, at any time and place before, during, or after manufacture or completion, may inspect and test all material and workmanship entering into the performance of this PO. No such inspection or test shall in any way relieve Seller of its obligations to furnish all Items in strict accordance with the requirements of this PO. If

6. Invoices, Payments, and Discounts

Unless otherwise provided, terms of payment shall be net 30 days from the latest of the following:

- (a) Buyer's receipt of the Seller's correct invoice;
- (b) Scheduled delivery date of the Items; or
- (c) Actual delivery, or completion of performance of the Items.

Buyer shall have a right of setoff against payments due under this PO for any amounts at issue under this PO or other purchase orders between Buyer and Seller.

7. Warranty

- (a) Seller warrants for a period of one year from the date of delivery under this PO that all Items furnished pursuant to this PO shall be free from defects in material and workmanship, conform to applicable specifications, drawings, samples, and descriptions, and other requirements of this PO and, unless of Buyer's detailed design, shall be free from design defects. For any breach of warranty, hereinabove set forth, Buyer may return such Supplies at Seller's expense for correction, replacement or credit as Buyer may direct. Supplies required to be corrected or replaced shall be subject to the provisions of this Article and the Article herein entitled "Inspection" to the same extent as Supplies initially delivered. All warranties shall run to Buyer and its customers.
- (b) If the items delivered under this PO are, or are to be, incorporated in an end item(s) to be delivered to any of Buyer's customer(s), Seller's obligation under this clause shall be extended to one year after delivery of such end item(s) to such customer(s).
- (c) The rights and remedies of Buyer provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided at law, in equity, or under this PO.

8. Compliance with Laws

- (a) Seller shall comply with the applicable provisions of all Federal, state, and local laws and ordinances and all lawful orders, rules and regulations thereunder, including without limitation the Arms Export Control Act, the International Traffic in Arms Regulation, and the Foreign Corrupt Practices Act; and such compliance shall be a material requirement of this PO. **Seller agrees to indemnify Buyer against any loss, cost, damage or liability by reason of Seller's violation of this clause.**

- (b) Seller warrants that each chemical substance constituting or contained in Items sold or otherwise transferred

timely filed claim or claims, Seller may submit revisions to such claim or claims provided that such revisions do not introduce different areas of costs or claim elements.

- (f) Failure to agree to any adjustment shall be a dispute under the "Disputes" clause of this PO. However, nothing contained in this "Changes" clause shall relieve Seller from proceeding h btanges" clause shal4mt delay

and information which Seller has disclosed or may hereafter disclose to Buyer in connection with the purchase of the Items covered by this PO shall not be deemed to be proprietary data and information; and it shall be acquired by Buyer free from any restrictions regarding its use or disclosure.

Information Disclosed to Seller

Seller shall keep confidential all information, drawings, specifications or data either:

- (a) furnished by Buyer and captioned as proprietary or
- (b) prepared by Seller specifically in

- (1) open source, publicly available, or “free” software, library or documentation;
- (2) software licensed under the General Public License (“GPL”) or Lesser/Library GPL, the Artistic License (e.g., PERL), the Mozilla Public License, the Netscape Public License, the Sun Community Source License, the Sun Industry Standards License, or variations thereof, including without limitation licenses referred to as “GPL-Compatible, Free Software License” (hereinafter referred to as the “Barred Licenses”); or,
- (3) software provided under a license that:
 - (A) subjects the provided software to any of the Barred Licenses;
 - (B) requires the provided software to be licensed for the purpose of making derivative works or be redistributable at no charge; or,
 - (C) obligates Buyer to sell, loan, distribute, disclose or otherwise make available or accessible to any third party(ies);
 - (i) the provided software or any portion thereof, in object code and/or source code formats; or,
 - (ii) any products incorporating the provided software, or any portion thereof, in object code or source code formats.

Seller, at its own expense, shall defend Buyer, Buyer’s employees, and/or Buyer’s customers against any and all claims, suits and other actions relating to the use of provided software, however arising, including without limitation those arising from claims of violation of Barred Software provisions above, or claims of infringement of any patent, trademark, copyright or trade secret right relating to the use of any Barred License in Items furnished by Seller.

13. Termination for Default

- (a) (1) Buyer may, subject to subparagraphs (c) and (d) below, by written notice of default to Seller, terminate this PO in whole or in part if Seller fails to (i)

such period, Buyer shall either terminate or continue the work by written order to Seller. In the event of a continuation, equitable adjustment shall be made to the price, delivery schedule, or other provision affected by the work stoppage, if applicable, provided that the claim for equitable adjustment is made within thirty (30) days after such continuation. Claim costs, if any, shall be calculated in a manner similar to that used to originally price the Items and shall be for the increase or decrease in the cost caused only by the stop work.

16. Force Majeure

Neither Party shall be liable, nor be deemed in default or failed in its performance of its obligations under this PO where such failure is due to causes beyond the control and without the fault or negligence of the Party concerned including but not limited to Acts of God, Acts of the Government, fires, floods, riots, labor difficulties, embargo, and civil commotion (Force Majeure). Partial failure of performance due to any of the aforementioned causes shall not in itself terminate this PO or excuse any failure by either Party to resume all obligations as promptly as possible. In the event either Party is affected in the performance of its obligations by any of the aforementioned causes, it shall give the other Party prompt written notice of the fact, together with satisfactory evidence substantiating that said cause prevents performance, as well as a declaration specifying the steps being taken by the Party to remove the relevant cause(s) and shall continue the performance of its other obligations under this PO. If Force Majeure remains in effect for a period longer than six (6) months, then Buyer may terminate all or part of this PO which is affected by the Force Majeure. Having done so, both Parties shall be relieved of any obligation for the canceled portion thereof.

17. Patent Indemnity, Trademarks, Trade Secrets and Copyrights

To the extent that Items are produced to detailed designs not originated and furnished by Buyer, or by processes or methods the use of which is not specifically directed by Buyer, Buyer shall have no responsibility to Seller for patent infringement and Seller warrants that the sale or use of such Items and the use of such processes and methods hereunder will not infringe any United States or foreign patents, trademarks, trade secrets, copyrights or other property rights. **Seller shall defend, indemnify and hold Buyer and its customers harmless from any loss, including without limitation, cost, damage, expense (including attorney's fees) or liability which may be incurred on account of infringement, or alleged infringement, whether willful or not, of patent rights, trademarks, trade secrets, copyrights or other property rights with respect to such Items and defend at its own expense any action or claim in which such infringement is alleged by third parties.** Seller shall also defend, indemnify and hold Buyer and its customers harmless from any loss, including without limitation, cost, damage, expense (including attorney's fees) or liability which may be incurred on account of infringement, or alleged infringement, whether willful or not, of trademark rights, trade secrets, copyrights or other property rights with respect to such Items and defend at its own expense any action or claim in which such infringement is alleged by third parties.

18. Entry on Buyer's Property; Insurance

- (a) In the event that Seller or Seller's employees or agents enter on to Buyer's premises for any reason in connection with this PO, Seller and such other parties shall observe all military security requirements and all plant safety, plant protection and traffic regulations.
- (b) Seller, and any contractors used by Seller in connection with this PO, shall carry Workers Compensation and Employee's Liability Insurance to cover Seller's and such contractors' legal liability on account of accidents to their

is being performed, to review the work in process and to witness testing of processes, components, and Items related to this PO. Seller shall include this clause in all of Sellers' subcontracts under this PO.

22. Amendments Required by the Prime Contract

Seller agrees that upon Buyer's request, it will from time to time enter into amendments of this PO to incorporate additional provisions herein or to change the provisions hereof, as Buyer may reasonably deem necessary in order to comply with the provisions of the prime contract(s) or with the provisions of amendments to the prime contract(s) under which this PO is issued. If any such amendment to this PO causes an increase or decrease in the cost of this PO, or the time required for performance of this PO, an equitable adjustment shall be made in the price or delivery schedule, or both, in accordance with the provisions of the "Changes" clause of this PO.

23. Assignment

Neither this PO nor any duty or right under it shall be delegated or assigned by Seller without the prior written consent of Buyer, except that claims for monies due or to become due under this order may be assigned to a bank, trust company or other financing institution, including any Federal lending agency, by Seller without such consent. Buyer shall be furnished with two signed copies of any such assignment. Payment to an assignee of any such claim shall be subject to set-off or recoupment for any present or future claim or claims which Buyer may have against Seller. Buyer reserves the right to make direct settlements or adjustments in price, or both, with Seller under the terms of this PO notwithstanding any assignment of claims for monies due or to become due hereunder and without notice to the assignee.

24. Governing Law

Unless otherwise expressly set forth herein, this PO shall be construed, interpreted and applied in accordance with the laws of Texas, excluding its choice of state law rules.

25. Acceptance of Order

This PO is the entire agreement between the Buyer and Seller in respect of the subject matter of this PO and is subject to the terms and conditions herein. This PO supersedes all communications, representations or agreements, oral or written, between Buyer and Seller with respect to the subject matter of this PO. Either: (a) acknowledgment of this PO, (b) furnishing of Items under this PO, (c) acceptance of payment under this PO, or (d) commencement of performance, shall constitute Seller's unqualified acceptance of this PO. Additional or differing terms or conditions

proposed by Seller or included in Seller's acknowledgment hereof shall be void and have no effect unless accepted in writing by Buyer.

26. Packing, Shipment, and Shipping Instructions

- (a) Unless otherwise specified, Seller shall assure that all packing and packaging shall comply with good commercial practice and applicable carrier's tariffs. The use of commercial practices shall not relieve Seller of responsibility for packaging in a manner that will insure receipt of Items in an acceptable condition at the destination specified in this PO.
- (b) Seller shall assure that the packaging, labeling and shipping of all HAZARDOUS SUBSTANCES including DANGEROUS MATERIALS, conforms to all applicable international, federal, state and local laws and regulations.
- (c) Seller shall mark on the outside of each exterior container: (i) the PO number or numbers of the Items packed in that container; (ii) the sequence and quantity of each exterior container in each shipment (such as "1 of 3"); (iii) the bill of lading/express receipt number. If shipments against more than one purchase order are packed in one exterior container, mark each intermediate container with its applicable purchase order number.
- (d) Seller shall properly describe Seller's Less than Truckload shipments in accordance with the National Motor Freight Classification to insure the correct classification rate. Include this PO number on all carrier bills of lading and shipping labels. Combine on the same bill of lading, all shipments consigned to the same Buyer address and ship on the same day. No C.O.D. (Collect on Delivery) shipments will be received by Buyer. There shall be no deviation from these routing instructions unless such deviation is approved prior to shipping by Buyer's Authorized Procurement Representative or Buyer's Traffic Department.
- (e) Seller shall be responsible to Buyer for any increased costs to Buyer which result from Seller's failure to follow Buyer's routing instructions if such instructions are specified on the face of this order.

27. Offset Credit/Cooperation

Buyer is currently involved in a number of foreign offset/countertrade arrangements in various foreign countries in connection with the sale of Buyer's products to foreign countries. All offset or countertrade credit value resulting from this PO shall accrue solely to the benefit of Buyer for its use on the offset/countertrade program of Buyer's choice. Seller agrees to cooperate with Buyer in the fulfillment of such foreign offset/countertrade obligations which Buyer may have undertaken or may undertake in the future. In the event Seller solicits bids, procures or offers to procure any goods or services relating to the work to be performed under this PO, Buyer shall be entitled, to the exclusion of all others, to all offset credits or other

similar benefits which may result from such activity. In addition, Seller agrees to provide to Buyer, at no additional cost, a report every six months during the performance of this PO summarizing by country Seller's lower tier proposal and procurement activity related to this PO.

28. Public Release of Information

No public release (including, without limitation, photographs, films, announcements, denials or confirmations of same) on any part of the subject matter of this PO or any phase of any program hereunder shall be made without the prior written approval of Buyer.

29. Severability of Provisions

Any provision of this PO that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition; and, shall be unenforceable in that jurisdiction without invalidating the remaining provisions hereof, or affecting the validity or enforceability of such provisions in any other jurisdiction.

30. Notification of Changes

(a) Only Buyer's Authorized Representative may direct or redirect Seller's effort hereunder. In the event, however, Seller considers any conduct including any action, inaction, written or oral communication by Buyer or Buyer's customer to constitute a change to this PO, other than a written change order issued by Buyer's Authorized Representative, Seller shall notify Buyer as soon as possible but in no event later than fifteen (15) days from the date Seller identifies the conduct considered to constitute a change to this PO. On the basis of the most accurate information available to Seller, the notice shall state: (1) the date, nature and circumstances of the conduct regarded as a change; (2) the name, function, and activity of each Buyer employee, customer employee and Seller employee involved in or knowledgeable about such conduct; (3) the identification of any documents and the substance of any oral communication involved in such conduct; (4) the particular elements of contract performance which Seller considers to be affected by TD-0.0004eD-0D-0jonsidehe condu b

31. Superseding Statement

This PO contains the entire agreement between Buyer and Seller and is not subject to variation, irrespective of the wording of Seller's acceptance. This PO supersedes any and all prior agreements of the Buyer and Seller, whether oral or written, concerning the subject matter hereof.

32. English Language Requirement

All deliverable documents will be in the English language. An English language speaking person shall be provided during any in plant visits, inspections, reviews, audits, and other similar activities to facilitate communications and ensure mutual understanding. In the event of any inconsistency between any terms of this Purchase Order and any translation thereof into another language, the English language version and its meaning shall control.