

**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

inspection and test is made on the premises of Seller or any of its suppliers, Seller shall furnish, or cause to be furnished, without additional charge, all reasonable facilities and assistance for safety and convenience of the inspectors in the performance of their duties. All inspections and tests shall be performed in such a manner as not to delay the work unduly. All Items are subject to final inspection and acceptance at Buyer's facility (or at any other location specified in writing by Buyer) notwithstanding any payments or prior inspections. Such final inspection shall be made within a reasonable time after

## 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) Year 2000 compliant, as used in this clause, means that with respect to information technology, that the information technology accurately processes date/time data (including but not limited to, calculating, comparing, and sequencing) from, to, and between the twentieth and twenty-first centuries, and the years 1999 and 2000 and leap year calculations, to the extent that other information technology, used in combination with the information technology being acquired, properly exchanges date/time data with it.

Any and all products provided hereunder will be Year 2000 compliant at the time of delivery to Lockheed Martin Corporation (Lockheed Martin), including but not limited to accurately inputting, storing, manipulating, comparing,

calculating, updating, displaying, outputting, and transferring such dates and data unless otherwise expressly pr

## 9. Changes

- (a) Buyer's authorized representative may at any time, by written notice, and without notice to sureties or assignees, make changes within the general scope of this PO in any one or more of the following: (i) drawings, designs or specifications; (ii) method of shipping or packing; (iii) place of inspection, acceptance or point of delivery; (iv) delivery schedule.
- (b) Except as may otherwise be expressly provided in this PO, if any such change under subparagraphs (a)(i), (ii), or (iii) above causes an increase or decrease in the time required for performance of this PO, whether or not directed by such change, Buyer shall make an equitable adjustment in the delivery schedule, and the affected PO(s) shall be modified accordingly in writing.
- (c) Except as may otherwise be expressly provided in this PO, if any change under paragraph (a) above causes an increase or decrease in the cost or performance of any part of this PO, whether or not directed by such change, Buyer shall make an equitable adjustment in the PO price, and the PO shall be modified accordingly in writing.
- (d) Such costs, if any, shall be calculated in a manner similar to that used to originally price the Items and shall be for the net increase or decrease in the cost for the changed portion only. In no event shall Seller reprice any portion of the Items unaffected by the change. Seller must assert its right to an adjustment under this clause within thirty (30) days from date of the change to which such adjustment is attributable.
- (e) Seller agrees that its failure to submit such claim or claims within the applicable time period shall constitute a waiver thereof unless (i) such failure resulted from good and sufficient cause, (ii) Seller requests in writing, prior to expiration of the applicable time period, that a time extension for filing its claim or claims be granted by Buyer, and (iii) Buyer grants such extension. Any such extensions, if approved, shall be effective only if authorized in writing by Buyer's authorized procurement representative. Prior to final settlement of any 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 without delay in the performance of this PO as changed.

#### 10. Responsibility for Property

Unless otherwise specified, Seller shall be liable for any loss or destruction of or damage to property of the Buyer or any customer of Buyer whether furnished to Seller by any such customer or Buyer; and, Seller shall be responsible for returning any such property in as good condition as when received except for reasonable wear and tear and for the utilization of it in accordance with the provision of this order. Upon request of Buyer such property will be delivered to Buyer at Seller's expense. Seller will promptly notify Buyer if such property is lost, destroyed or damaged. Title thereto shall not be affected by the incorporation or attachment to any property not owned by Buyer or such customer, nor shall any such property, or any part thereof, be or become a fixture or lose its identity as personalty by reason of affixation to any realty.

#### 11. Special Tooling and Test Equipment

Except as may be otherwise provided for in this PO, jigs, dies, fixtures, molds, patterns, special gages, and other items of special tooling (including software) and special test equipment, shall be furnished by and at the expense of Seller. Special tooling and test equipment shall be kept in good condition by Seller and replaced as necessary by Seller, without expense to Buyer. Title to special tooling and test equipment shall remain in Seller, except that Buyer may, at any time, reimburse Seller for the cost of part or of all special tooling and test equipment, and upon

#### 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 connection with the performance of this PO; and, Seller shall not divulge or use such information, drawings, specifications or data to provide goods or services to any other customer. Except as required for the efficient performance of this PO, Seller shall not make copies or permit copies to be made without the prior written consent of Buyer. Seller shall thereafter make no further use, either directly or indirectly, of any such information, drawings, specifications, data, or of any derivation therefrom without obtaining Buyer's written consent. This clause shall not apply to information after its entry into the public domain other than as a result of a breach of this clause.

#### Items Developed by Seller for Buyer

Any invention, discovery, proprietary information, maskwork, software, system, data or report resulting from the work performed under this PO shall be the sole property of the Buyer. All patents, copyright, trade secrets, trademarks, maskworks or other intellectual property resulting from work under this PO shall be the sole property of the Buyer. Buyer shall have the full right to use such property in any manner without any claim on the part of the Seller and without any duty to account to the Seller for

- (2) Buyer's right to terminate this PO under subdivisions (a)(1)(ii) and (a)(1)(iii) above may be exercised if Seller does not cure such failure within 10 days (or more if authorized in writing by Buyer) after receipt of the notice from Buyer specifying the failure.
  
- (b) If Buyer terminates this PO for default in whole or in part, Buyer shall have the right to acquire under the terms and in the manner it considers appropriate, Items similar to those terminated; and, the Seller will be liable to Buyer for any excess costs for those Items. However,





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

## 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 respective employees. Seller and its contractors shall carry adequate Comprehensive General Liability and adequate Comprehensive Automobile Liability Insurance covering the legal liability of Seller and such contractors on account of accidents arising out of the operations of Seller or such contractors and resulting in bodily injury, including death, being sustained by any person or persons, or in any damage to property. At Buyer's request, Seller shall furnish to Buyer certificates from Seller's insurers showing such coverage in effect and agreeing to give Buyer ten (10) days' prior written notice of cancellation of such coverage. Seller agrees to obtain the insurance coverage listed above whether or not insurance coverage is required elsewhere in this PO.

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## 21. Technical Surveillance

Buyer and authorized representatives of Buyer's customers shall have direct access to all areas of Sellers and Seller's subcontractors' plants where work under this PO 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. A

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

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

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