

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

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 delivery.

- (b) Seller shall provide and maintain an inspection and process control system acceptable to Buyer covering the Items hereunder. Records of all inspection work by Seller shall be kept complete and available to Buyer and its customers during the performance of this PO and for such longer periods as may be specified in this PO.
- (c) Buyer shall have the right to reject and hold at Seller's expense subject to Seller's reasonable disposal instructions, Supplies which do not conform to applicable specifications, drawings, samples or descriptions or which are defective in material, workmanship or design (unless such design is Buyer's detailed design). Without limiting any other rights Buyer may have, Buyer, at its option, shall have the right to require Seller to (i) repair or replace at Seller's expense any Items which fail to meet the requirements of applicable design, specifications, drawings, samples, descriptions or other requirements of this PO, or (ii) to refund the price of any such Item. Previously rejected Items reworked to specification or replaced shall not be returned to Buyer by Seller unless Buyer has consented to such return. Seller shall notify Buyer of past rejections of all returned Items.

4. Variation in Quantity

Goods shall not be supplied in excess of quantities specified herein, except for allowed shipping tolerances, if any. Seller shall be liable for handling charges and return shipment costs for any excess quantities; and, unless Seller agrees to pay such costs, the overshipped material will be retained by Buyer at no cost.

5. Prices

Unless otherwise specified, prices include all applicable federal, state and local taxes, duties, tariffs, and similar fees imposed by any government. The F.O.B. point is as specified on the face of this PO. The price includes all charges for boxing, packing, crating, drayage, storage, dunnage, and bundling.

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

calculating, updating, displaying, outputting, and transferring such dates and data unless otherwise expressly provided herein by Lockheed Martin.

This provision takes precedence over all other provisions of this agreement with respect to Year 2000 compliance. In the event of a discovery of any non-compliance, either before, concurrent with, or subsequent to delivery of a good or service under this agreement, the discovering party shall notify the other party within five (5) business days of discovery. If the defective good or service is being presented for acceptance or has already been delivered, at Lockheed Martin's option, the defective good or service shall be repaired or replaced within ten (10) business days of such notice at no cost to Lockheed Martin.

Nothing in this provision shall be construed to limit any other rights or remedies under this contract, at law or in equity that Lockheed Martin may have with respect to Year 2000 compliance.

- (d) 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 to Buyer hereunder is on the list of chemical substances compiled and published by the Administrator of the Environmental Protection Administration pursuant to the Toxic Substances Control Act (15 U.S.C. Sec. 2601 et seq.) as amended.
- (c) Seller shall provide to Buyer with each delivery any Material Safety Data Sheet applicable to the Items and containing such information as required by the Occupational Safety and Health Act of 1970 and regulations promulgated thereunder.

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

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

the appointment of a receiver or trustee or any assignment for the benefit of creditors.

- (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

specified therein, stop work and the placement of subcontracts hereunder, terminate work under subcontracts outstanding hereunder, and take any action necessary to protect property in Seller's possession in which Buyer has or may acquire an interest. Within thirty (30) days of receipt by Seller of such notice, Seller shall advise Buyer of the actions taken by Seller to comply with Buyer's instructions and Seller shall also notify Buyer of Seller's intent to file a termination claim. In the event Buyer terminates and Seller submits a

may agree and shall take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the PO during the period of work stoppage. Within 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 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, provided Seller is notified of such actions or claims against Buyer. Indemnification shall not apply to infringements arising from use by Buyer of an Item supplied by Seller in

combination with other items where infringement would not have occurred from the normal use for which such Item was designed.

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.

19. Waiver

Failure by Buyer either to enforce at any time the provisions hereof or to protest at any time any breach or default thereof shall not be construed as evidence to interpret the requirements of this PO, nor as a waiver of the requirements of such

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. 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

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 or 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. Contractual Commitments

The parties agree that there shall be no adjustment in the price, time for performance or any other provision of this PO unless Buyer's authorized representative shall have issued a written order directing a change hereto.

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.

33. Exclusion of 1980 U.N. Convention

The 1980 United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Purchase Order.