

LOCKHEED MARTIN AERONAUTICS COMPANY
TERMS AND CONDITIONS OF PURCHASE
C-5 AVIONICS MODERNIZATION PROGRAM
PRIME CONTRACTS F33657-98-C-0006 and F33657-98-C-0007

1. Definitions

As used herein "Buyer" means Lockheed Martin Corporation acting through its Lockheed Martin Aeronautics Company; "Seller" means the party identified on the face of this purchase order; Except in the term "commercial item" as defined at FAR 2.101 and its plural commercial items, "Items" or "items" means all required articles, materials, supplies and services (singular "Item," or "item," plural "Items," or "items");

Seller is warranted to be free from defects for six (6) years from delivery by Buyer to the Government.

Buyer's approval of designs furnished by Seller shall not relieve Seller of its obligations under this warranty. Seller's warranties, together with its service guarantees, if any, shall run to Buyer and its customers.

- (b) In the event of a breach of any warranty hereinabove set forth, Buyer may require Seller to repair or replace at Buyer's election defective or nonconforming Items or data. Seller shall be liable for the payment of all packing and transportation costs attributable to the repair or replacement of defective or nonconforming Items or data.
- (c) RESERVED
- (d) 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 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 discoa(ce.)3f thig8D0.2075brin.153

7. Compliance with Laws and Self Certification

(A) 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 promulgated thereunder including without limitation the Arms Export Control Act. 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.

(B) Self Certification

- (1) This clause contains certifications and representations that are material representations of fact upon which LOCKHEED MARTIN will rely in making awards to CONTRACTOR. By submitting its written offer, or providing oral offers/quotations at the request of LOCKHEED MARTIN, or accepting any Contract, CONTRACTOR certifies to the representations and certifications as set forth below in this clause. These certifications shall apply whenever these terms and conditions are incorporated by reference in any Contract, agreement, other contractual document or any quotation, request for quotation (oral or written), request for proposal or solicitation (oral or written), issued by LOCKHEED MARTIN. CONTRACTOR shall immediately notify LOCKHEED MARTIN of any change of status with regard to these certifications and representations.
- (2) The following clauses of the Federal Acquisition Regulation (FAR) are incorporated herein by reference, with the same force and effect as if they were given in full text, and are applicable to any order, agreement, or subcontract. In each clause incorporated below, substitute "Lockheed Martin" for "Government" and "Contracting Agency" and "LOCKHEED MARTIN Procurement Representative" for "Contracting Officer" throughout.

\$10,000, and not more than \$100,000, for each such failure.

(b) FAR 52.209-5 Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters.

- (1) CONTRACTOR certifies that, to the best of its knowledge and belief, that CONTRACTOR and/or any of its Principals, (as defined in FAR 52.209-5,) are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency.
- (2) CONTRACTOR shall provide immediate written notice to LOCKHEED MARTIN if, any time prior to award of any contract, it learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(c) FAR 52.222-22 Previous Contracts and Compliance Reports.

CONTRACTOR represents that if CONTRACTOR has participated in a previous contract or subcontract subject to the Equal Opportunity clause (FAR 52.222-26) (i) CONTRACTOR has filed all required compliance reports and (ii) that representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards.

(d) FAR 52.222-25 Affirmative Action Compliance.

CONTRACTOR represents (1) that CONTRACTOR has developed and has on file at each establishment, affirmative action programs required by the rules and regulations of the Secretary of Labor (41 CFR 60-1 and 60-2), or (2) that in the event such a program does not presently exist, CONTRACTOR will develop and place in operation such a written Affirmative Action Compliance Program within 120 days from the award of this Contract.

(e) FAR 52.223-1 Clean Air and Water Certification (Applicable to solicitations and Contracts exceeding \$100,000).

- (1) CONTRACTOR certifies that any facility to be used in the performance of a contract is not listed on the Environmental Protection Agency List of Violating Facilities.

- (3) CONTRACTOR will include a certification substantially the same as this

as set forth in FAR section 19.102 of the Federal Acquisition Regulation; or

- (v) The facility is not located within any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Northern Mariana Islands, or any other territory or possession over which the United States has jurisdiction.

8. Responsibility for Property

Unless otherwise specified, Seller shall be liable for any loss or destruction of or damage to property of 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 provisions of this PO. Upon request of Buyer, such property will be delivered to Buyer at Seller's expense. Seller shall 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, nor shall any such property, or any part thereof; be or become a fixture or lose its identity as personality by reason of affixation to any realty. All property of Buyer furnished hereunder to Seller shall be used solely in the performance of this PO unless otherwise specified in writing by Buyer.

9. 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 payment therefor shall become the sole owner thereof. Buyer shall at all times have unrestricted access to all such tooling, equipment, and information pertinent thereto for purposes of quality control, evaluation and verification. This paragraph shall not apply to special tooling or special test equipment (as those terms are defined in clauses incorporated by reference in clause 35) that is either provided by the Government or is acquired or fabricated for the Government pursuant to the clauses incorporated by reference in clause 35.

others, except to subcontractors as necessary for completion of this PO, in which event the subcontractors shall have the same obligation of nondisclosure and restriction on use. Such information shall not be used or reproduced for any purpose whatsoever except in the performance of work under this PO. Upon completion, termination or cancellation of this PO, Seller shall, if requested by Buyer, return all property to Buyer thirty (30) days after the effective date of such completion, termination or cancellation. All such

performance of this PO, an equitable adjustment shall be made in the price or delivery schedule, or both, in accordance with the provisions of this PO's "Changes" clause.

15. Remedies/Waiver

- (a) The rights and remedies provided herein shall be cumulative and in addition to any other rights and remedies provided at law or in equity.
- (b) Failure by Buyer either to enforce at any time the provisions hereof or to protest at any time any breach or default hereof neither shall be construed as evidence to interpret the requirements of this PO, nor as a waiver of the requirements of

Seller all amounts paid by Buyer to Seller in connection with this PO; (3) recover

supersedes all communications, representations and agreements, oral, and written, between Buyer and Seller in respect of 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 of this PO, 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.

23. Packing, Shipment and Shipping Instructions

- (a) Unless otherwise specified by Buyer, 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 ensure the packaging, labeling and shipping of all HAZARDOUS SUBSTANCES including DANGEROUS MATERIALS, conforms with 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(s) 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) No material or supplies purchased, manufactured or otherwise acquired for use in the performance of or to be delivered under this PO shall be transported on vessels, aircraft or other carriers leased to or from, owned, operated, or controlled by any prohibited country identified in the International Traffic in Arms Regulations ("ITAR"), 22 CFR 126.

No vessels, aircraft, or other carrier, while carrying any such material or supplies, shall make an enroute stop in any prohibited country identified in the

ITAR, 22 CFR 126. Seller shall insert the provisions of this paragraph (e) in all subcontracts hereunder.

24. Public Release of Information

No public release (including, without limitation, news releases, articles, manuscripts, brochures, advertisements, still and motion pictures, speeches, trade association meetings, symposia, photographs, films, announcements, discussions, denials or confirmations of same) regarding 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. Seller agrees that for every instance, if any, where Buyer provides such prior written approval, Seller, in any resulting release, shall include information, if any, provided by Buyer stating which Government agency sponsors or sponsored the related project or effort.

25. Disputes

Except as otherwise provided in this P

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 the conduct, including an estimate of any cost or schedule impact; (5) Seller's estimate of the time by which Buyer must respond to Seller's notice to minimize cost, delay or disruption of performance.

- (b) Seller shall take no action in reliance on the conduct considered to constitute a change unless and until Buyer's Authorized Representative issues a written

35. 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.

36. Compliance with Regulations

The following Federal Acquisition Regulation ("FAR"), DoD FAR Supplement ("DFARS"), and Air Force Material Command FAR Supplement (AFMC FARS) clauses are incorporated herein by reference, subject to the modifications/ applications indicated and the following definitions: "the contract" and "this contract" means "this PO" except in the phrase "prime contract;" "schedule" means "this PO;" "Contractor" means "Seller;" except in the phrase "prime contractor;" "subcontractor(s)" and "subcontract(s)" mean "lower tier subcontractor(s)" and "lower tier subcontract(s)" and "Supplies" means "Item(s)."

I. FAR Clauses

Part A **The clauses listed in this Part A are not applicable to the portion, if any, of this PO which is for commercial item(s) as described in FAR 2.101. However, no item purchased under this PO shall be regarded as a commercial item(s) unless it is specifically so designated in this PO.**

<u>Citation</u>	<u>Clause Name (Date)</u>
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52.203-5	Covenant Against Contingent Fees (Apr 1984) In paragraph (a) "Government" means "Buyer." Elsewhere "Government" means "Buyer and/or Government."
52.203-6	Restrictions on Subcontractor Sales to the Government (Jul 1995) Modifications: Does not apply if this PO is for less than \$100,000. "Government" means "Government or Buyer."
52.203-7	Anti-Kickback Procedures (Jul 1995) Does not apply if this PO is for less than \$100,000. In (c)(2) the following is added: "Seller shall send a copy of such report to Buyer." The term "subcontractor" is unchanged throughout the clause. Add the following to the end of paragraph (c)(4): "In addition to any other remedies which the Buyer has at law, in equity, or under this PO, Buyer shall have the right to withhold from Seller the amount, if any, that the Contracting Officer directs Buyer to withhold from Seller."

52.203-12 Limitation on Payments to Influence Certain Federal Transactions (Jun 1997)

Applies if this PO exceeds \$100,000. Change the beginning of paragraph

52.230-6 Administration of Cost Accounting Standards (Apr 1996) (Applicable if FAR 52.230-2 or FAR 52.230-3 applies.)

52.234-1 Industrial Resources Developed under Defense Production Act Title III (Dec 1994)
"Contracting Officer" means "Buyer."

52.244-5

Does not apply if this PO is for less than \$500,000 or if Seller is a small business concern. "Contracting Officer" means "Buyer" in paragraph (c).

- 52.222-21 Prohibition of Segregated Facilities (Feb 1999)**
- 52.222-26 Equal Opportunity (Apr 1984)**
- 52.222-35 Affirmative Action for Special Disabled and Vietnam Era Veterans (Apr 1984)**
Applies if this PO is for \$10,000 or more
- 52.222-36 Affirmative Action for Workers with Disabilities (Apr 1984)**
Applies if this PO exceeds \$10,000.
- 52.223-3 Hazardous Material Identification and Material Safety Data (Jan 1997)**
Applies if this PO requires delivery of hazardous materials. "Contracting Officer" means "Buyer;" "Government" means "Buyer and the Government."
- 52.223-11 Ozone-Depleting Substances (Jun 1996)**
Applies if the Items furnished hereunder contain or are manufactured with ozone-depleting substances.
- 52.225-11 Restrictions on Certain Foreign Purchases (Oct 1996)**
"Contracting Officer" means "Buyer."
- 52.225-21 Buy American Act – North American Free Trade Agreement Implementation Act – Balance of Payments Program Certificate (Jan 1997) and Alternate I (Jan 1997)**
- 52.233-3 Protest After Award (Aug 1996)**
"Protest" means "protest under the prime contract," and "Contracting Officer" and "Government" mean "Buyer." "30 days" is changed to "20 days."
- 52.237-2 Protection of Government Buildings, Equipment and Vegetation (Apr 1984)**
- 52.242-13 Bankruptcy (Jul 1995)**
"Contracting Officer" means "Buyer."

- 52.242-15 Stop-Work Order (Aug 1989)**
"Government" and "Contracting Officer" means "Buyer."
- 52.243-1 Changes - Fixed Price (Aug 1987)**
"Contracting Officer" and "Government" mean "Buyer." In paragraph (a) add as subparagraph (iv) "Delivery schedule." In paragraph (e) the words "disputes clause" are changed to "Disputes clause of this PO."
- 52.244-6 Subcontracts for Commercial Items and Commercial Components (Oct 1998)**
- 52.245-2 Government Property (Apr 1984)**
"Contracting Officer" means "Buyer" except in paragraph (f) where it means "Buyer and Contracting Officer" "Government" means "Buyer" except in the phrases "Government property," (Government-furnished property," and in references to title to property. The following is added as paragraph (m) "Seller shall provide to Buyer immediate notice of any disapproval, withdrawal of approval, or nonacceptance by the Government of Seller's property control system."
- 52.246-2 Inspection - Fixed Price (Aug 1996)**
"Government" means "Buyer and the Government" except in paragraphs (f), (j), and (l) where it means "Buyer." "Contracting Officer" means "Buyer."
- 52.249-2 Termination for Convenience (Fixed-Price) (Sep 1996)**
"Government" and "Contracting Officer" mean "Buyer" except in paragraph (m) where "Government" means "Buyer and the Government" and "Contracting Officer" means "Buyer or the Contracting Officer." In paragraph (e) "1 year" is changed to "six months." In paragraph (c) "15 days" is change to "30 days," and "45 days" is changed to "60 days." In paragraph (k) "90 days" is changed to "45 days." Paragraph (j) is deleted.
- 52.249-8 Default (Apr 1984)**
"Government" and "Contracting Officer" mean "Buyer," except in paragraph (c), where the term "Government" is unchanged.
- 52.253-1 Computer Generated Forms (Jan 1991)**

II. DEFENSE FAR SUPPLEMENT CLAUSES

- Part A** The clauses listed in this Part A are not applicable to the portion, if any, of this PO which is for commercial item(s) as described in FAR 2.101. However, no item purchased under this PO shall be regarded

as a commercial item(s) unless it is specifically so designated in this
PO.

<u>Citation</u>	<u>Clause Name (Date)</u>
252.203-7001	Special Prohibition On Employment (Jun 1997)

252.243-7001 Pricing of Contract Modifications (Dec 1991)

252.247-7023 Transportation of Supplies By Sea (Nov 1995)

Applies if this PO exceeds \$100,000. " In paragraph (f) "Government" and "Contracting Officer" mean "Buyer and the words "of the Prompt Payment clause" are deleted.

252.247-7024 Notification of Transportation of Supplies by Sea (Nov 1995)

Part B The clauses listed in this Part B are applicable to both (i) commercial items, if any, meeting the definition thereof in FAR 2.101 and designated in this PO as commercial items, and (ii) items, if any, which are other than such commercial items.

Citation

Clause Name (Date)

252.204-7000 Disclosure of Information (Apr 1992)

In paragraph (b) "45 days" is changed to "60 days", and "Contracting Officer" means "Buyer."

252.208-7000 Intent to Furnish Precious Metals as Government Furnished Material (Dec 1991)

252.219-7003 Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (DoD Contracts) (Apr 1996)

Applies when FAR 52.219-9 applies to this PO. Paragraph (g) is deleted.

252.223-7001 Hazard Warning Labels (Dec 1991)

252.223-7006 Prohibition on Storage and Disposal of Toxic and Hazardous Materials (Apr 1993)

252.225-7001 Buy American Act and Balance Of Payments Program (Mar 1998)

252.225-7002 Qualifying Country Sources As Subcontractors (Dec 1991)

252.225-7007 Trade Agreements Act (Jul 1997).

252.225-7008 Supplies To Be Accorded Duty-Free Entry (Mar 1998)

The blanks in the clause are completed with the following: None."

- 252.225-7009 Duty-Free Entry--Qualifying Country End Products and Components (Jun 1997)**
- 252.225-7010 Duty-Free Entry -- Additional Provisions (Mar 1998)**
- 252.225-7012 Preference for Certain Domestic Commodities (Sept 1997)**
- 252.225-7014 Preference for Domestic Specialty Metals (Apr 2003)
Alternate I (Apr 2003)**
- 252.225-7017 Preference for United States and Canadian Valves and Machine Tools (Apr 1995)**
- 252.225-7025 Restrictions on Acquisition of Forgings (Jun 1997)**
- 252.225-7037 Duty Free Entry – NAFTA Country End Products and Supplies (Jan 1997)**
- 252.227-7015 Technical Data - Commercial items (Nov 1995)**

252.2433-7000 Engineering Change Proposals (Jul 1997) and Alternate I (May 1994)

252.243-7002 Requests for Equitable Adjustment (Mar 1998)
Applies if this PO exceeds \$100,000. In paragraph (d) "Government" means "Buyer."

III. AIR FORCE FAR SUPPLEMENT CLAUSES

The clauses listed in this part applicable to both (i) commercial items, if any, meeting the definition thereof in FAR 2.101 and designated in this PO as commercial items, and (ii) items, if any, which are other than such commercial items.

Citation Clause Name (Date)

5352.204-9000 Notification of Government Security Activity (May 1996)

5352.223-9000 Elimination of Use Of Class I Ozone Depleting Substances (ODS) (May 1996)
In paragraph (d) "Air Force" means "Buyer." The list in paragraph (d) is "None." In paragraph (e) "Contracting Officer" means "Buyer."

5352.223-9001 Health and Safety on Government Installations (Jun 1997)
Applies if this PO requires work on a Government installation.
"contracting officer" means "Buyer."

5352.242-9000 Contractor Access to Air Force Installations (May 1996)
Applies if Seller will perform work on a Government installation.
"Contracting Officer" means "Buyer." In paragraph (e) "the prime contractor" means "Seller."

IV. AIR FORCE MATERIAL COMMAND FAR SUPPLEMENT CLAUSES

The clauses listed in this part applicable to both (i) commercial items, if any, meeting the definition thereof in FAR 2.101 and designated in this PO as commercial items, and (ii) items, if any, which are other than such commercial items.

Citation Clause Name (Date)

5352.223-9000 Use of Hazardous Materials In The Performance of On-Base Contracts (AFMC) (Jul 1997)
Applies if this PO requires work on a Government base. "Government" means "Buyer and/or Government."

- 5352.225-9002 English Language Requirements (AFMC) (Jul 1997)**
- 5352.228-9001 Insurance Clause Implementation (AFMC) (Jul 1997)**
Applies if this PO contains 52.228-5.
- 5352.235-9003 Application for Equipment Frequency Authorization (AFMC)**
In the second sentence "buyer at the issuing office" means "Buyer."
- 5352.243-9001 Advance Change Adjustment Agreements (Jul 1997)**
"Contracting Officer" means "Buyer."
- 5352.247-9011 Packaging and Marking of Hazardous Material (Sep 1998)**