

LOCKHEED MARTIN – UNITED KINGDOM

CORPDOC 21UK

**SUBCONTRACTS/PURCHASE ORDERS IN SUPPORT OF UNITED KINGDOM
MINISTRY OF DEFENCE (MOD) PRIME CONTRACTS**

SECTION I: STANDARD PROVISIONS

1. ACCEPTANCE OF CONTRACT/TERMS AND CONDITIONS

- (a) This Contract integrates, merges, and supersedes any prior offers, negotiations, and agreements concerning the subject matter hereof and constitutes the entire agreement between the parties.
- (b) SELLER's acknowledgment, acceptance of payment, or commencement of performance, shall constitute SELLER's unqualified acceptance of this Contract.
- (c) Unless expressly accepted in writing by LOCKHEED MARTIN, additional or differing terms or conditions proposed by SELLER or included in SELLER's acknowledgment are rejected by LOCKHEED MARTIN and have no effect.

2. APPLICABLE LAWS

- (a) This Contract shall be governed by and interpreted in accordance with the laws of England. The provisions of the "United Nations Convention on Contracts for International Sale of Goods" shall not apply to this Contract.
- (b) SELLER, in the performance of this Contract, agrees to comply at all times with all applicable laws including without limitation common law, statute, regulation, directive, rule, order or delegated legislation of any other requirement of any local state or European Union (EU) body, in relation to the Work. SELLER shall at it's ow

(c) SELLER must assert its right to an equitable adjustment under this clause within thirty (30) days from the date of receipt of the written change order from LOCKHEED MARTIN. If the SELLER's proposed equitable adjustment includes the cost of property made obsolete or excess by the change, LOCKHEED MARTIN shall have the right to prescribe the manner of disposition of the property.

(d) Failure to agree to any adjustment shall be resolved in accordance with the "Disputes" clause of this Contract. However, nothing contained in this "Changes" clause shall excuse SELLER from proceeding without delay in the performance of this Contract as changed.

5. CONTRACT DIRECTION

(a) Only the LOCKHEED MARTIN Procurement Representative has authority on behalf of LOCKHEED MARTIN to make changes to this Contract. All amendments must be identified as such in writing and executed by the parties.

(b) LOCKHEED MARTIN engineering and technical personnel may from time to time render assistance or give technical advice or discuss or effect an exchange of information with SELLER's personnel concerning the Work hereunder. No such action shall be deemed to be a change under the "Changes" clause of this Contract and shall not be the basis for equitable adjustment.

(c) Except as otherwise provided herein, all notices to be furnished by the SELLER shall be in writing and sent to the LOCKHEED MARTIN Procurement Representative.

6. COUNTERFEIT WORK

(a) For purposes of this clause, Work consists of those parts delivered under this Contract that are the lowest level of

(g) SELLER shall include paragraphs (a) through (d) of this clause or equivalent provisions in lower tier subcontracts for the delivery of items that will be included in or furnished as Work to LOCKHEED MARTIN.

7. DATA PROTECTION ACT

As used herein, "Personal Data" and "Data Controller" have the meanings attributed to them in the Data Protection Act 1998. SELLER shall, with respect to all Personal Data furnished by LOCKHEED MARTIN to SELLER or otherwise acquired by SELLER in the performance of this Contract, comply strictly with all requirements of the Data Protection Act 1998 as if it were the Data Controller of such personal data.

8. DEFAULT

(a) In the event that SELLER: (1) becomes bankrupt or insolvent, makes an arrangement with its creditors, has a receiver appointed over any of its assets or commences to be wound-up (not being a member's voluntary winding up for the purpose of amalgamation or reconstruction); or (2) fails to perform or observe any of the conditions of this Contract and fails to remedy the same within ten (10) days after receipt of notice from LOCKHEED MARTIN requiring the same to be remedied, then LOCKHEED MARTIN may by written notice to SELLER forthwith terminate this Contract or any specified part thereof.

(b) Upon termination, and with respect to that part of this Contract terminated: (1) no further sums shall become due to SELLER save in respect to Work delivered and accepted prior to termination, payment for which shall be postponed at LOCKHEED MARTIN's election, until such time as LOCKHEED MARTIN's claims against SELLER under this Contract shall have been finally established and quantified, and (2) LOCKHEED MARTIN shall be entitled to procure from any alternative source the supply of Work in replacement of Work not delivered prior to the termination. Any additional costs incurred by LOCKHEED MARTIN in finding and arranging such alternative source shall be sums due and owing by SELLER to LOCKHEED MARTIN.

(c) The provisions of this clause shall be without prejudice to any other remedy LOCKHEED MARTIN may have under this Contract or any applicable law.

9. DEFINITIONS

(a) The following terms shall have the meanings set forth below:

(1) "the Authority" means the Secretary of State for Defence.

(2) "Contract" means the instrument of contracting, such as "Purchase Order", "PO", "Subcontract" "Task Order", or other such type designation, including these General Provisions, all referenced documents, exhibits, and attachments. If these terms and conditions are incorporated into a "master" agreement that provides for releases, (in the form of a Purchase Order or other such document) the term "Contract" shall also mean the release document for the Work to be performed.

(3) "LOCKHEED MARTIN" means LOCKHEED MARTIN CORPORATION, acting through its companies or business units, as identified on the face of this Contract. If a subsidiary or affiliate of LOCKHEED MARTIN CORPORATION is identified on the face of this Contract, then "LOCKHEED MARTIN" means that subsidiary or affiliate.

(4) "LOCKHEED MARTIN Procurement Representative" means a person authorized by LOCKHEED MARTIN's cognisant procurement organisation to administer and/or execute this Contract.

(5) "SELLER" means the party identified on the face of this Contract with whom LOCKHEED MARTIN is contracting.

(6) "Task Order" means a separate order issued under this Contract.

(7) "Work" means all required labour, articles, materials, supplies, goods, and services constituting the subject matter of this Contract.

(b) In this Contract:

(1) The singular shall include the plural and vice versa, the words "include" and "including" shall be construed without limitation and the headings of clauses are for convenience and shall not affect the interpretation of the Contract; and

(2) References to any statute or statutory provision include references to that statute or statutory provision as amended, consolidated or replaced from time to time.

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10. DISPUTES

(a) All disputes under this Contract that are not disposed of by mutual agreement may be decided by recourse to an action at law or in equity. Any dispute not resolved between the parties shall be subject to the exclusive jurisdiction of the English Courts. Disputes under this Contract which involve a matter in dispute between LOCKHEED MARTIN and the

(b) Notwithstanding any other provision of this Contract, SELLER warrants and undertakes to LOCKHEED MARTIN that:

(1) All Work furnished under this Contract shall at all times comply with Environmental and Health and Safety Law;

(2) All Work furnished under this shall be marked with a CE Marking where applicable.

(3) It shall not supply or use any products or materials containing Chlorofluorocarbons (CFCs) in the provision of Work without the prior written approval of LOCKHEED MARTIN. Such approval shall only be given when in the opinion of LOCKHEED MARTIN no reasonable alternative to CFCs exists; and

(4) It shall not specify, or permit use of, in Work, any materials or components containing such retardants, including but not limited to Polybrominated Biphenyls (PBBs) and Polybrominated Biphenyl Ethers (PBBEs), also known as Polybrominated Biphenyl Oxides (PBBOs) and shall provide LOCKHEED MARTIN with certification of compliance as required or for the avoidance of doubt containing any other substance to the extent that it is or would reasonably be expected to be subject to any restriction or other limitation on its use under Environmental and Health and Safety Laws.

(c) If the Work or any portion thereof is to be shipped to or performed in the United States:

(1) SELLER represents that each chemical substance constituting or contained in Work sold or otherwise transferred to LOCKHEED MARTIN 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.

(2) SELLER shall provide to LOCKHEED MARTIN with each delivery any Material Safety Data Sheet applicable to the Work in conformance with and containing such information as required by the Occupational Safety and Health Act of 1970 and regulations promulgated thereunder, or its State approved counterpart.

13. EXCUSABLE DELAY

(a) SELLER shall be excused from, and shall not be liable for, failure of performance to the extent due to causes beyond SELLER's control and without SELLER's fault or negligence, including, but not limited to, acts of God or public enemy, acts of Government in either sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, unusually severe weather and delays of common carriers.

(b) In order to be excused from performance under (a) SELLER shall submit, within ten (10) calendar days of the start of the event causing delay, a written notice stating a complete and detailed description of such event, the date of commencement, an estimate of the probable period of delay, and explanation indicating how such event was beyond the control of the Seller and not due to its negligence or fault and what efforts Seller will make to minimize the length of delay. Seller shall submit within ten (10) calendar days of the end of the event a written notice stating the impact to the schedule and evidence justifying the length of the delay.

(c) If the delay extends for thirty (30) days or more this Contract may be terminated by LOCKHEED MARTIN without additional cost and without liability to SELLER.

14. EXPORT CONTROL

(a) SELLER agrees to comply with all applicable United Kingdom export control laws and regulations, specifically including, but not limited to, the requirements of the Export Control Act including the requirement for obtaining any export license or agreement, if applicable. Without limiting the foregoing, SELLER agrees that it will not transfer any export controlled item, data, or services, to include transfer to foreign persons employed by or associated with, or under contract to SELLER or SELLER's lower-tier suppliers, outside of the United Kingdom, without the authority of an export license, agreement, or applicable exemption or exception.

(b) SELLER agrees to notify LOCKHEED MARTIN if any deliverable under this Contract is restricted by export control laws or regulations.

(c) SELLER shall immediately notify the LOCKHEED MARTIN Procurement Representative if SELLER's right to export any part of the Work or data is denied, suspended or revoked in whole or in part by any United Kingdom, or other relevant, governmental entity or agency. Delays on the SELLER's part to submit the relevant paperwork for Export Licences shall not constitute an excusable delay under the Excusable Delay clause of this Contract.

(d) If SELLER is engaged in the business of either exporting or manufacturing (whether exporting or not) defense articles or furnishing defense services, SELLER represents that it is registered with the United Kingdom Department of Business Enterprise and Regulatory Reform, or the cognizant department or agency for any other country having export control authority over any of the Work, and that it maintains an effective export/import compliance program in accordance with the applicable governmental restrictions.

(e) Where SELLER is a signatory under a US Department of

(d) At LOCKHEED MARTIN's request, and/or upon completion of this Contract, the SELLER shall submit, in an acceptable form, inventory lists of Furnished Property and shall deliver or make such other disposal as may be directed by LOCKHEED MARTIN.

(e) Property furnished or issued by the Authority, or that the Authority takes title under this Contract shall be subject to the DEFCONs included in this Contract in lieu of paragraphs (a) through (d) above.

17. GRATUITIES/KICKBACKS

(a) SELLER shall not offer or give a kickback or gratuity (in the form of entertainment, gifts, or otherwise) for the purpose of obtaining or rewarding favorable treatment as a LOCKHEED MARTIN supplier.

(b) SELLER shall not do, and warrants that in entering into this Contract, it has not done, any act on violation of the Public Bodies Corrupt Practices Act 1889 and the Prevention of Corruption Acts 1906-1916.

18. INDEPENDENT CONTRACTOR RELATIONSHIP

(a) SELLER is an independent contractor in all its operations and activities hereunder. The employees used by SELLER to perform Work under this Contract shall be SELLER's employees exclusively without any relation whatsoever to LOCKHEED MARTIN.

(b) SELLER shall be responsible for and hold harmless LOCKHEED MARTIN and its customers from and against all losses, costs, claims, causes of action, damages, liabilities, and expenses, including attorneys fees, all expenses of litigation and/or settlement, and court costs, arising from any act or omission of SELLER, its officers, employees, agents, suppliers, or subcontractors at any tier, in the performance of any of its obligations under this Contract.

19. INFORMATION OF LOCKHEED MARTIN

Information provided by LOCKHEED MARTIN to SELLER remains the property of LOCKHEED MARTIN. SELLER agrees to comply with the terms of any Proprietary Information Agreement with LOCKHEED MARTIN and to comply with all proprietary information markings and restrictive legends applied by LOCKHEED MARTIN to anything provided hereunder to SELLER. SELLER agrees not to use any LOCKHEED MARTIN provided information for any purpose except to perform this Contract and agrees not to disclose such information to third parties without the prior written consent of LOCKHEED MARTIN. SELLER shall maintain data protection processes and systems sufficient to adequately protect LOCKHEED MARTIN information.

20. INFORMATION OF SELLER

SELLER shall not provide any proprietary information to LOCKHEED MARTIN without prior execution of a proprietary information agreement by the parties.

21. INSPECTION, ACCEPTANCE AND TEST

(c) If SELLER delivers non-conforming Work, LOCKHEED MARTIN may, in addition to any other remedies available at law or at equity: (i) accept all or part of such Work at an equitable price reduction; or (ii) reject such Work; or (iii) require SELLER, at SELLER's cost, to make all repairs, modifications, or replacements at the direction of LOCKHEED MARTIN necessary to enable such Work to comply in all respects with Contract requirements.

(d) SELLER shall not re-tender rejected Work without disclosing the corrective action taken.

(e) Unless this Contract expressly provides otherwise,

MARTIN's request and expense, all documentation necessary to perfect title therein in LOCKHEED MARTIN. SELLER agrees that it will maintain and disclose to LOCKHEED MARTIN written records of, and otherwise provide LOCKHEED MARTIN with full access to, the subject matter covered by this clause and that all such subject matter will be deemed information of LOCKHEED MARTIN and subject to the protection provisions of the clause entitled "Information of LOCKHEED MARTIN". SELLER agrees to assist LOCKHEED MARTIN, at LOCKHEED MARTIN's request and expense, in every reasonable way, in obtaining, maintaining, and enforcing patent and other intellectual property protection on the subject matter covered by this clause.

(c) SELLER warrants that the Work performed or delivered under this Contract and the use by LOCKHEED MARTIN or its customers of any such Work will not infringe or otherwise violate the intellectual property rights of any third party in the United Kingdom or any foreign country. SELLER agrees to defend, indemnify, and hold harmless LOCKHEED MARTIN and its customers from and against any claims, damages, lo

Standards License, or variations thereof, including without limitation licenses referred to as "GPL-Compatible, Free Software License."

(3), "Prohibited Software" means software that incorporates or embeds software in, or uses software in connection with, as part of, bundled with, or alongside any (i) open source, publicly available, or "free" software, library or documentation, or (ii) software that is licensed under a Prohibited License, or (iii) software provided under a license that (a) (A) subjects the delivered software to any Prohibited License, or (B) requires the delivered software to be licensed for the purpose of making derivative works or be redistributable at no charge, or (C) obligates LOCKHEED MARTIN to sell, loan, distribute, disclose or otherwise make available or accessible to any third party (1) the delivered software, or any portion thereof, in object code and/or source code formats, or (2) any products incorporating the delivered software, or any portion thereof, in object code and/or source code formats.

(c) Unless SELLER has obtained LOCKHEED MARTIN's prior written consent, which LOCKHEED MARTIN may withhold in its sole discretion, SELLER shall not use in connection with this Contract, or deliver to LO6(softwa)c022 Tw[8 licen.L)5.6(t4 whi)

35. STOP WORK

(a) SELLER shall stop Work for up to ninety (90) days in accordance with any written notice received from LOCKHEED MARTIN, or for such longer period of time as the parties may agree and shall take all reasonable steps to minimize the incurrence of costs allocable to the Work during the period of Work stoppage.

(b) Within such period, LOCKHEED MARTIN shall either terminate in accordance with the provisions of this Contract or continue the Work by written notice to SELLER. In the event of a continuation, an equitable adjustment in accordance with the principles of the "Changes" clause shall be made to the price, delivery schedule, or other provision(s) affected by the Work stoppage, if applicable, provided that the claim for equitable adjustment is made within thirty (30) days after date of notice to continue.

36. SURVIVABILITY

If this Contract expires, is completed, or is terminated, SELLER shall not be relieved of those obligations contained in the following clauses:

- Applicable Laws
- Counterfeit Work
- DEFCONS (those provisions which by their terms should survive.)
- Electronic Contracting
- Export Control
- Independent Contractor Relationship
- Information of Lockheed Martin
- Insurance/Entry on Lockheed Martin Property
- Intellectual Property
- Prohibited Software/Harmful Code
- Release of Information
- Rights of Third Parties
- Warranty

37. TIMELY PERFORMANCE

(a) SELLER's timely performance is a critical element of this Contract.

(b) Unless advance shipment has been authorized in writing by LOCKHEED MARTIN, LOCKHEED MARTIN may store at SELLER's expense, or return, shipping charges collect, all Work received in advance of the scheduled delivery date.

(c) If SELLER becomes aware of difficulty in performing the Work, SELLER shall timely notify LOCKHEED MARTIN, in writing, giving pertinent details. This notification shall not change any delivery schedule.

(d) In the event of a termination for convenience or change, no claim will be allowed for any manufacture or procurement in advance of SELLER's normal flow time unless there has been prior written consent by LOCKHEED MARTIN.

38. UNITED STATES GOVERNMENT - INELIGIBILITY FOR AWARD

(a) SELLER certifies that, to the best of its knowledge and belief, that SELLER and/or any of its principals, are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any United States Government agency.

(b) SELLER 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.

39. WAIVERS, APPROVALS, AND REMEDIES

(a) Failure by either party to enforce any of the provisions of this Contract or applicable law shall not constitute a waiver of the requirements of such provisions or law, or as a waiver of the right of a party thereafter to enforce such provision or law.

(b) LOCKHEED MARTIN's approval of documents shall not relieve SELLER of its obligation to comply with the requirements of this Contract.

(c) The rights and remedies of either party in this Contract are cumulative and in addition to any other rights and remedies provided by law or in equity.

40. WARRANTY

SELLER warrants that all Work furnished pursuant to this Contract shall strictly conform to applicable specifications, drawings, samples, descriptions, and other requirements of this Contract and be free from defects in design, material, and workmanship and shall be fit for purpose and of satisfactory quality. This warranty shall begin upon final acceptance and extend for a period of one (1) year. If any nonconforming Work is identified by LOCKHEED MARTIN then without prejudice to any other remedy of LOCKHEED MARTIN, SELLER, at LOCKHEED MARTIN's option, shall promptly repair, replace, or re-perform the Work. Transportation of replacement Work, return of nonconforming Work, and re-performance of Work shall be at SELLER's expense. If repair, or replacement, or re-performance of Work is not carried out promptly, LOCKHEED MARTIN may elect to return, re-perform, repair, replace, or reprocur the non-conforming Work at SELLER's expense. All warranties shall enure to the benefit of both LOCKHEED MARTIN and its customers.

SECTION II: DEFCON FLOWDOWN PROVISIONS

A. INCORPORATION OF DEFCON CLAUSES

The United Kingdom Ministry of Defence Conditions ("DEFCON") clauses referenced below are incorporated herein by reference, with the same force and effect as if they were given in full text, and shall apply to this Contract in the circumstances stated below, and subject to any notes following the clause citation. Where, prior to the date of this Contract the DEFCON recited below has been superseded by a later version or edition of the DEFCON, then the later version or edition shall be deemed to form part of this Contract in place of the edition or version cited below.

B. NOTES

(a) As used in the DEFCON clauses referenced below and otherwise in this Contract:

1. The term "Contractor," mean "SELLER" as defined in Section I, Standard Provisions.
2. "Contract" means this contract.
3. "Prime Contract" means the contract between LOCKHEED MARTIN and the UK Ministry of Defence or between LOCKHEED MARTIN and its customer who has a contract with the UK Ministry of Defence.
4. "Sub-contract" means any contract placed by SELLER or lower-tier sub-contractors under this Contract.

(b) DEFCON 501 (Edn 04/04) "Definitions and Interpretations" shall apply to the extent that any of the DEFCONs included in the Contract contain any of the defined terms therein. The provisions of DEFCON 501 are in addition to any definitions included in the Contract. In the event of a conflict between a definition contained at DEFCON 501 and a definition contained elsewhere in the Contract, the definition in the Contract shall take precedence unless otherwise noted.

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3. The following DEFCON clauses apply to this Contract if the value of the Contract equals or exceeds £100,000 and the Contract is awarded other than by competitive tender.

DEFCON 643 Price Fixing (Edn 07/04) (Only the Appendix to this DEFCON applies. "Contractor means "LOCKHEED MARTIN" and "subcontractor" means "SELLER.")

DEFCON 653 Pricing On Ascertained Costs (Edn 10/04) (Only the Appendix to this DEFCON applies. "Subcontractor" means "SELLER." "Authority" includes "LOCKHEED MARTIN.")

4. The following DEFCON clauses apply to this Contract if the value of the Contract equals or exceeds £150,000 and the Contract is awarded other than by acceptance of the lowest competitive tender.

DEFCON 648 Availability Of Information (Edn 10/02) (Only the Appendix to this DEFCON applies. "Authority" includes LOCKHEED MARTIN and "subcontractor" means "SELLER.")

5. The following DEFCON clauses apply to this Contract if the value of this Contract equals or exceeds £250,000 and the Contract is awarded other than by acceptance of the lowest competitive tender.

DEFCON 651 Reference To The Review Board Of Questions Arising In Relation To Relevant Subcontracts Including Those With A Subsidiary Company Or Firm (Edn 08/09)(Only the Appendix to this DEFCON is incorporated into this Contract. "Subcontractor" means "SELLER.")

6. The following DEFCON clauses apply to this Contract if the value of this Contract equals or exceeds £5,000,000 and the Contract is awarded other than by acceptance of the lowest competitive tender.

DEFCON 648A Availability Of Information (Edn 07/04) Only the Appendix to this DEFCON applies. ("Authority" includes LOCKHEED MARTIN. "Subcontractor" means "SELLER." "Contractor" means LOCKHEED MARTIN.)

DEFCON 651A Reference To The Review Board Of Questions Arising In Relation To Relevant Subcontracts Including Those With A Subsidiary Company Or Firm (Edn 07/04) (Only the Appendix to this DEFCON is incorporated into this subcontract. "Subcontractor" means SELLER.)

DEFCON 695 Interim Summary Cost Statement – Post Costing (Edn 07/04) (Only the Appendix to this DEFCON is incorporated into this Contract. "Subcontractor" means SELLER.)

DEFCON 696 Provisions In Relation To A Final Summary Cost Statement – Post Costing (Edn 07/04) (Only the Appendix to this DEFCON is incorporated into this Contract. "Subcontractor" means "SELLER.")

7. The following DEFCON clauses apply to this Contract as indicated:

DEFCON 23 Special Jigs, Tooling And Test Equipment (Edn 08/09) (Applicable if special jigs, tooling and/or test equipment are acquired under the Contract.) (Communications between SELLER and the Authority under this clause shall be made through LOCKHEED MARTIN. In paragraph 3, "other Government funds" is changed to "from under contracts with LOCKHEED MARTIN contracts or UK Government funds." In paragraphs 7 and 8, "Authority" means " LOCKHEED MARTIN and the Authority.")

DEFCON 68 Supply Of Hazardous Articles And Substances (Edn 02/07) (Applicable if the Contract involves the delivery of, or requires interaction with, hazardous substances.) (Information furnished under this clause shall be submitted by SELLER to LOCKHEED MARTIN.)

(b) For Contracts for the design and development of, or the provision of post-design services in relation to, equipment and/or software.

DEFCON 14 Inventions And Designs – Crown Rights And Ownership Of Patents and Registered Designs (Edn 11/05) (Applicable if this Contract is for research, design or development.)

DEFCON 14A Collaboration – Ownership of Patents and Registered Designs (Edn 11/05)

DEFCON 15 Design Rights and Rights to Use Design Information (Edn 02/98)

DEFCON 16 Repair And Maintenance Information (Edn 10/04) (Applicable if this Contract requires SELLER to provide operating manuals, repair and maintenance manuals or other standard repair and maintenance documentation.)

DEFCON 21 Retention of Records (Edn 02/98). (Applicable to all Contracts that include DEFCON 15 or DEFCON 16.)

DEFCON 90 Copyright (Edn 11/06) (Applicable to all copyright works generated under this Contract except those the subject of DEFCONs 15 and 9.)

DEFCON 91 Intellectual Property Rights In Software (Edn 11/06) (Applicable if this Contract requires the generation or delivery of computer software.)

DEFCON 126 International Collaboration (Edn 11/06)