

**LOCKHEED MARTIN CORPORATION
LOCKHEED MARTIN AERONAUTICS COMPANY
TERMS AND CONDITIONS OF PURCHASE
C-5 RELIABILITY ENHANCEMENT AND RE-ENGINEING PROGRAM
SYSTEM DEVELOPMENT AND DEMONSTRATION
PRIME CONTRACT F33657-02-C-2000**

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, services and data (singular "Item," or "item," plural "Items," or "items"); "PO" means this purchase order; "Buyer's Authorized Representative" means the person or persons authorized by Buyer to alter, modify or change the provisions of this PO, "Government" means the "Government of the United States of America and those authorized or delegated responsibility to act on its behalf," except where specifically stated to be the government of another country; and "Prime Contract" means the Government contract under which this PO is issued. "Commercial Item," "commercial component" "component" and "nondevelopmental item" shall have the meaning as set forth at FAR 52.202-1.

2. Delivery

- (a) Delivery shall be made in strict accordance with the terms 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 given and/or action taken by Seller under

this clause shall in no way limit Buyer's rights under other provisions of this PO,
at law, or in equity.

7. Compliance with Laws and Self-Certification

A. Compliance with Laws

- (1) 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.
- (2) 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.
- (3) 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.

(a) FAR 52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (Applicable to solicitations and contracts exceeding \$100,000)

[1] The definitions and prohibitions contained in the clause, at FAR 52.203-12, Limitation on Payments to Influence Certain Federal Transactions are hereby incorporated by reference in paragraph (b) of this certification.

[2] CONTRACTOR certifies that to the best of its knowledge and belief that on and after December 23, 1989--

[a] No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement;

[b] If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with a solicitation or order, the offeror shall complete and submit, with its offer, OMB standard form LLL, Disclosure of Lobbying Activities, in accordance with its instructions, and

[c] CONTRACTOR will include the language of this certification in all subcontracts at any tier and require that all recipients of subcontract awards in excess of \$100,000 shall certify and disclose accordingly.

[3] Submission of this certification and disclosure is a prerequisite for making or entering into a contract as imposed by section 1352, title 31, United States Code. Any person who makes expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

- [1] Submission of this certification is a prerequisite for making or entering into this contract imposed by Executive Order 12969, August 8, 1995.

- [2] CONTRACTOR certifies that—
 - [a] As the owner or operator of facilities that will be used in the performance of this Contract that are subject to the filing and reporting requirements described in section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11023) and section 6607 of the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13106), CONTRACTOR will file and continue to file for such facilities for the life of the contract the Toxic Chemical Release Inventory Form (Form R) as described in sections 313(a) and (g) of EPCRA and section 6607 of PPA; or

 - [b] None of its owned or operated facilities to be used in the performance of this Contract is subject to the Form R filing

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 sha

information agreement that is in effect as of the date of this PO, the terms of said agreement shall apply to any information exchanged by the parties in lieu of the terms of this clause.

11. Patent Indemnity, Trademarks, Trade Secrets and Copyrights. To the extent that the Items are produced to detailed designs not originated and furnished by Buyer or by a process or method, the use of which is not specifically directed by Buyer, Buyer shall have no responsibility to Seller for patent infringement and Seller guarantees that the sale or use of such Items or the use of such process or method hereunder will not infringe any United States or foreign patents, trademarks or copyrights. Seller shall defend, indemnify and hold Buyer and its customers harmless from any loss, 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 or copyrights 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. Seller's liability hereunder shall be reduced to the extent Buyer is afforded protection from any expense, cost, loss, damage or liability by FAR 52.227-1, Authorization and Consent; provided, however,

subcontractors 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 and/or its subcontractors' insurers

progress and witness testing of such Items. Seller shall include this clause in all of Seller's subcontracts under this PO.

21. Governing Law

This PO shall be construed, interpreted and applied in accordance with the Federal law of Government contracts as enunciated and applied by Federal judicial bodies and boards of contract appeals. To the extent that the Federal law of Government contracts is not dispositive, the laws of the state of Georgia, excluding choice of state law rules, shall apply.

22. 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 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

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 PO, Buyer and Seller shall have the right to redress any dispute arising under or related to this PO, which is not disposed of by agreement, by pursuing any right or remedy which Buyer or Seller, as the case maybe, may have at law, or in equity, or under this PO in any United States court of competent jurisdiction. Pending resolution of any dispute, Seller shall proceed diligently with the performance of work, including the delivery of Items in accordance with Buyer's direction. Upon resolution of any such dispute, this PO shall be equitably adjusted, if necessary, to reflect such resolution.

26. 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. Offset/Countertrade Cooperation

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

31. Notification of Debarment/Suspension Status

Seller shall provide immediate notice to Buyer in the event of being suspended, debarred, proposed for debarment or declared ineligible for the award of contracts, by any Federal Agency, during the performance of this PO.

32. Incorporation of Certifications and Representations

All certifications and representations provided by Seller to Buyer in connection with this PO and the solicitation to which this PO relates are incorporated herein by this reference. Seller acknowledges that Buyer has relied on such certifications and representations in making the award of this PO.

33. Lower-Tier Subcontracts

- (a) Notwithstanding any other provision of this PO, Seller shall not procure any of the completed or substantially completed Items described herein from any other party, by subcontract or otherwise, without the prior written consent of Buyer.
- (b) To the maximum practical extent, Seller shall select subcontractors on a competitive basis for work subcontracted in connection with this PO.
- (c) In the event Seller contemplates making an award to a lower-tier subcontractor which is a foreign concern, or a domestic concern where any defense articles or technical data may be disclosed to foreign nationals, Seller shall ensure that all necessary US export licenses are obtained prior to the transfer of any defense articles or technical data or other information to the prospective lower tier subcontractor.

34. Indemnity/Commercial Items

This clause applies only to the portion, if any, of this PO as is for the purchase of a commercial item(s) as such term - "Commercial item" - is defined at FAR 2.101. In the event Buyer is subject to any liability, damage, or expense, including without limitation Government withholding of payments, due to a finding or determination by the Contracting Officer that an item designated herein as a commercial item is not a commercial item, then Seller agrees to indemnify and hold Buyer harmless to the full extent of any such liability, damage, or expense resulting in whole or in part from such finding or determination.

Additionally, in the event of such finding or determination, the clauses of FAR II Part A and DFARS II Part A shall be applicable to the portion, if any, of the PO pertaining to the items regarding which such finding or determination was made.

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

defective cost or pricing data, as set forth in this clause and in FAR 52.215-11; or 2) their furnishing, as prospective subcontractors, alleged or actual defective cost or pricing data, which data was certified or required to be certified by Buyer to be accurate, complete and current as of the date of final price agreement given on Buyer's Certificate of Current Cost or Pricing Data, and which data Seller was given timely notice by Buyer to furnish and/or update prior to such date of Buyer's final price agreement; or 3) the Contracting Officer's rejection of Seller's or Seller's lower-tier subcontractor's claim for exception from submission of certified cost or pricing data on the basis set forth in FAR 15.403(b) or other pertinent law or regulation; or 4) their furnishing data of any description that is allegedly or actually inaccurate as set forth in this clause and in FAR 52.215-11, then Seller agrees to indemnify and hold Buyer harmless to the full extent of any damage or expense resulting from such action."

52.215-11 Price Reduction for Defective Cost or Pricing Data - Modifications (Oct 1997)

Applies whenever FAR 52.215-13 applies to this PO. "The Contracting Officer" means "Buyer or the Contracting Officer." "United States" and "Government" mean "Buyer."

52.215-12 Subcontractor Cost or Pricing Data (Oct 1997)

Applies if this PO exceeds \$550,000 and is not otherwise exempt from the requirement to provide cost or pricing data.

52.215-13 Subcontractor Cost or Pricing Data - Modifications (Oct 1997)

Applies if this PO exceeds \$550,000 and modifications under this PO are not exempt from the requirement to provide cost or pricing data.

52.215-14 Integrity of Unit Prices (Oct 1997) and Alternate I (Oct 1997)

Applies if this PO exceeds \$100,000. Paragraph (b) is deleted.

52.222-20 Walsh Healy Public Contracts Act (Dec 1996)

Applies if this PO exceeds \$10,000.

52.222-37 Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era 9Jan 1999)

Applies if this PO is for \$10,000 or more.

52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement (Aug 1996)

Applies if this PO exceeds \$100,000.

52.230-2 Cost Accounting Standards (Apr 1998) (When referenced in the Contract, Full CAS Coverage applies. In subparagraph (a)(4)(ii) and (a)(5) substitute 'Buyer' for "Government". Delete paragraph (b) of the clause.

- 52.230-3 Disclosure and Consistency of Cost Accounting Practices (Apr 1998)**
(When referenced in the Contract, Modified CAS Coverage applies. In subparagraphs (a)(3)(ii) and (a)(4) substitute 'Buyer' for "Government". Delete paragraph (b) of the clause.)
- 52.230-6 Administration of Cost Accounting Standards (Nov 1999)** (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 Competition in Subcontracting (Dec 1996)**
- 52.245-17 Special Tooling (April 1984)**
"Contracting Officer" means "Buyer." "Government" means "Buyer or the Government" except in paragraph (c) where it means "Buyer." The time period set forth in paragraph (i) is changed to 180 days.
- 52.245-18 Special Test Equipment (Feb 1993)**
"Contracting officer" means "Buyer." "Government" means "Buyer or the Government" except in the third sentence of paragraph (c) where it means "Buyer." In paragraphs (b) and (c), "30 days" is changed to "60 days."
- 52.247-63 Preference for US - Flag Air Carriers (Jan 1997)**
Applies if this PO involves international air transportation.

PART B The clauses listed in this Part B are applicable to both (1) 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)**

- 52.219-8 Utilization Small Business Concerns (Oct 2000)**
- 52.219-9 Small Business Subcontracting Plan (Oct 2000) and Alternate II (Oct 2000)**
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 (Feb 1999)**
- 52.222-35 Affirmative Action for Special Disabled and Vietnam Era Veterans (Apr 1998)**
Applies if this PO is for \$10,000 or more
- 52.222-36 Affirmative Action for Workers with Disabilities (Jun 1998)**
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 (May 2001)**
Applies if the Items furnished hereunder contain or are manufactured with ozone-depleting substances.
- 52.225-13 Restrictions on Certain Foreign Purchases (Jul 2000)**
- 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."
- 52.242-13 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 (May 2001)**

52.245-2 Government Property (Dec 1989)

"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)ernm5 h381s-083a"Buylovalsr

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 co**

252.243-7002 Requests for Equitable Adjustment (Mar 1998)

Applies if this PO exceeds \$100,000. In paragraph (d) "Government" means "Buyer."

252.247-7023 Transportation of Supplies By Sea (Mar 2000)

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.