

Appendix 11

**LOCKHEED MARTIN CORPORATION
AERONAUTICS MATERIAL MANAGEMENT CENTER**

**TERMS AND CONDITIONS OF PURCHASE
F-22 ENGINEERING AND MANUFACTURING DEVELOPMENT CONTRACT**

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 purchase order; Except in the term "commercial item" as defined at FAR 2.201 and its plural "commercial items" "Items" means all required articles,

3. Variation in Quantity

Items 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 and does pay such charges and costs within a reasonable time, the overshipped material will be retained by Buyer at no cost and shall become the property of Buyer.

4. Prices

Unless otherwise specified, prices are f.o.b. destination and shall include all applicable federal, state and local taxes, duties, tariffs, and similar fees imposed by any government. The price includes all charges for boxing, packing, crating, drayage, storage, dunnage, and bundling. Seller warrants that prices charged for Items are not higher than those charged to any other customer, including the Government, for items of like grade and quality in similar or lesser quantities.

5. Invoices, Payments, and Discounts

Unless otherwise provided, terms of payment shall be Net 30 days from the later of the following:

- (a) Buyer's receipt of Seller's correct invoice,
- (b) Scheduled delivery date, or scheduled completion of performance 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.

6. Warranty

- (a) Seller warrants that all Items shall be free from defects in material and workmanship and shall conform to applicable specifications, drawings and all other requirements of this PO. Said warranties shall run from the date of delivery of the Items to Buyer or the next higher subcontractor until delivery of the Items to the customer. If Seller is responsible for the design of the Items, Seller warrants for such period that all Items delivered under this PO shall be free from defect in design, and if Seller is responsible for designing the Items to meet specified performance requirements of Buyer, Seller warrants for such period that all such Items shall be fit and sufficient for the

purposes intended by Buyer. 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

- (e) 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.

7. 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; 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

Labor (41 CFR 60-1 and 60-2), or (2) that in the event such a program does not presently exist, Seller will develop and place in operation such a written Affirmative Action Compliance Program within 120 days from the award of this PO.

(3) FAR 52.203-11 Certification And Disclosure Regarding Payments To Influence Certain Federal Transactions (Applicable to solicitations/POs that exceed \$100,000)

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

- (c) Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by section 1352, title 31, United States Code. Any person who makes an 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.
- (4) FAR 52.209-5 Certification Regarding Debarment, Suspension, Proposed Debarment, And Other Responsibility Matters (Applicable to solicitations/ POs in excess of \$25,000)
 - (a) 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.
 - (b) 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.
- (5) FAR 52.223-1 Clean Air And Water Certification (Applicable to solicitations/POs in excess of \$100,000)

Seller certifies that--

- (a) Any facility to be used in the performance of this proposed contract is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities;
- (b) Seller will immediately notify Lockheed Martin, before award, of the receipt of any communication from the Administrator, or a designee, of the EPA, indicating that any facility that Seller proposes to use for the performance of the contract is under consideration to be listed on the EPA List of Violating Facilities; and
- (c) Seller will include a certification substantially the same as this certification, including this paragraph (c), in every nonexempt lower tier subcontract.

8. Responsibility for Property

Unless otherwise specified, Seller shall be liable for any loss or destruction of or damage to property of Buyer or of 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 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 personalty by reason of affixation to any realty. All property furnished by Buyer shall be used solely in the performance of this PO or other POs issued by Buyer 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 by the clauses incorporated by reference in clause 35) that is either provided by the Government or acquired or fabricated for the Government pursuant to the clauses incorporated by reference in clause 35.

10. Use of Data Furnished by Buyer

The information contained in reports, drawings, documents or other records (hereinafter referred to as "Information") which are furnished to Seller by Buyer relative to this PO, to the extent that such Information is not in the public domain, shall not be disclosed to 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 Information to Buyer thirty (30) days after the effective date of such completion, termination or cancellation. Any such

Information furnished to Seller by Buyer and retained by Seller shall remain subject to the foregoing restrictions on use, reproduction and disclosure. In the event the parties have negotiated a proprietary information agreement which 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 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 warrants 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, 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 and /or its customers. 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 of which such Item was designed, Seller's liability under this Article 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" which clause is incorporated herein by reference except as used therein "Government" means "Government," "Contractor" means "Seller," and "contract" means "this PO."

12. Entry on Buyer's Property; Insurance

(a) In the event that Seller or Seller's employees, subcontractors, or agents enter onto Buyer's premises for any reason in connection with this PO, Seller and such other parties shall observe all security requirements and all plant safety, plant protection, and traffic regulations.

(b) Seller, and any subcontractors used by Seller in connection with this PO, shall carry Worker's Compensation and Employee's Liability Insurance to cover Seller's and such subcontractors' legal liability on account of accidents to their respective employees. Seller and its subcontractors shall carry adequate Comprehensive General Liability and adequate Comprehensive Automobile Liability Insurance covering the legal liability of Seller and such subcontractors on account of accidents arising out of the operations of Seller or such 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 insurers showing such coverage in effect and agreeing to give Buyer ten (10) days' prior written notice of cancellation of such coverage.

13. 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 reasonable 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 PO's "Changes" clause.

14. Remedies/Waiver

- (a) The rights and remedies provided herein shall be cumulative and in addition to any

16. Reserved

17. Recission, Adjustment or Termination for Illegal or Improper Activity

- (a) In the event the Government takes action pursuant to FAR 52.203-8 entitled "Cancellation, Recession, and Recovery of Funds for Illegal or Improper Activity" to cancel the solicitation or rescind the prime contract to which this PO relates, and such action results from Seller's violation of subsection (a), (b), (c) or (d) of the Office of Federal Procurement Policy Act (41 U.S.C. 423) ("the Act") as amended by section 4304 of the National Defense Authorization Act for Fiscal Year 1996 (Pub. L. 104-106), Buyer may (1) rescind this PO; (2) recover from Seller all amounts paid by Buyer to Seller in connection with this PO; (3) recover from Seller any amounts, including any penalty prescribed by law, which Buyer is required to pay to the Government; and (4) recover from Seller any other costs, expenses, liabilities, incurred by Buyer in connection with Seller's violation of the Act.
- (b) Seller agrees to pay Buyer the amount Buyer's price or fee is reduced by the Government pursuant to FAR clause 52.203-10, entitled "Price or Fee Adjustment of Illegal or Improper Activity," to the extent such reduction results from Seller's violation of the Act, as amended (41 U.S.C. 423), and as implemented in the FAR. In the event the Government terminates for default any of Buyer's prime contracts under which this PO is issued, as a result of Seller violation of the Act, Buyer shall have the right to terminate this PO for default in whole or in part.
- (c) Buyer's rights and remedies under this clause shall be in addition to any other rights and remedies provided by law, regulation, or under this PO.

18. Consideration

Seller shall, for the consideration hereinafter mentioned and within the time specified, accomplish all required services, testing, manufacturing and other work; deliver to Buyer the Items provided for in this PO; and grant to Buyer the right to exercise the options, if any, provided for in this PO.

19. Technical Surveillance

Buyer and authorized representatives of Buyer's customers shall have direct access to all areas of Seller's and Seller's subcontractors' plants where work under this PO is being performed, to review progress and witness testing of the Items to be delivered under this PO. Seller shall include this clause in all of Seller's subcontracts under this PO.

20. 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, if this PO specifies that the Items furnished hereunder are to be delivered directly to or performed at or on behalf of a specified Buyer facility, the laws, excluding choice of state law rules, of the state where Buyer's facility is located shall apply. For Items neither delivered directly to nor performed at or on behalf of a specified Buyer facility, the laws of the state of Texas, excluding choice of state law rules, shall apply.

21. 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 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.

22. 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.

23. Reserved

24. 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 may be, 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 and services in accordance with Buyer's direction. Upon resolution of any such dispute, this PO shall be equitably adjusted, if necessary, to reflect such resolution.

25. 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.

26. 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.

27. Notification of Changes

- (a) Only Buyer's Authorized Representative may direct or redirect Seller's effort hereunder. In the event, however, Seller considers any conduct including any action, inaction, written or oral communication by Buyer or Buyer's customer to constitute a change to this PO, other than a written change order issued by 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 change order covering the conduct in question.

28. Change and Follow-On Proposals

Circumstances may arise during the course of performance under this PO where Buyer may request Seller to submit to Buyer technical and cost proposals relating to (1) anticipated changes or modifications to this PO prior to the implementation of the change or modification under the Changes clause of this PO, or (2) potential follow-on POs for the Items furnished hereunder. In such cases, Seller agrees to furnish to Buyer a technical and/or cost proposal as requested within thirty (30) days of the request. Seller agrees to furnish current information to Buyer in sufficient detail for Buyer to determine price reasonableness and cost realism. Information furnished by Seller shall be submitted in the manner and in the detail specified in the pricing instructions included in Buyer's request for proposal.

29. 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 bene

months during the performance of this PO summarizing by country Seller's lower tier proposal and procurement activity related to this PO.

30. Notification of Debarment/Suspension Status

Seller shall provide immediate notice to Buyer in the event of being suspended, debarred or declared ineligible by any Department or other Federal Agency, or upon receipt of a notice of proposed debarment from any agency, during the performance of this PO.

31. 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 reference. Seller acknowledges that Buyer has relied on such certifications and representations in making the award of this PO.

32. 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) 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.

33. Gifts, Gratuities, and Kickbacks

- (a) Buyer may, by written notice to Seller, terminate this PO for default if Buyer has reasonable cause to believe that gratuities or kickbacks were offered or given by Seller, or any agent or representative of Seller, to any officer, employee or representative of Buyer with a view toward securing this PO or securing favorable treatment with respect to awarding, amending or the making of any determinations with respect to the performance of this PO.
- (b) Buyer complies with the Anti-Kickback Act of 1986, 41 U.S.C. 51-58, ("the Act") and related laws and regulations. By acceptance of this PO Seller agrees:

- (1) to comply with the Act;
 - (2) to report possible violations of the Act to and cooperate with Buyer and/or the Government in connection with the investigation of any actual or alleged violation of the Act;
 - (3) to indemnify Buyer against any loss, cost, damage or liability by reason of Seller's violation of the Act including, but not limited to, any amount that Buyer is directed by the Contracting Officer to withhold from Seller; and
 - (4) that Buyer may terminate this PO for default in the event of Seller's violation of the Act in connection with this PO.
- (c) 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

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>
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 (JAN 1990) - Applies if this PO exceeds \$100,000. Change the beginning of paragraph (c)(1) to read: "Seller shall file with Buyer a disclosure form..." change "such person" to "Seller" in paragraphs (c)(1) and (c)(2).
52.204-4	Printing/Copying Double-Sided on Recycled Paper (JUN 1996) - Applies only if this PO exceeds \$100,000.
52.215-2	Audit - Negotiation (AUG 1996) - Applicable if this PO exceeds \$100,000 and if (1) this is a cost-reimbursement, incentive, time and materials or price-redeterminable PO, (2) if Seller was required to furnish cost or pricing data, or (3) this PO requires Seller to furnish cost, funding or performance reports. Alternate II applies if Seller is an educational institution or non-profit institution.
52.215-22	Price Reduction for Defective Cost or Pricing Data (OCT 1995) - Applies whenever FAR 52.215-24 applies to this PO. "The Contracting Officer" means "Buyer or the Contracting Officer." "United States" and "Government" mean "Buyer." The following is added at the end of the clause: "If Buyer is subject to any liability or expense, including without limitation Government withholding of payments, as the result of: 1) Seller's or its lower-tier subcontractors' submission and/or certification of alleged or actual defective cost or pricing data, as set forth in this

clause and in FAR 52.215-23; 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 15.8 or other pertinent law or regulation; or 4) their furnishing data of any description that is alleged

- 52.227-11 **Patent Rights – Retention by the Contractor (Short Form) (JUN 1997)** - Applies if this PO is for experimental, developmental, or research work and Seller is a small business concern. Reports required by this clause shall be filed with the agency indentified in the PO. If no agency is identified, contact Buyer’s authorized representative identified on the face of the contract.
- 52.227-11 **Patent Rights – Retention by the Contractor (Short Form) (JAN 1997)** - Applies if this PO is for experimental, developmental, or research work and Seller is a large business concern. Reports required by this clause shall be filed with the agency indentified in the PO. If no agency is identified, contact Buyer’s authorized representative identified on the face of the contract.
- 52.228-5 **Insurance - Work on a Government Installation (JAN 1997)** - Applies if this PO involves work on a Government installation.
- 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 (APR 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 (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.**

<u>Citation</u>	<u>Clause Name (Date)</u>
52.204-2	Security Requirements (AUG 1996) - Applies only if this PO involves access to classified information. The reference in paragraph (c) to the Changes clause shall be deemed to refer to the Changes clause of this PO.
52.211-5	New Material (MAY 1995) - "Contracting Officer" means "Buyer."
52.211-7	Other Than New Material, Residual Inventory, and Former Government Surplus Property (MAY 1995) - "Contracting Officer" means "Buyer."
52.211-15	Defense Priority and Allocation Requirements (SEP 1990)

52.215-42

**Requirements for Cost or Pricing Data or Information Other Than
Cost or Pricing Data--Modifications (JAN 1997) -**

- 52.244-6 **Subcontracts for Commercial Items and Commercial Components (OCT 1995).**
- 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. Alternate I applies only if Seller has and maintains a Government approved property control system. 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 is 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) - Applies if this PO exceeds \$100,000. The terms "contract" "contractor" and "subcontract" are not modified in paragraph (a). Paragraph (g) is deleted.
252.205-7000	Provision Of Information To Cooperative Agreement Holders (DEC 1991).

- 252.209-7000 **Acquisition From Subcontractors Subject To On-Site Inspection Under The Intermediate-Range Nuclear Forces (INF) Treaty (NOV 1995)** - Applies if this PO exceeds \$100,000.
- 252.211-7000 **Acquisition Streamlining (DEC 1991)** - Applies if this PO exceeds \$1,000,000. "Government" means "Buyer."
- 252.215-7000 **Pricing Adjustments (DEC 1991).**
- 252.223-7002 **Safety Precautions For Ammunition And Explosives (MAY 1994)**
- Applies if this PO involves ammunition or explosives. "Contracting Officer" means "Buyer" except in subparagraph (c)(4) where it means "Buyer/Contracting Officer." "Government" means "Buyer and Government." In subparagraph (g)(1)(ii) "subcontractor" means "Seller and lower tier subcontractor" in the first sentence, and "subcontractor" means "Seller" in the second sentence.
- 252.223-7003 **Change In Place Of Performance - Ammunition And Explosives (DEC 1991)** - Applies if this PO involves ammunition or explosives. "Contracting Officer" means "Buyer." "Government" means "Buyer and Government."
- 252.225-7016 **Restriction On Acquisition Of Ball And Roller Bearings (Jun 1997)**—"Contracting Officer" means "Buyer or Contracting Officer."
- 252.225-7026 **Reporting Of Contract Performance Outside The United States (NOV 1995)** - Applies if this PO exceeds \$100,000. Does not apply if the PO is for commercial items, construction, ores, natural gases, utilities, petroleum products and crudes, timber (logs), or subsistence. Paragraph (c) is deleted.
- 252.227-7013 **Rights In Technical Data--Non Commercial Items (NOV 1995).**
- 252.227-7014 **Rights In Noncommercial Computer Software And Noncommercial Computer Software Documentation (Jun 1995).**
- 252.227-7019 **Validation Of Asserted Restrictions--Computer Software (Jun 1995).**
- 252.227-7037 **Validation Of Restrictive Markings On Technical Data (NOV 1995).**
- 252.231-7000 **Supplemental Cost Principles (DEC 1991).**
- 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.**

<u>Citation</u>	<u>Clause Name (Date)</u>
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).
252.225-7001	Buy American Act And Balance Of Payments Program (JAN 1994).
252.225-7002	Qualifying Country Sources As Subcontractors (DEC 1991).
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 (JAN 1997).
252.225-7010	Duty-Free Entry -- Additional Provisions (JAN 1997).
252.225-7012	Preference For Certain Domestic Commodities (FEB 1997).
252.225-7014	Preference For Domestic Specialty Metals (FEB 1997) Alternate I (FEB 1997).
252.225-7022	Restriction on Acquisition of Polyacronitrile (PAN) Carbon Fiber (Jun 1997) - Applies if the items furnished by Seller contain PAN carbon fiber.
252.225-7030	Restriction on Acquisition of Carbon, Alloy, and Armor Steel Plate (OCT 1992).
252.225-7036	North American Free Trade Agreement Implementation Act (JAN 1994) - Alternate I (MAY 1995).
252.227-7015	Technical Data - Commercial items (NOV 1995) - Applies if this PO is for a commercial item.
252.227-7016	Rights In Bid Or Proposal Information (Jun 1995).
252.227-7026	Deferred Delivery Of Technical Data Or Computer Software (APR 1988) - Applicable if this PO includes a requirement for deferred delivery data. "Government" means "Buyer."
252.227-7027	Deferred Ordering Of Technical Data Or Computer Software (APR 1988) - "Government" means "Buyer and the Government" in the first sentence.
252.227-7030	Technical Data -- Withholding Of Payment (OCT 1988) - "Government" means "Buyer or the Government" and "Contracting Officer" means "Buyer."
252.227-7036	Declaration Of Technical Data

- 252.232-7006 **Reduction Or Suspension Of Contract Payments Upon Finding Of Fraud (AUG 1992)** - To the extent that payments to Buyer are suspended or reduced under this clause due to Seller's fraud, Buyer shall suspend or reduce payments to Seller.
- 252.235-7003 **Frequency Authorization (DEC 1991) Alternate I (DEC 1991)** - Applies if this PO requires the development, production, construction, testing, or operation of a device for which a radio frequency authorization is required. "Contracting Officer" means "Buyer."
- 252.239-7000 **Protection Against Compromising Emanations (DEC 1991)** - "Contracting Officer" means "Buyer." "Government" means "Buyer and the Government" in paragraphs (c) and (d).
- 252.239-7016 **Telecommunications Security Equipment, Devices, Techniques And Services (DEC 1991)** - Applies if this PO requires securing telecommunications.
- 252.243-7002 **Requests For Equitable Adjustment (MAR 1998)** - Applies if this PO exceeds \$100,000. In paragraph (d) "Government" means "Buyer."
- 252.249-7002 **Notification Of Anticipated Contract Termination Or Reduction (DEC 1996)** - Applies if this PO exceeds \$500,000. "Contracting Officer" means "Buyer." Subparagraphs (d)(1) and the first 5 words of subparagraph (d)(2) are deleted.

III. AIR FORCE FAR SUPPLEMENT CLAUSES

The clauses listed in this pare 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.

<u>Citation</u>	<u>Clause Name (Date)</u>
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	Safety and Accidient Prevention (MAY 1995) - Applies if this PO requires work on a Government installation. "contracting officer" means "Buyer."

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.

<u>Citation</u>	<u>Clause Name (Date)</u>
5352.210-9000	Elimination of Use of Class I Ozone Depleting Substances (ODS) in Air Force Procurements (OCT 1994).
5352.235-9003	Application for Equipment Frequency Authorization (AFMC) (JUL 1997) - In the second sentence "buyer at the issuing office" means "Buyer."

36. Review Of Proprietary Data

Seller hereby grants its permission to disclose and release any data submitted hereunder marked with a limited, restricted or proprietary rights legend to a support contractor retained by the Government to review the propriety of such marking; provided that such support contractor shall be prohibited from further releasing, disclosing or otherwise using such data in accordance with a Non-Disclosure Agreement.

37. Release Of Information

Seller shall obtain approval from the Buyer 60 days prior to release of any information relating to this PO. Buyer shall in turn obtain approval from Aeronautical System Center Public Affairs Office (ASC/PA) in accordance with the prime contract. Seller shall also include this clause in any lower tier subcontract awarded as a result of this PO. "Information" includes, but is not limited to, news releases, articles, manuscripts, brochures, advertisements, still and motion pictures, speeches, trade association meetings, symposia, published professional papers, etc. Authors must submit materials proposed for release to ASC/PA in the following quantities:

- (a) news releases, articles, brochures, advertisements, and professional papers - 3 copies
- (b) videos - 3 copies/transcripts - 12 copies
- (c) briefings, speeches, symposia presentations - 12 copies
- (d) photographs - 1 original and 5 legible photocopies

Seller shall include a statement indicating the project or effort depicted was or is sponsored by:

Aeronautical System Center
Wright-Patterson AFB OH 45433-7129

38. Foreign Nationals - Foreign Sources

(a) For purposes of this clause:

- (1) Foreign nationals are those persons not citizens of, not nationals of, or resident/immigrant aliens to, the United States;
- (2) Foreign representative is anyone, regardless of nationality or citizenship, acting as an agent, representative, official, or employee of a foreign government, a foreign-owned or influenced firm, corporation or person; and
- (3) Foreign sources are those sources (vendors, subcontractors, and suppliers) not owned and controlled by citizens or immigrant aliens of the United States.

(b) Nothing in this clause is intended to waive any requirement imposed by any other U.S. Government agency with respect to employment of foreign nationals or export controlled data and information.

(c) Seller acknowledges that equipment and technical data generated or delivered in performance of this contract is controlled by the International Traffic in Arms Regulation (ITAR), 22 CFR Sections 121 through 128, and require an export license before assigning any foreign national to perform work under this contract or before granting access to foreign nationals to any equipment and technical data generated or delivered in performance of this contract (see 22 CFR Section 125). Seller agrees to notify and obtain the written approval of Buyer and the Government prior to assigning or granting access to any work, equipment or technical data generated or delivered in performance of this contract to foreign nationals or their representatives. This notification shall include the name and country of origin of the foreign national or representative, the specific work, equipment,

or data to which the person will have access, and whether the foreign national is cleared to have access to technical data (DOD 5220.22-M, National Industrial Security Program Operating Manual (NISPOM)). (AFMC FAR SUP 5352.293-9002, Dec 1995).