



**GENERAL PROVISIONS  
COMMERCIAL SUBCONTRACTS/PURCHASE ORDERS**

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**1. ACCEPTANCE OF CONTRACT/TERMS AND CONDITIONS (LMMS Specific)**

- (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) SELLER shall make no change, including class I and II changes, in any design, specification, configuration, material, part or manufacturing process which affects the form, fit, function, reliability, or maintainability of goods without the prior written approval of the LOCKHEED MARTIN Buyer. With respect to any design, specification, configuration, material, part or process so approved.
- (d) SELLER acknowledges that it has available to it all specifications, drawings and data referenced in this PO and that they are adequate to enable SELLER to perform the work called for herein in accordance with the delivery schedule.
- (e) **Additional or differing terms or conditions proposed by SELLER or included in SELLER's acknowledgment hereof are hereby objected to by LOCKHEED MARTIN and have no effect unless accepted in writing by LOCKHEED MARTIN.**

**2. APPLICABLE LAWS (LMMS Specific)**

- (a) If this contract is issued by Lockheed Martin Missiles & Space, Communications and Power Center facility in Newtown, PA, then this Contract shall be governed by and construed in accordance with the law of the State of New York, if it is issued by any other Lockheed Martin Missiles & Space facility then the Contract shall be governed by and construed in accordance with the law of the State of California, excluding their choice of law rules, respectively. SELLER agrees to comply with all applicable Federal, state and local laws, orders, rules, regulations and ordinances.
- (b) SELLER represents that the goods to be furnished hereunder were or will be produced in compliance with the requirements of the Fair Labor Standards Act of 1938, as amended.
- (c) 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.
- (d) 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.

### 3. ASSIGNMENT

Any assignment of SELLER's contract rights or delegation of duties shall be void, unless prior written consent is given by LOCKHEED MARTIN. However, SELLER may assign rights to be paid amounts due, or to become due, to a financing institution if LOCKHEED MARTIN is promptly furnished a signed copy of such assignment reasonably in advance of the due date for payment of any such amounts. Amounts assigned to an assignee shall be subject to setoffs or recoupment for any present or future claims of LOCKHEED MARTIN against SELLER. LOCKHEED MARTIN shall have the right to make settlements and/or adjustments in price with SELLER without notice to the assignee.

### 4. CHANGES

- (a) LOCKHEED MARTIN may at any time, by written notice, and without notice to sureties or assignees, make changes within the general scope of this Contract in any one or more of the following: (i) drawings, designs or specifications; (ii) method of shipping or packing; (iii) place of inspection, acceptance or point of delivery; and (iv) delivery schedule.
- (b) If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of this Contract, LOCKHEED MARTIN shall make an equitable adjustment in the Contract price and/or delivery schedule, and modify the Contract accordingly. Changes to the delivery schedule will be subject to a price adjustment only.
- (c) Any claim for an equitable adjustment by SELLER must be submitted in writing to LOCKHEED MARTIN within 30 days from the date of notice of the change, unless the parties agree in writing to a longer period.
- (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. COMMERCIAL SPACE LAUNCH ACT (LMMS Specific)

(Applicable if noted in the Contract. Then insurance requirements under clause 22, "Insurance/Entry on LOCKHEED MARTIN's Property," would not be applicable for third party liability.)

As required by the Commercial Space Launch Act (CSLA), 49 U.S.C. § 70101 - § 70119 as amended, the parties agree as follows:

- (a) LOCKHEED MARTIN and the SELLER hereby agree to a reciprocal waiver of liability pursuant to which each party agrees not to bring a claim in arbitration or otherwise or sue the other party, the United States Government and its contractors and subcontractors at every tier or any Related Third Parties of the other party, as defined in paragraph (e), for any property loss or damage it sustains and any property loss or personal injury, including death, sustained by any of its Related Third Parties, arising in any manner in

connection with the performance of activities carried out pursuant to a CSLA license.

- (b) SELLER shall extend the waiver and release of claims described in paragraph (a) above to its Related Third Parties (other than employees, directors, and officers) by requiring them (1) to waive and release all claims of liability they may have against LOCKHEED MARTIN, its Related Third Parties, and the United States Government and its contractors and subcontractors at every tier, and (2) to agree to be responsible for any property loss or damage or bodily injury, including death sustained by any of them and arising in any manner in connection with the performance of activities carried out pursuant to a CSLA license.
- (c) The waivers described in this paragraph shall extend to and bind the successors and assigns of each party and its Related Third Parties, whether by subrogation or otherwise. Each party shall obtain a waiver of subrogation and release of any right of recovery against the other party and its Related Third Parties from any insurer providing coverage for the risks of loss for which the party hereby waives claims under this paragraph.
- (d) SELLER shall defend, hold harmless and indemnify LOCKHEED MARTIN and its Related Third Parties from and against any and all liabilities, costs, and expenses (including attorney's fees) arising out of any failure by SELLER to obtain the waivers and releases of claims of liability described in this paragraph.
- (e) For purposes of this paragraph, Related Third Parties shall mean (1) directors, officers, employees, and agents of either party or of any customer to whom LOCKHEED MARTIN may provide launch services; (2) parties having any right, title or interest in any of the vehicles or equipment utilized by LOCKHEED MARTIN in providing launch services, including but not limited to satellites, transponders, and launch vehicles; (3) contractors, subcontractors and suppliers at any tier of either party or of any customers of LOCKHEED MARTIN; and (4) additional parties involved in the launch services provided by LOCKHEED MARTIN or other activities governed by the CSLA.

### 6. COMMUNICATION WITH LOCKHEED MARTIN'S CUSTOMER (LMMS Specific)

- (a) LOCKHEED MARTIN shall be solely responsible for all liaison and coordination with the LOCKHEED MARTIN customer, including the U. S. Government, as it affects the applicable Prime Contract, this Contract, and any related contract.
- (b) Unless otherwise directed in writing by the authorized LOCKHEED MARTIN Procurement Representative, all documentation requiring submittal to, or action by, the Government or the Contracting Officer shall be routed to, or through, the LOCKHEED MARTIN Procurement Representative, or as otherwise permitted by this Contract.

### 7. CONTRACT DIRECTION

- (a) Only the LOCKHEED MARTIN PROCUREMENT REPRESENTATIVE has authority to make changes in or amendments to this Contract. Such changes or amendments must be in writing.
- (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. Such actions shall not 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 sent to the LOCKHEED MARTIN PROCUREMENT REPRESENTATIVE.

**8. DEFAULT**  
(LMMS Specific)

- (a) LOCKHEED MARTIN, by written notice, may terminate this Contract for default, in whole or in part, if SELLER fails to comply with any of the terms of this Contract, fails to make progress as to endanger performance of this Contract, or fails to provide adequate assurance of future performance. SELLER shall have ten (10) days (or such longer period as LOCKHEED MARTIN may authorize in writing) to cure any such failure after receipt of notice from LOCKHEED MARTIN. Default involving delivery schedule delays shall not be subject to the cure provision.
- (b) LOCKHEED MARTIN shall not be liable for any Work not accepted; however, LOCKHEED MARTIN may require SELLER to deliver to LOCKHEED MARTIN any supplies and materials, manufacturing materials, and manufacturing drawings that SELLER has specifically produced or acquired for the terminated portion of this Contract. LOCKHEED MARTIN and SELLER shall agree on the amount of payment for these other deliverables.
- (c) SELLER shall continue all Work not terminated.
- (d) If after termination under paragraph (a), it is later determined that SELLER was not in default, such termination shall be deemed a Termination for Convenience.
- (e) The rights and remedies of LOCKHEED MARTIN in this clause are in addition to any other rights and remedies provided by law or equity under this Contract.

**9. DEFINITIONS**

The following terms shall have the meanings set forth below:

- (a) "Work" means all required articles, materials, supplies, goods, and services constituting the subject matter of this Contract.
- (b) "SELLER" means the party identified on the face of the contract with whom LOCKHEED MARTIN is contracting.
- (c) "LOCKHEED MARTIN", means LOCKHEED MARTIN CORPORATION, acting through its companies, or business units, as identified on the face of the Contract. If a subsidiary or affiliate of Lockheed Martin Corporation is

identified on the face of the Contract than "LOCKHEED MARTIN" means that subsidiary, or affiliate.

- (d) "LOCKHEED MARTIN Procurement Representative" means the person authorized by LOCKHEED MARTIN's cognizant procurement organization to administer this Contract.
- (e) "Contract" means the instrument of contracting, such as "PO", "Purchase Order, or other such type designation, including 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.
- (f) "PO" or "Purchase Order" as used in any document constituting a part of this contract shall mean this contract.

**10. DISPUTES**

All disputes under this Contract, which are not disposed of by mutual agreement, may be decided by recourse to an action at law or in equity. Until final resolution of any dispute hereunder, SELLER shall diligently proceed with the performance of this Contract as directed by LOCKHEED MARTIN.

**11. EXPORT CONTROL**  
(LMMS Specific)

- (a) Sales or purchases of products and services may involve the transfer of export-controlled data to or require discussions, technical interchanges, meetings, etc., addressing export-controlled data with foreign persons. Export of technical data from the United States or disclosure to any foreign person may require some form of Export License from the United States Government. Failure to obtain necessary Export Licenses may result in criminal liability.
- (b) SELLER represents and warrants that, except as allowed under applicable U.S. laws and regulations, no technical data furnished to it hereunder shall be disclosed by it to any foreign national, firm, or country, including foreign nationals employed by or associated with SELLER nor shall SELLER re-export any technical data without first complying with all requirements of such U.S. laws and regulations. SELLER shall first obtain the written consent of LOCKHEED MARTIN prior to submitting any request for authority to export any such technical data. SELLER shall hold LOCKHEED MARTIN harmless for all claims, demands, damages, costs, fines, penalties, attorney's fees, and all other expenses arising from its failure to comply with this clause or any U.S. law or regulation.
- (c) All suppliers of services to LOCKHEED MARTIN must comply with applicable U.S. export laws and regulations. For services provided to LOCKHEED MARTIN involving export-controlled data, suppliers must (i) be U.S. persons and supply a U.S. person to perform LOCKHEED MARTIN'S work; or (ii) obtain appropriate

export licensing for non-U.S. persons to perform LOCKHEED MARTIN'S work.

information to LOCKHEED MARTIN'S Procurement Representative.

**12. EXTRAS**

Work shall not be supplied in excess of quantities specified in the Contract. SELLER shall be liable for handling charges and return shipment costs for any excess quantities.

**13. FOREIGN PURCHASES (Applies if the Contract involves goods imported into the U.S.) (LMMS Specific)**

- (a) If elsewhere in this Contract LOCKHEED MARTIN is indicated as importer of record, SELLER warrants that all sales hereunder are or will be made at not less than fair value under the United States Anti-Dumping Law (19 U.S.C. 1673 et seq.).
- (b) If elsewhere in this Contract LOCKHEED MARTIN is not indicated as importer of record, then SELLER agrees that:
  - (1) LOCKHEED MARTIN will not be a party to the importation of goods, the transaction(s) represented by this Contract will be consummated after importation, and SELLER will neither cause nor permit LOCKHEED MARTIN'S name to be shown as "Importer Of Record" on any customs declaration; and
  - (2) upon request and where applicable, SELLER will provide to LOCKHEED MARTIN Customs Form 7543 entitled "Certificate Of Delivery," properly executed.

**14. FURNISHED PROPERTY**

- (a) LOCKHEED MARTIN may provide to SELLER property owned by either LOCKHEED MARTIN or its customer (Furnished Property). Furnished Property shall be used only for the performance of this Contract.
- (b) Title to Furnished Property shall remain in LOCKHEED MARTIN or its customer. SELLER shall clearly mark (if not so marked) all Furnished Property to show its ownership.
- (c) Except for reasonable wear and tear, SELLER shall be responsible for, and shall promptly notify LOCKHEED MARTIN of, any loss or damage. Without additional charge, SELLER shall manage, maintain, and preserve Furnished Property in accordance with good commercial practice.
- (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.

**15. GIDEP ALERT (Government/Industry Data Exchange Program) (LMMS Specific)**

Whenever SELLER shall receive, either before or after shipment of goods under this Contract, notification that any of such goods, including any component, part, or material thereof, is the subject of GIDEP ALERT; SELLER shall promptly furnish such

**16. GRATUITIES/KICKBACKS**

No gratuities (in the form of entertainment, gifts or otherwise) or kickbacks shall be offered or given by SELLER, to any employee of LOCKHEED MARTIN with a view toward securing favorable treatment as a supplier.

**17. 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 any costs or 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.

**18. INFORMATION OF LOCKHEED MARTIN (LMMS Specific)**

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 not divulge or use such information, drawings, specifications or data to provide goods or services to any other customer.

**19. INFORMATION OF SELLER**

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

**20. INSPECTION AND ACCEPTANCE (LMMS Specific)**

- (a) LOCKHEED MARTIN and its customer may inspect all Work at reasonable times and places, including, when practicable, during manufacture and before shipment. SELLER shall provide all information, facilities, and assistance necessary for safe and convenient inspection without additional charge.
- (b) No such inspection shall relieve SELLER of its obligations to furnish all Work in accordance with the requirements of this Contract. LOCKHEED MARTIN's final inspection and acceptance shall be at destination.

- (c) **Rejected Supplies:** LOCKHEED MARTIN may reject and hold at SELLER'S expense, subject to SELLER'S reasonable disposal instructions, supplies which do not conform to applicable specifications, drawings, samples, or descriptions or which are defective in material, workmanship, or design unless of LOCKHEED MARTIN'S detailed design. LOCKHEED MARTIN may at its option hold the rejected supplies at SELLER'S expense or return them to SELLER'S facility at SELLER'S expense. Without limiting any other rights LOCKHEED MARTIN may have, LOCKHEED MARTIN at its option may require SELLER (i) to repair or replace at SELLER'S expense any supplies or items thereof which fail to meet the requirements of applicable design, specifications, drawings, samples, descriptions, or other requirements of this Contact; or (ii) to refund the price of any such item. Previously rejected supplies reworked to specifications, or replaced, shall not be retendered to LOCKHEED MARTIN by SELLER unless notification of such past rejection is submitted with the retender and LOCKHEED MARTIN has consented to such retender.
- (d) Acceptance shall be conclusive, except for latent defects, fraud, gross mistakes amounting to fraud, or as otherwise provided in the Contract.

**21. INSURANCE/ENTRY ON LOCKHEED MARTIN'S PROPERTY**  
(LMMS Specific)

- (a) In the event that SELLER, its' employees, agents, or subcontractors enter LOCKHEED MARTIN's or its' customer's premises for any reason in connection with this Contract, SELLER, its subcontractors and lower-tier subcontractors, shall procure and maintain worker's compensation, comprehensive general liability, bodily injury and property damage insurance in reasonable amounts, and such other insurance as LOCKHEED MARTIN may require and shall comply with all site requirements. SELLER shall indemnify and hold harmless LOCKHEED MARTIN, its officers, employees, and agents from any losses, costs, claims, causes of action, damages, liabilities, and expenses, including attorneys' fees, all expenses of litigation and/or settlement, and court costs, by reason of property damage or personal injury to any person caused in whole or in part by the actions or omissions of SELLER, its officers, employees, agents, suppliers, or subcontractors at any tier. SELLER shall provide LOCKHEED MARTIN thirty days advance written notice prior to the effective date of any cancellation or change in the term or coverage of any of SELLER's required insurance. If requested, SELLER shall send a "Certificate of Insurance" showing SELLER's compliance with these requirements. SELLER shall name LOCKHEED MARTIN as an additional insured for the duration of this Contract. Insurance maintained pursuant to this clause shall be considered primary as respects the interest of LOCKHEED MARTIN and is not contributory with any insurance, which LOCKHEED MARTIN may carry.
- (b) SELLER shall provide timely notice to LOCKHEED MARTIN prior to the introduction to the premises of any hazardous material as defined in any Federal, state or local law or ordinance or in any lawful order, rule or regulation thereunder applicable to the premises. SELLER shall equip its employees, agents and subcontractors, for the use of such

hazardous material, and for such other hazardous materials, as identified by LOCKHEED MARTIN to SELLER, used by LOCKHEED MARTIN or its customer on the premises.

**22. INTELLECTUAL PROPERTY**  
(LMMS Specific)

(Subparagraph (a) is NOT applicable to commercial off-the-shelf purchases, only to the extent that such off-the-shelf product has not been modified or redesigned pursuant to this Contract.)

- (a) SELLER agrees that LOCKHEED MARTIN shall be the owner of all inventions, technology, designs, works of authorship, mask works, technical information, computer software, business information and other information conceived, developed or otherwise generated in the performance of this Contract by or on behalf of SELLER. SELLER hereby assigns and agrees to assign all right title and interest in the foregoing to LOCKHEED MARTIN, including without limitation all copyrights, patent rights and other intellectual property rights therein and further agrees to execute, at LOCKHEED 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 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.
- (b) SELLER warrants that the Work performed and delivered under this Contract will not infringe or otherwise violate the intellectual property rights of any third party in the United States or any foreign country. SELLER agrees to defend, indemnity and hold harmless LOCKHEED MARTIN and its customers from and against any claims, damages, losses costs and expenses, including reasonable attorney's fees, arising out of any action by a third party that is based upon a claim that the Work performed or delivered under this Contract infringes or otherwise violates the intellectual property rights of any person or entity.
- (c) To the extent that either Party hereto discloses information that it considers Proprietary, the disclosing Party shall identify such information as Proprietary when disclosing it to the other Party by marking it clearly and conspicuously as Proprietary Information. Any disclosure of information considered to be Proprietary made orally or visually, shall be confirmed within twenty (20) days of such oral or visual disclosure thereafter in writing and identified therein as Proprietary Information. Subject to the rights in paragraph (a), any Proprietary Information disclosed hereunder in accordance with the provisions of this Article shall be held in confidence by the receiving Party and if the receiving Party is the

SELLER, used only in connection with the performance of this Contract and, if the receiving Party is LOCKHEED MARTIN, used and disclosed in connection with LOCKHEED MARTIN'S Prime Contract(s) and disclosed to LOCKHEED MARTIN'S Customer(s) under the terms of their Prime Contract(s).

- (d) Neither Party hereto, shall be liable for disclosure of information marked in accordance with the provisions of this Article which:
- (i) is, or becomes, available at any time to the public from a source other than the receiving Party without breach of this Contract;
  - (ii) is released for disclosure by written consent of the disclosing Party;
  - (iii) is lawfully received by the receiving Party from a third party;
  - (iv) is, at the time of its disclosure, already known by the receiving Party; or
  - (v) is, at any time, developed by the receiving Party completely independently of such disclosure from the disclosing Party.

Neither Party hereto shall be liable for the inadvertent or accidental disclosure of proprietary information identified in accordance with the provisions of this Article if that Party exercises the same degree of care as the receiving Party normally takes to preserve and safeguard its own proprietary information, but in no event less than reasonable care.

- (e) The disclosure of any information hereunder shall not convey any license to the receiving Party or to any third party under any patent, whether expressly, implied, by estoppel or otherwise. Furthermore, no disclosure of any information by and between the parties hereto shall be construed as, or in any manner result in, any representation, warranty, assurance, guaranty or inducement by either Party hereto with respect to the infringement of patents or other rights of the Parties, subject, however, to paragraph (b).
- (f) Notwithstanding any other paragraph of this Article, LOCKHEED MARTIN may disclose information identified as proprietary by the SELLER to LOCKHEED MARTIN'S Customer(s) under the terms of their Prime Contracts and/or to government and other launch agencies where necessary for use in connection with performance of LOCKHEED MARTIN'S Prime Contract(s) and/or in connection with launch of spacecraft being furnished by LOCKHEED MARTIN. Any such disclosure of the SELLER'S Proprietary Information by LOCKHEED MARTIN shall include the SELLER'S or similar legend restricting further disclosure and use thereof.
- (g) The obligation of the Parties under this clause 22 shall terminate seven (7) years after the date of delivery of the last Contract Item under this Contract.

## 23. NEW MATERIALS

The Work to be delivered hereunder shall consist of new materials, (not used, or reconditioned, or of such age as to impair its usefulness or safety).

## 24. NON-SOLICITATION (LMMS Specific)

SELLER agrees that its employees and any other individuals who are on LOCKHEED MARTIN property for the purpose of

performing work or other services on its behalf will not engage in solicitation of any sort or distribution of literature or other materials anywhere on LOCKHEED MARTIN property at anytime.

## 25. OFFSET CREDIT/COOPERATION

All offset or countertrade credit value resulting from this Contract shall accrue solely to the benefit of LOCKHEED MARTIN. SELLER agrees to cooperate with LOCKHEED MARTIN in the fulfillment of any foreign offset/countertrade obligations.

## 26. PACKING AND SHIPMENT (LMMS Specific)

- (a) Unless otherwise specified, all Work is to be packed in accordance with good commercial practice.
- (b) A complete packing list shall be enclosed with all shipments. SELLER shall mark containers or packages with necessary lifting, loading, and shipping information, including the LOCKHEED MARTIN contract number, item number, dates of shipment, and the names and addresses of consignor and consignee. Bills of lading shall include this contract number.
- (c) Unless otherwise specified, delivery shall be FOB Place of Shipment.
- (d) No insurance or premium transportation costs will be allowed unless authorized in writing. If SELLER does not comply with LOCKHEED MARTIN'S delivery schedule, LOCKHEED MARTIN may specify, at its sole discretion, the mode and conditions of transportation to affect delivery and deduct from any of SELLER'S invoices the cost of such premium transportation, if borne by LOCKHEED MARTIN.

## 27. PAYMENTS, TAXES, AND DUTIES

- (a) Unless otherwise provided, terms of payment shall be net 30 days from the latest of the following: (i) LOCKHEED MARTIN's receipt of the SELLER's proper invoice; (ii) Scheduled delivery date of the Work; or (iii) Actual delivery of the Work. LOCKHEED MARTIN shall have a right of setoff against payments due or at issue under this Contract or any other Contract between the parties.
- (b) Payment shall be deemed to have been made as of the date of mailing LOCKHEED MARTIN's payment or electronic funds transfer.
- (c) Unless otherwise specified, prices include all applicable federal, state and local taxes, duties, tariffs, and similar fees imposed by any government, all of which shall be listed separately on the invoice.
- (d) All taxes, assessments and similar charges levied with respect to or upon any such products or work owned by Lockheed Martin while in SELLER'S possession or control, and for which no exemption is available, shall be borne by SELLER.

**28. PRECEDENCE**

Any inconsistencies in this Contract shall be resolved in accordance with the following descending order of precedence: (1) Face of the Purchase Order, Release document or Schedule, (which shall include continuation sheets), as applicable, including any Special terms and conditions; (2) Any master-type agreement (such as corporate, sector or blanket agreements); (3) these General Provisions; (4) Statement of Work.

**29. QUALITY CONTROL SYSTEM**

- (a) Except as otherwise provided, SELLER shall provide and maintain a quality control system to an industry recognized Quality Standard for the Work covered by this Contract.
- (b) Records of all quality control inspection work by SELLER shall be kept complete and available to LOCKHEED MARTIN and its customers during the performance of this Contract and for such longer periods as may be specified.

**30. RELEASE OF INFORMATION**

Except as required by law, no public release of any information, or confirmation or denial of same, with respect to this Contract or the subject matter hereof, will be made by SELLER without the prior written approval of LOCKHEED MARTIN.

**31. SECURITY INTERESTS  
(LMMS Specific)**

SELLER shall cooperate with LOCKHEED MARTIN in executing such documents as LOCKHEED MARTIN deems appropriate to protect the security interest of LOCKHEED MARTIN and LOCKHEED MARTIN'S customers in SELLER'S work-in-process and Furnished Property.

**32. STOP WORK ORDER**

- (a) SELLER shall stop Work for up to ninety (90) days in accordance with the terms of 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 covered by this Contract during the period of Work stoppage.
- (b) Within such period, LOCKHEED MARTIN shall either terminate or continue the Work by written order 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 affected by the Work stoppage, if applicable, provided that the claim for equitable adjustment is made within thirty (30) days after such continuation.

**33. SURVIVABILITY  
(LMMS Specific)**

If this Contract is terminated for default or convenience, SELLER shall not be relieved of those obligations contained in this Contract for the following provisions:

Applicable Laws, Clause # 2  
Export Control, Clause #11  
Independent Contractor Relationship, Clause #17  
Information of Lockheed Martin, Clause #18  
Intellectual Property, Clause #22  
Release of Information, Clause #30  
Warranty, Clause #37  
Year 2000 Compliance, Clause #38

**34. TERMINATION FOR CONVENIENCE  
(LMMS Specific)**

- (a) For specially performed Work: LOCKHEED MARTIN may terminate part or all of this Contract for its convenience by giving written notice to SELLER. LOCKHEED MARTIN's only obligation shall be to pay SELLER a percentage of the price reflecting the percentage of the Work performed prior to the notice of termination, plus reasonable charges that SELLER can demonstrate to the satisfaction of LOCKHEED MARTIN, using generally accepted accounting principles, have resulted from the termination. SELLER shall not be paid for any Work performed or costs incurred which reasonably could have been avoided. In no event shall LOCKHEED MARTIN be liable for lost or anticipated profits, or unabsorbed indirect costs or overhead, or for any sum in excess of the total Contract price. SELLER's termination claim shall be submitted within 90 days from the effective date of the termination. "Specially Performed Work" is defined as any work that is not supported by a published catalog with a published price list.
- (b) For other than specially performed Work: LOCKHEED MARTIN may terminate part or all of this Contract for its convenience by giving written notice to SELLER and LOCKHEED MARTIN's only obligation to SELLER shall be payment of a mutually agreed-upon restocking or service charge.
- (c) SELLER shall continue all Work not terminated.

**35. 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.

**36. WAIVER, APPROVAL, AND REMEDIES**

- (a) Failure by LOCKHEED MARTIN to enforce any of the provision(s) of this Contract shall not be construed as a waiver of the requirement(s) of such provision(s), or as a waiver of the right of LOCKHEED MARTIN thereafter to enforce each and every such provision(s).
- (b) LOCKHEED MARTIN's approval of documents shall not relieve SELLER from complying with any requirements of this Contract.
- (c) The rights and remedies of LOCKHEED MARTIN in this Contract are cumulative and in addition to any other rights and remedies provided by law or in equity.

option, the defective good or service shall be repaired or replaced within ten (10) days notice at no cost to LOCKHEED MARTIN.

- (d) Nothing in this provision shall be construed to limit any other rights under this Contract, at law or in equity that LOCKHEED MARTIN may have with respect to Year 2000 compliance.

### 37. WARRANTY

SELLER warrants that all Work furnished pursuant to this Contract shall strictly conform to applicable specifications, drawings, samples, and descriptions, and other requirements of this Contract and be free from defects in design, material and workmanship. The warranty shall begin upon final acceptance and extend for a period of (i) the manufacturer's warranty period or six months, whichever is longer, if SELLER is not the manufacturer and has not modified the Work or, (ii) one year or the manufacturer's warranty period, whichever is longer if the SELLER is the manufacturer of the Work or has modified it. If any non-conformity with Work appears within that time, SELLER shall promptly repair, replace, or reperform the Work. Transportation of replacement Work and return of non-conforming Work and repeat performance of Work shall be at SELLER's expense. If repair or replacement or reperformance of Work is not timely, LOCKHEED MARTIN may elect to return the non-conforming Work or repair or replace Work or reprocur the Work at SELLER's expense. All warranties shall run to LOCKHEED MARTIN and its customer. **Any implied warranty of merchantability and fitness for a particular purpose is hereby disclaimed.**

### 38. YEAR 2000 COMPLIANCE

- (a) Year 2000 compliant, as used in this clause, means that with respect to information technology, that the information technology accurately processes data/time data (including but not limited to, calculating, comparing, and sequencing) from, to, and between the twentieth and twenty-first centuries, and the years 1999 and 2000 and leap year calculations, to the extent that other information technology, used in combination with the information technology being acquired, properly exchanges date/time data with it.
- (b) Any and all products provided hereunder will be Year 2000 compliant at the time of delivery to LOCKHEED MARTIN, including but not limited to accurately inputting, storing, manipulating, comparing, calculating, updating, displaying, outputting, and transferring such dates and data unless otherwise expressly provided herein by LOCKHEED MARTIN.
- (c) This provision takes precedence over all other provisions of this Contract with respect to being Year 2000 compliant. In the event of a discovery of any non-compliance, either before, concurrent with, or subsequent to delivery of a good or service under this Contract, the discovering party shall notify the other party within five (5) calendar days. If the defective good or service is being presented for acceptance or has already been delivered, at LOCKHEED MARTIN's