

NOTE: THIS APPENDIX D IS APPROVED FOR USE FOR COMMERCIAL
NON-GOVERNMENTAL SUBCONTRACTS ONLY.

**FACILITIES SERVICES
PURCHASE ORDER TERMS AND CONDITIONS**

APPENDIX "D"

1. ACCEPTANCE

The acceptance of this Purchase Order, either by acknowledgment or performance of services, shall constitute acceptance of the conditions set forth below and on the face of this Purchase Order. No purported acceptance of this Purchase Order on terms and conditions which modify, supersede, or otherwise alter the terms and conditions hereof shall be binding upon Buyer.

2. PERFORMANCE

Performance must be in strict compliance with the schedule and other terms and conditions of this Purchase Order.

3. INSPECTION OF SERVICES

- (a) Definitions. "Services," as used in this clause, includes services performed, workmanship, and material furnished or used in the performance of services.
- (b) Seller shall provide and maintain an inspection system acceptable to Buyer covering the services under this Purchase Order. Complete records of all inspection work performed by Seller shall be maintained and made available to Buyer during Purchase Order performance and for as long afterwards as the Purchase Order requires.
- (c) Buyer has the right to inspect and test all services called for by the Purchase Order, at all reasonable times and places during the term of the Purchase Order. Buyer shall perform inspections and tests in a manner that will not unduly delay the work.
- (d) If any of the services do not conform with Purchase Order requirements, Buyer may require Seller to perform the services again in conformity with Purchase Order requirements at no increase in Purchase Order price.

When the defects in services cannot be corrected by re-performance, Buyer may (1) require Seller to take necessary action to ensure that future performance conforms to Purchase Order requirements and (2) reduce the Purchase Order price to reflect the reduced value of the services performed.

- (e) If Seller fails to promptly perform the services again or to take the necessary action to ensure future performance in conformity with Purchase Order requirements, Buyer may (1) by contract or otherwise, perform the services and charge to Seller any cost incurred by Buyer that is directly related to the performance of such service or (2) terminate the Purchase Order for default.

4. PRICES

Unless otherwise specified, prices shall include all federal, state and local taxes. Seller warrants that prices charged for the services are not higher than those charged to any other customer, including the Government, for services of like grade and quality in similar or lesser quantities.

5. PAYMENT

Seller shall be paid upon submission of properly prepared invoices in accordance with Buyer's invoicing instructions for services performed and accepted by Buyer. Any adjustments in Seller's invoice due to any failure to comply with the provisions of this Purchase Order may be made by Buyer before payment. No charges will be honored unless specified on the face of this Purchase Order.

6. WARRANTY OF SERVICES

- (a) Notwithstanding inspection and acceptance by Buyer or any provision concerning the conclusiveness thereof, Seller warrants that all services and any supplies that may be used or delivered in connection with the services performed under this Purchase Order will be free from defects in workmanship and conform to the requirements of this Purchase Order. Buyer shall give written notice of any such defect or nonconformance to Seller within twelve (12) months of the performance of the services. Such notice shall state either (i) that Seller shall correct or re-perform any defective or non-conforming services, or (ii) that Buyer does not require correction or re-performance. If Seller is required to correct or re-perform, it shall be at no cost to Buyer. Any services corrected or re-performed by Seller pursuant to this clause shall be subject to all provisions of this clause to the same extent as work initially performed. If Seller fails or refuses to correct or re-perform, Buyer may, by Purchase Order or otherwise, correct or

replace with similar services and charge to Seller the cost occasioned to Buyer thereby, or obtain an equitable adjustment in the Purchase Order price.

- (b) Year 2000 compliant, as used in this clause, means that with respect to information technology, that the information technology accurately processes date/time data (including but not limited to, calculating, comparing, and sequencing) from, to, and between the twentieth and twenty-first centuries, and the years 1999 and 2000 and leap year calculations, to the extent that other information technology, used in combination with the information technology being acquired, properly exchanges date/time data with it.

Any and all products provided hereunder will be Year 2000 compliant at the time of delivery to Lockheed Martin Corporation (Lockheed Martin), including but not limited to accurately inputting, storing, manipulating, comparing, calculating, updating, displaying, outputting, and transferring such dates and data unless otherwise expressly provided herein by Lockheed Martin.

This provision takes precedence over all other provisions of this agreement with respect to Year 2000 compliance. In the event of a discovery of any non-compliance, either before, concurrent with, or subsequent to delivery of a good or service under this agreement, the discovering party shall notify the other party within five (5) business days of discovery. If the defective good or service is being presented for acceptance or has already been delivered, at Lockheed Martin's option, the defective good or service shall be repaired or replaced within ten (10) business days of such notice at no cost to Lockheed Martin.

Nothing in this provision shall be construed to limit any other rights or remedies under this contract, at law or in equity that Lockheed Martin may have with respect to Year 2000 compliance.

- (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 law, in equity, or under this PO.

7. COMPLIANCE WITH LAWS AND REGULATIONS

Seller shall comply with applicable statutes, rules, regulations and orders of the United States, and of any State or political subdivision thereof, and agrees to indemnify Buyer against any loss, cost, damage or liability by reason of Seller's violation.

8. CHANGES

Buyer may at any time, by written order and without notice to the sureties, if any, make changes within the general scope of this Purchase Order in the services to be performed. If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, Buyer shall make an equitable adjustment in the Purchase Order price, the delivery schedule, or both, and shall modify the Purchase Order. Seller must assert its right to an adjustment under this clause within 30 days from the date of receipt of the written order. However, if Buyer decides that the facts justify it, Buyer may receive and act upon a proposal submitted before final payment of the Purchase Order. If Seller's proposal includes the cost of property made obsolete or excess by the change, Buyer shall have the right to prescribe the manner of the disposition of the property. Failure to agree to any adjustment shall be a dispute under the Disputes clause. However, nothing in this clause shall excuse Seller from proceeding with the Purchase Order as changed. No services for which an additional cost or fee will be charged by Seller shall be furnished without the prior written authorization of Buyer.

9. SUSPENSION OF WORK

- (a) Buyer may order Seller, in writing, to suspend, delay, or interrupt all or any part of the work of this Purchase Order for the period of time that Buyer determines appropriate for the convenience of Buyer.
- (b) If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed, or interrupted (1) by an act of Buyer in the administration of this Purchase Order, or (2) by Buyer's failure to act within the time specified in this Purchase Order (or within a reasonable time if not specified), an adjustment shall be made for any increase in the cost of performance of this Purchase Order (excluding profit) necessarily caused by the unreasonable suspension, delay, or interruption, and the Purchase Order shall be modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of Seller, or for which an equitable adjustment is provided for or excluded under any other term or condition of this Purchase Order.
- (c) A claim under this clause shall not be allowed (1) for any costs incurred more than 120 days before Seller shall have notified Buyer in writing of the act or failure to act involved (but this requirement shall not apply as to a

claim resulting from a suspension order), and (2) unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the suspension, delay, or interruption, but not later than the date of final payment under the Purchase Order.

10. TERMINATION FOR DEFAULT

- (a) Buyer may, subject to the provisions of subparagraph (c) below, by written notice of default to Seller, terminate the whole or any part of this Purchase Order in any one of the following circumstances: (i) if Seller fails to perform this Purchase Order within the time specified herein or any extension thereof; or (ii) if Seller fails to perform any of the other provisions of this Purchase Order, or so fails to make progress as to endanger performance of this Purchase Order in accordance with its terms, and does not cure such failure within a period of ten (10) days (or longer period as Buyer may authorize in writing) after receipt of notice from Buyer specifying such failure.
- (b) In the event Buyer terminates this Purchase Order in whole or in part as provided in subparagraph (a) above, Buyer may procure, upon such terms and in such manner as Buyer may deem appropriate, services similar to those so terminated, and Seller shall be liable to Buyer for any excess costs for the same. However, Seller shall continue the performance of this Purchase Order to the extent not terminated hereunder.
- (c) Except with respect to defaults of subcontractors, Seller shall not be liable for any excess costs if the failure to perform this Purchase Order arises out of causes beyond the control and without the fault or negligence of Seller. Such causes may include, but are not limited to, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantines restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the failure to perform must be beyond the control and without the fault or negligence of Seller. If failure to perform is caused by the default of a subcontractor, and if such default arises out of causes beyond the control of both Seller and the subcontractor, and without the fault or negligence of either of them, Seller shall not be liable for any excess costs for failure to perform, unless the services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit Seller to meet the required delivery schedule. The term "subcontractor(s)" shall mean subcontractor(s) at any tier.
- (d) If this Purchase Order is terminated as provided in subparagraph (a) above, Buyer, in addition to any other rights provided in this Purchase Order, may require Seller to deliver to Buyer or the Government, in the manner and to

the extent directed by Buyer, (i) any completed services, and (ii) such partially completed services and materials, plans, drawings, information and contract rights (hereinafter called "services and/or materials") as Seller has specifically produced or specifically acquired for the performance of such part of this Purchase Order as has been terminated; and Seller shall, upon direction of Buyer, protect and preserve property in the possession of Seller in which Buyer or the Government has an interest. Payment for completed services delivered to and accepted by Buyer shall be at the Purchase Order price. Payment for services and/or materials delivered to and accepted by Buyer and for the protection and preservation of property shall be in an amount agreed upon by Buyer and Seller. Failure to agree to such amount shall be a dispute concerning a question of fact within the meaning of the paragraph of this Purchase Order entitled "Disputes". Buyer may withhold from amounts otherwise due Seller for such completed services and/or materials such sum as Buyer determines to be necessary to protect Buyer or the Government against loss because of outstanding liens or claims of former lien holders.

- (e) If, after notice of termination of this Purchase Order under the provisions of this paragraph, it is determined for any reason that Seller was not in default under the provisions above, or that the default was excusable under the provisions of this paragraph, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to a termination for convenience of Buyer.
- (f) The rights and remedies of Buyer provided in this paragraph shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Purchase Order.

11. TERMINATION FOR CONVENIENCE

Buyer, by written notice, may terminate this Purchase Order, in whole or in part, when it is in the best interests of Buyer. If this Purchase Order is so terminated, Buyer shall be liable only for payment in accordance with the payment provisions of this Purchase Order for services rendered prior to the effective date of termination.

12. RIGHTS AND RESERVATIONS

All data and software, including without limitation, drawings, specifications and documentation, and all material, including without limitation, tools, dies, patterns, samples, devices and improvements, and all other information prepared, created or developed in connection with this Purchase Order or furnished to Seller by Buyer, or paid for in whole or in part by Buyer (hereinafter referred to as

"Property"), are and shall be owned solely by Buyer or the Government. Seller shall not use or disclose to others all or any part of such Property without specific prior written permission of Buyer. Seller shall disclose to Buyer and hereby transfers, assigns and sets over to Buyer the entirety of any and all patents, copyrights, mask works and/or trade secrets in such Property, which may be possessed or become possessed by Seller as author and/or otherwise. Prior to any printing required under the terms of this Purchase Order, Seller shall request in writing from Buyer the legends and notices, if any, to be affixed on such Property at the time of printing.

Any data, software, material and/or information developed by Seller solely at its expense, and/or solely at the expense of any of its subcontractors other than Lockheed Fort Worth Company, and delivered and/or required to be delivered hereunder (hereinafter referred to as "Other Data"), shall be furnished without restriction as to Buyer's right to use and/or disclose such Other Data, and free of all legends and notices unless such Other Data is specifically identified in a Proprietary Data Agreement incorporated into this Purchase Order.

13. PATENTS, COPYRIGHTS, MASK WORKS, AND TRADE SECRETS

Seller agrees to defend, indemnify and hold harmless Buyer, its customers and agents against any liability, including without limitation, costs, expenses and attorney's fees, for or by reason of any actual or alleged infringement of any patent, copyright, mask work and/or trade secret arising out of the manufacture, use, sale, delivery or disposal of goods or services furnished under this Purchase Order.

14. WORK ON BUYER'S PREMISES

In the event that Seller, Seller's employees, agents, representatives or subcontractors enter onto Buyer's premises for any reason in connection with this Purchase Order, Seller and such other parties shall abide by all rules and regulations at the work site including but not limited to those with respect to safety, fire prevention, traffic, and waste management, and abide by all military security regulations including the US Army Corps of Engineering Safety and Health Requirements Manual, EM 385-1-1 and Lockheed's "Contractors Safety Handbook" (FZM 7206). Seller shall defend, indemnify and hold Buyer harmless from all claims, actions, demands, losses and causes of action arising from injury, including death, to any person, or damage to any property, when such injury or damage results in whole or in part from acts or omissions of Seller, Seller's employees or agents, save and except damage caused by the sole negligence of Buyer. Seller shall maintain an accurate record of, and shall report to Buyer in the manner and on the forms prescribed by Buyer, exposure data and all accidents

resulting in death, traumatic injury, occupational disease, and damage to property, material, supplies and equipment incident to work performed under this Purchase Order. Buyer will notify Seller of any noncompliance with the foregoing provisions and the corrective action to be taken. After receipt of such notice, Seller shall immediately take corrective action. Such notice, when delivered to Seller or his representative at the site of the work, shall be deemed sufficient. If Seller fails or refuses to comply promptly, Buyer may issue an order stopping all or part of the work until satisfactory corrective action has been taken. No part of the time lost due to any such stop work order shall be made the subject of a claim for an extension of time or for excess costs or damages by Seller.

15. INSURANCE

Seller shall procure and maintain the insurance coverage as set forth below in the column entitled "A" Limits of Minimum Liability unless he is authorized in writing by Buyer to procure and maintain the lower insurance coverage as set forth in the column entitled "B" Limits of Minimum Liability. 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 the coverage.

<u>Kind of Insurance</u>	<u>"A" Limits of Minimum Liability</u>	<u>"B" Limits of Minimum Liability</u>
A. Workers' Compensation	As provided by law	As provided by law
B. Employer's Liability	\$1,000,000 per accident	\$100,000 per accident \$100,000 per employee \$500,000 policy limit
C. Public Liability to include premises and operations, elevators, Independent Contractors, completed operations and products		
Bodily Injury	Single Limits of \$1,000,000	\$100,000 per person for Bodily Injury and \$300,000 per occurrence
Property Damage	Property Damage	\$100,000

<u>Kind of Insurance</u>	<u>"A" Limits of Minimum Liability</u>	<u>"B" Limits of Minimum Liability</u>
D. Automobile Public Liability to include Employer's Non-Ownership liability and hired car		
Bodily Injury	Single Limits of \$1,000,000	\$100,000 per person for Bodily Injury and \$300,000 per occurrence
Property Damage	Property Damage	\$100,000
E. Owner's and Contractor's Protective Liability insurance (when work is sublet by Contractor)		
Bodily Injury	Single Limits of \$1,000,000	\$100,000 per person for Bodily Injury and \$300,000 per occurrence
Property Damage	Property Damage	\$100,000

16. ASSIGNMENT AND SUBCONTRACTING

Seller shall not assign this Purchase Order or any portion hereof, nor shall Seller allow its subcontractors at any tier to place any subcontract hereunder that is not in accordance with the subcontract plan set forth in the bid documents, without prior written consent of Buyer. All subcontracts shall contain the provisions required by this Purchase Order and shall permit assignment of those subcontracts to Buyer upon any termination of this Purchase Order.

17. NOTICES

All notices required or permitted hereunder shall be in writing, delivered personally or sent by United States certified or registered mail addressed to Seller or Buyer, as applicable, to the addresses on this Purchase Order, with postage thereon fully prepaid. Notices shall be effective at the time of mailing.

18. WAIVER

The failure of Buyer in any one or more instances to insist on performance of any portion or all of this Purchase Order shall not be construed to be a waiver in the future of Seller's performance in compliance with this Purchase Order.

19. DISPUTES

Pending resolution of any dispute arising under or related to this Purchase Order, Seller shall proceed diligently with the performance of work, including delivery of services in accordance with Buyer's direction. Upon resolution of a dispute, this Purchase Order shall be equitably adjusted if necessary.

20. APPLICABLE LAW

This Purchase Order shall be construed in accordance with the laws of Texas, excluding its choice of law rules.

21. BUYER'S REPRESENTATIVE

Buyer will designate a representative, hereinafter referred to as the Construction Contract Administrator, who will be available at all times at the site of the work during the progress thereof, and who will have the authority to act for Buyer to the extent set forth as follows:

- (a) Act as liaison between Buyer and Seller at the job site.
- (b) Make field decisions, within the general scope of this Purchase Order, on behalf of Buyer.
- (c) Promulgate instructions and/or decisions of Buyer to Seller.
- (d) Inspect and approve specified details and inspect for adherence to design and completeness of all details shown on Buyer's drawings.
- (e) Suspend Seller's operations for any act or omission detrimental to sound practices.

22. IDENTIFICATION OF EMPLOYEES

Seller shall be responsible for requiring each employee engaged in the work to display, as directed by Buyer, such identification badges as may be furnished by Buyer. Each Seller's employee will be subject to all current security regulations and to investigation and clearance by Buyer's Industrial Security Department.

- (a) SELLER'S REPRESENTATIVE. Seller, before commencing work, shall furnish the name(s) of his authorized representative(s) who will be the foreman or superintendent on the job site. Upon request from Buyer, subject to the approval of Buyer's Industrial Security Department, a service representative badge and identification card will be issued. These must be returned to Buyer's representative (the Construction Contract Administrator) at the completion of the work.
- (b) EMPLOYEES. A badge will be issued daily to each Seller's employee prior to the beginning of each work shift. Each employee must be identified by Seller or his authorized representative before a badge is issued. Whenever it is necessary for Seller to secure additional employees after the start of a shift, he shall so notify Buyer's Industrial Security Department, which will issue the necessary badges to those employees upon their arrival and identification by Seller or his authorized representative. Each Seller's employee must check out with and turn in his badge to a representative of Buyer's Industrial Security Department at the end of each shift. Badges are for identification only and do not confer entrance privileges.

23. MUTUAL RESPONSIBILITY OF CONTRACTORS

- (a) If directed by Buyer, Seller shall afford other contractors reasonable opportunity for the introduction and storage of their materials and equipment and the execution of their work and shall properly connect and coordinate his work and theirs.
- (b) If any part of Seller's work depends for proper execution or results upon the work of any other separate contractor, Seller shall inspect and promptly report to Buyer any discrepancies or defects in such other work that render it unsuitable for such proper execution and results. Failure of Seller to so inspect and report shall constitute an acceptance of the other contractor's work as fit and proper to receive his work, except as to defects which may develop in the other separate contractor's work after the execution of Seller's work.
- (c) Should Seller cause damage to the work or property of any separate contractor on the project, Seller shall, upon due notice, settle with such other contractor. If such separate contractor sues Buyer on account of any damage by Seller alleged to have been so sustained, Buyer shall notify Seller who shall defend such proceedings and pay all costs in connection therewith. If any judgment against Buyer arises therefrom, Seller shall satisfy it or indemnify Buyer therefore, as Buyer determines.
- (d) Seller shall do all cutting, fitting, or patching of his work that may be required to fit it to receive or be received by the work of other contractors shown

upon, or reasonably implied by, this Purchase Order. Seller shall not endanger any work of other contractors by cutting, excavating, or otherwise altering any work, and shall not cut or alter the work of any other contractor except with the written consent of Buyer.

- (e) Any cost caused by defective or ill-timed work shall be borne by the party responsible therefor.

24. NOTICES AND MODIFICATIONS

- (a) No notice, order, direction, determination, requirement, consent, approval or ratification under this Purchase Order shall be of any effect unless in writing.
- (b) No oral statement of any person shall in any manner or degree modify or otherwise affect the terms of this Purchase Order. Except as otherwise herein provided, no charge may be made for any extra work or material unless the same has been ordered in writing by an authorized representative of Buyer.
- (c) Where notice is to be given to either of the parties of this Purchase Order, it shall be given by written notice delivered either in person to an authorized representative of the party, or by certified or registered mail to the last known business address of the party.

25. ADVERTISING

Seller shall not, without first obtaining the written consent of Buyer, advertise or publish the fact that Seller has furnished or contracted to furnish to Buyer the articles of work herein mentioned.

26. SPECIAL PLANT CONDITIONS

- (a) **ALLOCATION OF WORK.** The specifications are divided into sections in an effort to separate the work by major trades insofar as possible. Any overlapping of trades or failure to include all work of a given trade under the appropriate heading will not relieve Seller of his responsibility to provide a turnkey job, complete in every respect.
- (b) **INTERFERENCES.** As the work progresses, Buyer will cooperate with Seller in locating and identifying interferences in the work. When interferences are encountered in the work, Seller shall notify Buyer for verification and identification. In all cases, Seller shall proceed with extreme care in the vicinity of utilities and existing installations. If such are damaged by Seller, he shall repair or replace the damaged installation to the satisfaction of Buyer with no additional cost to Buyer.

- (c) **CONCURRENCE WITH PLANT OPERATIONS.** Seller will be required to conduct all phases of the work in such a manner as to preclude the possibility of any interferences with or delay to Buyer's personnel and/or production work and shall be prepared at all times to readily yield right of way to Buyer's transportation system. Removal of excavated material and debris, delivery of material, and other traffic to and from the work area will be scheduled so as not to interfere with Buyer's plant operations.
- (d) **SELLER'S VEHICLES.** Seller's trucks or vehicles identified with permanent type lettering will be allowed in the plant area. No privately owned vehicles will be admitted until proper certification and evidence of required insurance coverage have been filed with and approved by Buyer, and a vehicle pass has been secured from Buyer's Construction Contract Administrator.
- (e) **EQUIPMENT LIMITATIONS.** Buyer reserves the right to limit the type of equipment used by Seller. Use of equipment that may cause damage to nearby equipment and/or endanger personnel will be especially controlled.
- (f) **IN-PLANT TRAFFIC.** Seller shall schedule and arrange his work operations so that all of Buyer's traffic will have freedom of movement through the area at all times. Seller will be advised by Buyer as to the sequence of construction necessary for existing traffic conditions.
- (g) **PERSONNEL AND DELIVERY OF MATERIALS.** All personnel, including those delivering materials, shall be instructed by Seller as to the applicable plant regulations and the location of the job site.
- (h) **SAFETY MEASURES.** Seller will be required to provide all safety equipment and shields and any other means necessary to preclude the possibility of injury and/or damage to Seller's and Buyer's personnel, equipment, or product, as determined by the location of the job site.
- (i) **PROTECTION OF OTHER WORK PARTS, ETC.** It is the prime responsibility of Seller not to damage any parts, materials, equipment, etc. with any operations required to complete this work. Seller will be held financially responsible for all of its damages.
- (j) **ENTRANCE TO THE PLANT.** Entrance of personnel, vehicles and all other materials will be allowed only through gates designated by Buyer.
- (k) **MEDICAL AFFILIATION.** Prior to commencement of work, Seller shall furnish Buyer with the name of its affiliated physician and hospital to be used in case of accident.

- (l) WELDING AND OPEN FLAMES. Seller will not engage in any welding or torch cutting operations until he has secured a Welding Permit form from Buyer's Construction Contract Administrator, signed by a representative of Buyer's Fire Department. A permit must be secured at the beginning of each day's operation and every time there is a change in location. Prior to signing the Welding Permit, Buyer's Fire Department representative will assure by personal inspection that there is adequate blanketing, shielding and/or other fire protective measures to protect adjacent flammable materials.

Buyer will provide the appropriate type of fire extinguishers at the site and for the duration of the operation.

- (m) OVERHEAD WORK. Seller shall provide approved barricades to block off areas when overhead work is in progress. Seller will be allowed to work over existing doors only on weekends or with the approval of Buyer's Construction Contract Administrator.

All floor areas, parts, materials, equipment, etc. shall be covered with drop cloths or otherwise protected from foreign material when work is being performed overhead. Seller will be required to clean all debris, dust, and dirt that falls on floors, equipment, etc. as a result of his operations. This matter shall be cleaned up before the end of each work period.

- (n) USE OF BUYER'S EQUIPMENT. Seller shall under no condition use any equipment, tools, or appliances belonging to Buyer unless specifically noted otherwise in the specifications.

- (o) WASTE MATERIALS. Seller shall be responsible for all waste materials and debris accumulating as the result of excavation, demolition, etc. and shall dispose of same as directed by Buyer's Construction Contract Administrator.

Seller shall also be responsible for all hazardous waste generated in the performance of its work and shall comply with all of Buyer's procedures as directed by Buyer's Construction Contract Administrator.

- (p) PROTECTION OF EXISTING UTILITIES. Seller shall protect all existing utilities against damage which may result in interruption of service during the progress of the work. All utility service lines which are damaged shall be repaired without delay by Seller and at no additional expense to Buyer. All repairs necessary to reinstate fire protection systems to their design capabilities shall be made immediately by qualified personnel at Seller's expense.

- (q) **CONSTRUCTION WATER.** Construction water is available near the job site. Seller shall furnish all valves, fittings, hoses, etc., as required. All temporary lines, fittings, etc., shall be furnished, installed, connected, and maintained by Seller in a workmanlike manner satisfactory to Buyer, and shall be removed by Seller in like manner at his expense prior to acceptance of the work.
- (r) **DRINKING WATER AND TOILET FACILITIES.** These facilities are available near the job site.
- (s) **LUNCH ROOM FACILITIES.** Seller will be restricted from using the lunch room facilities except from 11:45 a.m. to 12:45 p.m. Seller may use the vending machines during the day, but will be restricted from the lunch room area except as noted.
- (t) **COMPRESSED AIR, ELECTRIC POWER AND LIGHTING.** Located near the work site are 100 psi compressed air and 120/208V 3 phase and 440V 3 phase power which will be made available to Seller at the various lighting and power panels. All temporary lines shall be furnished, installed, connected, and maintained by Seller in a workmanlike manner satisfactory to Buyer, and shall be removed by Seller in like manner at his expense prior to acceptance of the work.
- (u) **FIRE PRECAUTIONS.** Seller will be required to observe all of Buyer's current safety and fire regulations.
- (v) **COMPLIANCE WITH HAZARD COMMUNICATION.** All bidders will be required to comply with the Hazard Communication Program in accordance with the Department of Labor's Occupational Safety and Health Administration Regulation, 29 CFR 1910.1200, "Hazard Communication."
- (w) **HAZARD COMMUNICATION PROGRAM.** Buyer maintains a list of hazardous chemicals in use at Buyer's Facilities. A set of appropriate Material Safety Data Sheets (MSDS) for those chemicals is available at the Facilities Engineering Office and at other strategic locations in the plant. If Seller's employees will work at Buyer's facilities, Seller must review its Purchase Order for information about hazardous chemicals. All bidders must furnish (1) a list of all chemicals, paints, cleaners, compounds, and other liquid products that will be used in the performance of their Purchase Order and (2) a copy of the MSDS for those materials that are hazardous according to OSHA (29 CFR 1910.1200). Seller will provide such a listing in advance of performing any Purchase Order work. Seller must inform its employees of the hazards they may encounter in their work and must

provide appropriate clothing, respirators, and equipment as required to perform their jobs safely. Seller may use MSDSs from Buyer's Material Safety Reference Points to help in this matter.

- (x) SAFETY RULES AND REGULATIONS. Prior to commencement of any work, Seller shall review with their employees, and subcontractors all applicable safety rules and regulations, including the Contractor's Safety Handbook. Seller shall be required to certify in writing that these safety rules and regulations have been reviewed with all of its employees and subcontractors.
- (y) SPRAY PAINTING AND USE OF CHEMICALS. All work involving spray painting or the use of any chemical must be approved by Safety Engineering or the Environmental Health Department prior to the commencement of that work. Material Safety Data Sheets on these products shall be submitted by Seller for the review of hazardous materials and the method of application.
- (z) BANNED MATERIALS. Seller warrants that items delivered under this Purchase Order do not contain Polychlorinated Biphenyl's (PCB's), 2,4-Dichlorophenoxyacetic acid, 2,4,5-Trichlorophenoxyacetic acid, asbestos, benzene, dioxins, hydrazine, mercury or pentachlorophenol, and agrees to indemnify Buyer against any loss, cost, damage or liability, including removal costs, by reason of Seller's violation of this warranty.
- (aa) SMOKING POLICY. Seller will ensure that all personnel, subcontractors, vendors, etc. comply with Buyer's smoking policy. Smoking indoors is restricted to designated areas in the lunch rooms and is permitted only during shift changes, lunch and breaks.
- (bb) SELLER IDENTIFICATION SIGNS. Seller will provide signs with Seller's name and PO # for areas outside of any building used for materials storage, work in process, or equipment stored. Signs are to be approximately 16" x 24" metal, white background with black letters. Each site is to be identified.
- (cc) WEEKEND WORK. Seller shall schedule all weekend work, (both his own forces and subcontractor forces), with Buyer's Construction Contract Administrator by 9:00 a.m. of the prior Thursday. Seller shall give Buyer a list of subcontractors and the scope of work with the weekend schedule.
- (dd) PROJECT INVITATION SUSPENSION
 - (1) If, in the opinion of Buyer, Seller is failing to properly execute contractual obligations under this Purchase Order, Buyer may temporarily cease to invite Seller to bid on additional work until Seller has satisfactorily resolved deficiencies regarding contractual

obligations. Failure to properly execute contractual obligations includes, but is not limited to, unsatisfactory progress as related to the construction schedule, and delays resulting from Seller operations or negligence.

- (2) In addition to Buyer's options under Paragraph (1), if, in the opinion of Buyer, Seller is mishandling or improperly disposing of hazardous materials or waste products at Buyer's facility, Buyer may order Seller to cease work under the Purchase Order until such violations are corrected to the satisfaction of Buyer. During this work stoppage, Buyer shall not be obligated to Seller for progress payments, and no extensions of time shall be given for the completion of Seller's work.

- (ee) CLOSEOUT DOCUMENTS. Seller shall submit to Buyer's Construction Contract Administrator, all required close-out documents within thirty (30) calendar days after completion of all work (excluding administrative tasks) associated with this project. Close-out documents include, without limitation, items such as: payroll reports, as-built and original tracing drawings, operation and maintenance data, security employee badges (if expired), final invoice and other required documents.