

APPENDIX "G"

F-22 STANDARD PURCHASE ORDER TERMS AND CONDITIONS

ARTICLE 1

GENERAL UNDERSTANDING, DEFINITIONS

- A. This Purchase Order sets forth the Terms and Conditions under which Seller shall perform services and furnish supplies in accordance with the requirements set forth herein.

- B. As used throughout this Purchase Order, unless specified otherwise herein, the following terms shall have the meaning set forth below:
 - 1. "Contracting Officer", except as otherwise provided in this Purchase Order, means the person executing the Prime Contract on behalf of the Government, and any other officer or civilian employee who is a properly designated Contracting Officer; and includes the authorized representative of a Contracting Officer acting within the limits of his or her authority.
 - 2. "Prime Contractor" and "Lockheed Prime Contract" shall mean Lockheed and Lockheed's ATF Prime Contract respectively.
 - 3. "Purchase Order", "Contract" or "Purchase Contract," means this Purchase Order.
 - 4. "Buyer" shall mean Lockheed Corporation, Lockheed Fort Worth Company.
 - 5. "Seller" shall mean the legal entity to whom this Purchase Order is issued.
 - 6. "Government" shall mean the Government of the United States of America and those authorized or delegated responsibility to act on its behalf except where specifically stated to be the Government of any other country.
 - 7. "Supplies" means all articles, items, materials, software, data, work, tasks or services to be performed or furnished by Seller under this Purchase Order.
 - 8. "FAR" means Federal Acquisition Regulation.
 - 9. "DoD FAR Sup" or "DFARS" means Department of Defense FAR Supplement.
 - 10. "AF FAR Sup" means Air Force FAR Supplement.
 - 11. "AFSC FAR Sup" means Air Force System Command FAR Supplement.

12. For the purpose of this Purchase Order, the terms "Full Scale Development (FSD)" and "Engineering and Manufacturing Development (EMD)" have the same meaning and can be used interchangeably, and the terms "Advanced Tactical Fighter (ATF)" and "F-22" have the same meaning and can be used interchangeably.
- C.
1. All specifications, exhibits, drawings or other documents which are referred to in this Purchase Order, whether or not attached, are incorporated herein by reference.
 2. When Federal or Military specifications or standards, or other documents, are referenced in the specifications, standards, or other documents cited in this Purchase Order, the effective issue or revision of the referenced specifications, standards or other documents shall be that listed in Parts I and II of the DOD Index of Specifications and Standards (DODISS) dated 1 Nov 90, unless (i) specific issues are set forth therefor in the cited specifications, standards, or other documents, or (ii) different issues are set forth therefor in this Purchase Order.

ARTICLE 2

INSPECTION, ACCEPTANCE AND TEST

- A. Seller shall provide and maintain a Quality Assurance System in compliance with this article, with Buyer Basic and Additional Quality Assurance Requirements Appendices and Clauses listed in this Purchase Order, and with all other related appendices, clauses, and documents contained in this Purchase Order.
- B. All supplies shall be subject to inspection and test by Buyer and the Government at all times and places including the period of manufacture and, in any event, prior to final acceptance. Notwithstanding any prior inspection and acceptance all supplies are subject to final inspection and acceptance at destination.
- C. If any supplies or lots of supplies are defective in material or workmanship or are otherwise not in conformity, Buyer or the Government shall have the right either to reject such supplies (with or without instructions as to their disposition) or to require their correction. Supplies or lots of supplies which have been rejected, or required to be corrected, shall be removed or corrected in place, as required by the Buyer or the Government, by and at the expense of Seller promptly after notice, and shall not again be tendered for acceptance unless the former tender and either the rejection or requirement of correction is disclosed. If Seller fails promptly to remove such supplies or lots of supplies, when required by Buyer or the Government, and to proceed promptly with the replacement or correction thereof, the Buyer either (i) may by contract or otherwise replace or correct such supplies and charge to Seller the cost occasioned the Buyer thereby or (ii) may

terminate for default this Purchase Order, as provided herein. These remedies are in addition to any other remedies the Buyer and/or the Government may have at law or in equity. Unless Seller elects to correct or replace the supplies which the Buyer or the Government has a right to reject and is able to make such corrections or replacement within the required delivery schedule, the Buyer may require the delivery of such supplies at a reduction in price which is equitable under the circumstances.

- D. If any inspection or test is made by the Buyer or the Government on the premises of Seller or its subcontractor, Seller without additional charge, shall provide all reasonable facilities and assistance for the safety and convenience of the Buyer or Government inspectors in the performance of their duties. If the Buyer or Government inspection or test is made at a point other than the premises of Seller or its subcontractor, it shall be at the expense of the Buyer, provided that in case of rejections the Buyer shall not be liable for any reduction in the value of samples used in connection with such inspection or test. All inspections and tests by the Buyer or the Government shall be performed in such manner as not to unduly delay the work. The Buyer reserves the right to charge to Seller any additional cost to the Buyer or the Government for such inspection and test when supplies are not ready at the time such inspection and test is requested by Seller. Failure to inspect or reject supplies shall neither relieve Seller from responsibility for such supplies as are not in accordance with the Purchase Order requirements nor impose liability on the Buyer or the Government therefor.
- E. Inspection, test or acceptance by the Buyer or the Government of any supplies or lots of supplies does not relieve Seller from any responsibility regarding defects or other failures to meet the requirements of this Purchase Order. In addition, no review and/or approval by the Buyer of any work hereunder or of any designs, drawings, specifications or other documents prepared by Seller shall be construed to relieve Seller, in any way, from design responsibility for the articles to be delivered hereunder or from responsibility to comply with the requirements of this Purchase Order.
- F. Acceptance shall not be conclusive as to latent defects, fraud, gross mistakes which amount to fraud, or as otherwise provided in this Purchase Order.
- G. Seller agrees that, notwithstanding the provisions of any warranty, correction of deficiencies or other provisions, expressed or implied, with respect to supplies purchased from Seller by the Buyer, or by the Buyer's customer, Seller shall reimburse the Buyer for Labor and Material Cost, including Overhead and General and Administrative (G&A) expense, reasonably incurred by the Buyer in connection with:

1. the unscheduled removal and replacement or out of station installation of such supplies or components thereof from an airplane or subassembly due to defective material, workmanship or design, and/or
 2. any removal of said supplies at Seller's request, and/or
 3. any removal of said supplies required to incorporate any previously authorized changes to said supplies which Seller has failed to incorporate as required and/or to maintain schedule, and/or
 4. re-testing of non-conforming supplies.
- H. Seller shall provide and maintain an inspection system acceptable to the Buyer and/or the Government covering supplies hereunder. Records of all inspection work by Seller shall be kept complete and made available to the Buyer and/or the Government during the performance of this Purchase Order and for a minimum of three (3) years after completion of this Purchase Order and for such longer periods as may be specified elsewhere in this Purchase Order. Inspection records shall be forwarded to the Buyer as required.
- I. Seller shall provide to the Buyer, at no additional cost, detailed reports of scrapage, reworks and repairs upon request.
- J. If Government inspection is required prior to shipment from Seller's plant, upon receipt of this order, promptly notify the Government representative who normally services your plant so that appropriate planning for Government inspection can be accomplished. Upon receipt of this order, promptly furnish a copy to the Government representative who normally services Seller's plant, or if none, to the nearest Army, Navy, Air Force, or Defense Supply Agency Inspection Office. In the event the representative or office cannot be located, notify the appropriate Buyer's F-22 Chief of Procurement immediately. If special access work will be performed under this Purchase Order, Seller will be contacted by a Government representative. In the event Seller is not contacted prior to shipment, notify the appropriate Buyer's F-22 Chief of Procurement.

ARTICLE 3

DELIVERY

Delivery shall be made in strict accordance with the Delivery Schedule of this Purchase Order. If Seller fails to meet such schedule and Buyer elects to call for expedited shipments, Seller shall pay any additional costs associated with such shipments. Buyer reserves the right, without loss of discount privileges, to pay invoices covering items shipped in advance of the schedule on the normal maturity after the date specified for delivery. If Seller encounters or anticipates difficulty in meeting the Delivery Schedule,

Seller shall immediately notify Buyer, in writing, giving pertinent details; provided, however, that such data shall be informational only and shall not be construed as a waiver by Buyer of any delivery schedule or date or of any rights or remedies provided at law, or in equity, or under this Purchase Order. Items fabricated or services performed in excess or in advance of Buyer's release are at Seller's risk. Items shall not be supplied in excess of the quantities specified herein.

ARTICLE 4

INSPECTION AND AUDIT

Seller agrees to provide access to its plants and facilities, and to maintain its books, records, documents, computerized records, projections and other supporting data in accordance with generally accepted accounting principles and practices which properly reflect all direct and indirect elements of cost of whatever nature, whether incurred or anticipated to be incurred for the performance of any work hereunder, or anticipated work hereunder for same or similar Supplies; and such shall be made available for inspection, audit, reproduction and retention by any authorized representative of Buyer, or if applicable at Buyer's option, the Government.

ARTICLE 5

RESERVED ARTICLE 6 PACKING AND CRATING

- A. Unless otherwise specified, all Supplies shall be packaged and shipped in accordance with Buyer's packaging requirements for protective packing of parts purchased for and shipped to Buyer, and shall be prepared by Seller for shipment, packaged and packed to prevent damage or deterioration and to provide optimum protection of the Supplies during shipment and in-plant handling and storage. In addition, all packaging, packing and crating by Seller shall be in compliance with carrier's tariffs and the price or prices shall include all charges for Seller's packing and crating, and for transportation to the Buyer's plant.
- B. Shipments by the Seller to be delivered to the Buyer shall be prepared for shipment and shipped in accordance with the requirements of this Article.
 - 1. Shipments shall be made to the Buyer unless directed by the Buyer to do otherwise in accordance with Paragraph C. below.
 - 2. A copy of the packing sheet or letter of transmittal, as appropriate, shall be furnished to the Buyer on hardware shipments and software shipments.
 - 3. Shipments shall be delivered F.O.B. Buyer's plant.

4. The packing sheet or shipping document shall include the Buyer's Priced Exhibit/Release Purchase Order number, item serial number, and manufacturing sequence number (if one is assigned).
- C. The Buyer may change the shipping instructions by an Amended Shipping Instruction (ASI). A change order to this Purchase Order shall not be issued to incorporate an ASI, unless a price adjustment is required. If a price adjustment is required, the Seller shall submit its claim in accordance with the Changes Article of this Purchase Order.
 - D. Shipments by the Seller directly to Government facilities shall be made in accordance with D180-10230-1 and as specified by Buyer.
 - E. The packaging, labeling, and shipping of all HAZARDOUS MATERIALS must conform with all applicable international, federal, state, and local laws and regulations. The packaging, markings and labeling of hazardous materials shall comply with the regulations in the Federal Code of Regulations, Title 49.
 - F. For shipments to any locations in California the following shall apply: The packaging, labeling, and shipping of all HAZARDOUS SUBSTANCES, including DANGEROUS MATERIALS, must conform with all applicable international, federal, state, and local laws and regulations. In addition to the application of proper shipping label on the outside container, each container of a hazardous substance shall be labeled in accordance with Title, 8, California Code of Regulations, Article 110, Section 5194, with the identity of the hazardous substance(s), appropriate hazard warnings, and the name and address of the manufacturer, importer, or other responsible party.

ARTICLE 7

USE OF BUYER'S DATA: INTELLECTUAL PROPERTY RIGHTS

- A. Seller shall not reproduce, use or disclose any data, designs, or other information belonging to or supplied by or on behalf of Buyer, except as necessary in the performance of this Purchase Order for Buyer. Upon Buyer's request, such data, designs, or other information, and any copies thereof, shall be returned to Buyer. Notwithstanding any other provision of this Purchase Order, Seller may utilize such Buyer data, designs, or other information in the manufacture of Supplies identifiable to the Prime Contract under which this Purchase Order is awarded for direct or indirect sale to the Government in support of, or in connection with, Supplies acquired by the Government under said Prime Contract provided, however, that Seller shall (i) give Buyer prior written notice of each proposed use, (ii) prominently identify, to the extent possible, each item of Supply as being manufactured by Seller for direct sale to the Government, and (iii) make no claim against Buyer which arises out of use by Seller of such data and information.

Where Buyer's data, designs, or other information are furnished to Seller's suppliers for procurement of Supplies by Seller for use in the performance of this Purchase Order, Seller shall insert the substance of this provision in such Purchase Orders.

- B. Technical papers relating to the subject matter of this Program, either classified or unclassified, to be presented at symposia must be submitted to Buyer for approval prior to presentation.
- C. Information concerning this Purchase Order is not releasable to foreign nationals or personnel possessing "Reciprocal" clearances without the written approval of Buyer. The only exceptions to this requirement are a visit of a foreign national duly authorized by the Department of Defense through established channels or if authorized under the International Traffic in Arms Regulation.
- D. No license is granted under any design, patent, copyright, mask work or trade secret including proprietary or other data owned by Buyer except for the purpose of Seller making and selling Supplies to Buyer pursuant to this Purchase Order. Seller shall not make, use, or sell items represented by such patents or such data, designs, works, secrets or information and as referenced under either Paragraph A. or B. above without the specific written permission of Buyer.
- E. The Seller hereby grants Buyer and the Government 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. The Seller shall include this clause in all subcontracts at any tier hereunder calling for data.
- F. All data required to be delivered by Seller under this Purchase Order, including drawings, specifications, software, documentation, materials, samples, devices and improvements to Buyer's property shall be furnished to Buyer free of any restrictions on Buyer's use or disclosure of such data for this Program. The Government and the Buyer, in the event of termination for default by the Government shall have the rights set forth in clauses of this contract which refer to rights in technical data, computer software, patents, copyrights and mask works.

ARTICLE 8

PATENTS, TRADEMARKS, MASK WORKS, TRADE SECRETS AND COPYRIGHTS

- A. To the extent that Supplies 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 and guarantees that the sale or use of such Supplies or the use of such process or method hereunder will not infringe any United States or foreign patents, trademarks, mask works, trade secrets or copyrights. Seller shall defend, indemnify and hold Buyer and its customers harmless from any loss, cost, damage, expense (including attorneys' fees) or liability which may be incurred on account of infringement or alleged infringement of patent rights, trademarks, mask works, trade secrets or copyrights with respect to such Supplies, methods or processes, and at Buyer's election defend, at Seller's 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. Indemnification shall not apply to infringements arising from use by Buyer of an article supplied by Seller in combination with other items where infringement would not have occurred from the normal use for which the article was designed.

- B. If this Purchase Order is issued under a U.S. Government Prime Contract containing an Authorization and Consent Clause and not including any patent indemnification requirements, 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 such Authorization and Consent Clause.

ARTICLE 9

PRICES, PAYMENTS AND INVOICES

- A. **PRICES:** Unless otherwise specified, prices are F.O.B. destination. Seller warrants that prices charged for the 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.
- B. **PAYMENT:** To Seller - Seller shall be paid upon submission of properly prepared invoices in accordance with Buyer's invoicing instructions for items delivered to and accepted by Buyer. All checks will be issued in the Seller's name and mailed to the address specified in the Seller's block on the Purchase Order unless proper authority for deviation is supplied to Buyer's Procurement Department. Delays in receiving invoice, errors or omissions on invoice, or lack of supporting documentation required by this Purchase Order will be cause for withholding payment without losing discount privilege. Discount periods shall commence ten (10) days after the latest of schedule delivery, actual delivery, or receipt of invoice. No charges will be honored unless specified on the face of this Purchase Order. Invoices must be accompanied by transportation receipt, if transportation is payable as a separate item. Invoices, only one of which shall be identified as "Original", shall be mailed in triplicate immediately after each shipment to:

LOCKHEED CORPORATION
Lockheed Fort Worth Company
P. O. Box 748
Fort Worth, Texas 76101
Attn: Accounts Payable

C. CERTIFICATION:

All invoices shall contain the following certification:

"We hereby certify that these goods were produced in compliance with all applicable requirements of Sections 6, 7, and 12 of the Fair Labor Standards Act, as amended, and of regulations and orders of the United States Department of Labor issued under Section 14 thereof."

ARTICLE 10

TECHNICAL DATA - WITHHOLDING OF PAYMENT

- A. If Technical Data (as defined in the DFARS 252.227-7013 clause, Rights in Technical Data and Computer Software, of the COMPLIANCE WITH LAWS AND REQUIRED GOVERNMENT CLAUSES Article of this Purchase Order) or any part thereof, is not delivered within the time specified by this Purchase Order, or is deficient upon delivery (including having restrictive markings not specifically authorized by this Purchase Order), Buyer may, until such data is delivered or deficiencies are corrected, withhold payment to Seller of ten percent (10%) of the total contract amount of this Purchase Order. Payments shall not be withheld nor any other action taken pursuant to this Article where Seller's failure to make timely delivery, or to deliver such data without deficiencies arises out of causes beyond the control and without the fault or negligence of Seller within the meaning of the "For default" provisions of the TERMINATION-STOP WORK Article of this Purchase Order.
- B. After payments total ninety percent (90%) of the total contract amount of this Purchase Order, and if all technical data specified to be delivered hereunder has not been accepted, Buyer may withhold from further payment such sum as Buyer considers appropriate, not exceeding ten percent (10%) of the total contract amount of this Purchase Order.
- C. The withholding of any amount or subsequent payment to the Seller shall not be construed as a waiver of any rights accruing to the Buyer and/or Government under this Purchase Order.

ARTICLE 11

TERMINATION - STOP WORK

- A. At any time during the time of performance under this Purchase Order, Buyer may terminate, and within ninety (90) days thereafter, advise whether the termination was pursuant to 1. Or 2. below.
1. For convenience. FAR 52.249-2 is by reference incorporated herein, except that: (i) "Government" and "Contracting Officer" means Buyer, except in paragraph (m); (ii) in paragraph (c) the term "45 days" is changed to "90 days" ; and (iii) in paragraph (d) the term "1 year" is changed to "6 months". Notwithstanding anything to the contrary which may appear in the aforementioned paragraph or elsewhere in this Purchase Order, costs claimed, agreed to, or determined in connection with any termination for convenience shall be in accordance with FAR Part 31 as in effect on the date of the Lockheed Prime Contract, except that the total amount of such claim shall not exceed the allowable funding as detailed in the Prices, Payments and Invoices clause of this Purchase Order.
 2. For default, FAR 52.249-8 for Production and FAR 52.249-9 for other than Production are by reference incorporated herein (excluding the provisions therein referring to a "Disputes" clause), except "Government" and "Contracting Officer" means Buyer except as noted in paragraph (c).
 3. For insolvency. In the event of the institution of any proceedings by or against Seller in bankruptcy or insolvency or under any provisions of the Bankruptcy Act or for the appointment of a receiver or trustee or an assignment for the benefit of creditors of Seller, Buyer may terminate this Purchase Order. Any termination under this paragraph shall be covered by the provisions of subparagraph A.2. of this Article.
- B. Stop Work Orders. FAR 52.212-13 and Alternate 1 is by reference incorporated herein, except that "Government" and "Contracting Officer" mean Buyer, and subparagraph (a)(2) thereof shall be revised to read as follows: (2) Terminate this Purchase Order and/or any portion hereof.

Such termination shall be pursuant to paragraph A. above except that A.2. shall not apply unless Seller was in default at the time of issuance of the Stop Work Order.

- C. Except as otherwise provided in A.1. above, for the purpose of paragraphs A.1., A.2., A.3 and B. of this Article, in the clauses of FAR incorporated by reference, the terms "Government" and "Contracting Officer" shall mean "Buyer;" the term "Contract" shall mean "this Purchase Order"; the term "Contractor" shall mean the

party identified herein as "Seller" and the word "Subcontractor" shall mean a subcontractor at any tier and further, the provisions of said clauses which provide that a failure to agree shall be a dispute within the meaning of the Government Contract clause entitled "Disputes" shall have no force or effect.

- D. Seller shall not include in any claim submitted hereunder, any cost of design engineering or development, or any cost for special tooling, unless specifically ordered by Buyer as a separate item of work separately priced, notwithstanding any provisions of FAR Part 31 or FAR Part 49.
- E. FAILURE OF SELLER TO SUBMIT ITS TERMINATION CLAIM WITHIN NINETY (90) DAYS, UNLESS EXTENDED BY BUYER IN WRITING PRIOR TO THE EXPIRATION OF SAID PERIOD, SHALL CONSTITUTE A WAIVER OF SUCH CLAIM, AND BUYER SHALL NOT BE REQUIRED TO NOTIFY SELLER OR MAKE ANY DETERMINATION THEREOF.
- F. Notwithstanding anything contained herein, Seller agrees that in no event shall the total settlement amount paid to Seller pursuant to this Article exceed the price set forth on the face of the Purchase Order.

ARTICLE 12

WARRANTY

- A. Seller warrants for a period of one year from date of delivery under this Purchase Order 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 Purchase Order. If Seller is responsible for design of the items, Seller warrants for such period that all items delivered under this Purchase Order 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 warranties, together with its service guarantees, if any, shall run to Buyer and the Government.
- B. Seller's liability for breach of any warranty herein above set forth shall be limited to the repair or replacement, at Buyer's election, of all defective or non-conforming supplies, and the payment of all packing and transportation costs attributable to the repair or replacement of defective or non-conforming items.
- C. If the items delivered under this Purchase Order will be incorporated in an end item to be delivered to Buyer's customer, Seller's obligation under this clause shall be extended to one year after delivery of such end item to the customer.

- D. 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.

- 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, or in equity, or under this Purchase Order.
- F. Commercial Warranties/Guarantees
1. Commercial warranties/guarantees obtained by Seller that apply to the supplies furnished under this Purchase Order shall be passed on to Buyer and the Government, for the duration of such warranties/guarantees. Seller shall provide Buyer with copies of the warranties/guarantees and related supporting documentation thereto as may be reasonably available and will cooperate so that Buyer and the Government may reasonably take advantage of those warranties and guarantees.
 2. Upon timely notice by Buyer and/or the Government, Seller, as necessary, shall enforce these warranties/guarantees on behalf of Buyer and the Government, consistent with Buyer's direction.

ARTICLE 13

INDEMNIFICATION

In the event Seller, its officers, employees, agents, subcontractors and/or lower-tier subcontractors enter premises occupied by or under the control of Buyer or third parties in the performance of this Purchase Order, Seller shall defend, indemnify and hold harmless Buyer, its officers, employees and agents from any claim, suit, loss, cost, damage, expense or liability by reason of property damage or personal injury of whatsoever nature or kind arising out of, as a result of, or in connection with such performance or by the actions or omissions of Seller, its officers, employees, agents, subcontractors and/or lower-tier subcontractors. Without in any way limiting the foregoing undertakings, Seller and its subcontractors and lower-tier subcontractors shall maintain public liability and property damage insurance in reasonable limits covering the obligations set forth above, and shall maintain proper Worker's Compensation Insurance covering all employees performing under this Purchase Order at no cost to the Program.

ARTICLE 14

RELEASE OF INFORMATION

- A. Except as required by law or regulation, no information relating to this Purchase Order, shall be issued by Seller or subcontractors without prior written consent of Buyer. Buyer consent shall include processing such information release request through the Air Force System Command (AFSC) Aeronautical Systems Division (ASD) Office of Public Affairs (ASD/PA) for approval according to the administrative guidelines of that office. A statement to the effect that the project or effort depicted was or is sponsored by the AFSC, Wright-Patterson AFB, Ohio 45433-6503 shall be included in such information approved for release.
- B. For the purpose of this Article, "information" includes but is not limited to, news releases, public announcements, articles, manuscripts, brochures, advertisements or advertising materials, still and motion pictures, speeches, published professional papers, trade association meetings or symposia.
- C. Nothing in the foregoing shall affect compliance with the requirements of Article 29 of this Purchase Order entitled "Security".
- D. Twelve copies of any information to be released must be submitted through the Buyer to ASD/PA for security and policy review and clearance at least 70 days prior to release. Information copies will also be sent to the cognizant Contracting Officer and Project Engineer. Papers/presentations co-authored with an Air Force author may be submitted by either author.

- E. The Seller further agrees to include this clause in any subcontract awarded as a result of this Purchase Order.

ARTICLE 15

DISPUTES

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

ARTICLE 16

AMENDMENTS

- A. This Purchase Order may be amended from time to time only by written agreement of the parties.
- B. Upon request of Buyer, Seller shall, from time to time, accept amendments to this Purchase Order to incorporate additional provisions herein or to change provisions hereof, as Buyer may reasonably deem necessary, in order to comply with the provisions of the Prime Contract or with the provisions of amendments to the Prime Contract. If any such amendment to this Purchase Order causes an increase or decrease in the cost of or time required for performance of this Purchase Order, an equitable adjustment will be made in either the price, delivery schedule or both pursuant to the CHANGES Article of this Purchase Order.

ARTICLE 17

ASSIGNMENT

Seller agrees that Seller will neither assign its rights nor delegate its duties under this Purchase Order without the prior written consent of Buyer; and such consent shall not be unreasonably withheld. This prohibition of assignment and delegation extends to all assignments and delegations that may lawfully be prohibited by agreement. Buyer shall be furnished with two signed copies of any assignment which is not prohibited by this Article. Payment to an assignee in accordance with any assignment as set forth herein shall be subject to set-off or recoupment for any present or future claim or claims which Buyer may have against Seller. Buyer reserves the right to make, without notice to the

assignee, direct settlements or adjustments in Purchase Order amount with Seller under the terms of this Purchase Order notwithstanding any assignment of monies due or to become due hereunder.

ARTICLE 18

ROYALTY PAYMENTS

Seller represents (i) that no royalty payments (in any form that can be construed as royalty payments) will be paid with respect to this Purchase Order; or (ii) that full information as to all royalties to be so paid has heretofore been delivered to Buyer, or will be delivered to Buyer in a timely manner, for transmittal to the Contracting Officer.

ARTICLE 19

INTERPRETATION; WAIVER; SEVERABILITY

- A. This Purchase Order shall be governed by and construed in accordance with the law (exclusive of the law with respect to the conflict of laws) of the State of New York.
- B. The rights and remedies of Buyer provided herein shall be cumulative and in addition to any other rights and remedies provided by law or equity.
- C. The failure of Buyer in any one or more instances to insist on performance of any provision of this Purchase Order shall not be construed to be a waiver of such provision in any subsequent instance.
- D. In the event any provision of this Purchase Order shall be unenforceable, such provision shall be deemed severable, and all other provisions of this Purchase Order shall remain enforceable.

ARTICLE 20

COMPLIANCE WITH LAWS AND REQUIRED GOVERNMENT CLAUSES

- A. The Federal Acquisition Regulation (FAR), Department of Defense FAR Supplement (DOD FAR Sup), the Air Force FAR Supplement (AF FAR Sup) and the Air Force Systems Command FAR Supplement (AFSC FAR Sup) clauses specified in this Article and in effect, unless otherwise specified, on November 30, 1991 are incorporated herein by reference, subject to the modifications/applications indicated. Seller agrees that this Article shall be modified if requirements of the Prime Contract so dictate. Further, Seller agrees to obtain and use the proper issue of all documents referred to herein and required for performance hereunder.

- B. As used in the FAR, DOD FAR Sup, AF FAR Sup and AFSC FAR Sup clauses specified in this Article, the following definitions apply: "Government" and "Contracting Officer" mean "Buyer" where appropriate; "Contract" means this Purchase Order; "Contractor" means Seller; and "Subcontractor" means Seller's Subcontractors unless the context of the clause requires otherwise. Further, the provisions of such clauses which provide that a failure to agree shall be a dispute within the meaning of the Government clause entitled "Disputes" shall have no force or effect and in lieu thereof reference should be to the Disputes clause of these Terms and Conditions (Clause 15). In certain instances appropriate changes have been noted in the clauses of paragraph C. This is for ease of reference only and is not to be regarded as all inclusive.
- C. The following clauses shall apply to this Purchase Order:

<u>FAR Clause</u>	<u>Title</u>
52.203-5	Covenant Against Contingent Fees. "Government" means Buyer.
52.203-6	Restrictions on Subcontractor Sales to Government.
52.203-7	Anti-Kickback Procedures - Disregard the modifications/ applications set forth in subparagraph 35B., above, in respect of this clause except that in paragraphs c(1), c(2), c(3) and c(5), "Contractor" means Seller; in paragraph c(4)(i), "this Contract" means the Prime Contract; in paragraph c(4)(ii), "Contractor" means Buyer; and in paragraph c(5), "Contract" means this Purchase Order.
52.203-9	Requirements for Certificate of Procurement Integrity Modification.
52.203-10	Remedies for Illegal or Improper Activity.
52.203-11	Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions - If this Purchase Order exceeds \$100,000. "Contracting Officer" in the last line of paragraph 2 means Buyer.
52.203-12	Limitations of Payments to Influence Certain Federal Transactions - If this Purchase Order exceeds \$100,000. Change paragraph b(3)(iii) to read: "Seller shall file with Buyer a disclosure form..."; and "such person" means Seller.
52.204-2	Security Requirements - If access to classified material is required. Exclude reference to the Changes clause.
52.208-1	Required Sources for Jewel Bearings and Related Items - "Contracting Officer" and "Contract administration office" mean Buyer in paragraph (d).
52.210-5	New Material - "Contracting Officer" and "Government" mean Buyer in the last two sentences.

- 52.210-7 **Used or Reconditioned Material, Residual Inventory, and Former Government Surplus Property** - "Contracting Officer" means Buyer.
- 52.212-8 **Defense Priority and Allocation Requirements.**
- 52-212-13 **Stop Work Order and its Alternate I** - "Contracting Officer" and "Government" mean Buyer.
- 52.215-1 **Examination of Records By Comptroller General** - If this Purchase Order exceeds \$10,000.
- 52.215-2 **Audit - Negotiation** - If this Purchase Order exceeds \$10,000.
- 52.215-22 **Price Reduction for Defective Cost or Pricing Data** - In paragraph (a)(2), "subcontractor" means Seller or Seller's subcontractors and "Contractor" mean Buyer. If Buyer or its customer is subject to any liability or expense, including Government withholding of payments, as the result of Seller's or its lower-tier subcontractors' submission and certification of alleged or actual defective cost or pricing data as set forth in this clause and in FAR 52.215-23; or their furnishing as prospective subcontractors of 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 their furnishing of any data of any description that is allegedly or actually inaccurate as set forth in this clause and in FAR 52.215-23, then Seller agrees to indemnify and hold Buyer and its customer harmless to the full extent of any damage or expense resulting from such action.
- 52.215-23 **Price Reduction for Defective Cost or Pricing Data - Modifications.**
- 52.215-24 **Subcontractor Cost or Pricing Data.**
- 52.215-25 **Subcontractor Cost or Pricing Data - Modifications** - If this Purchase Order exceeds \$100,000.
- 52.215-26 **Integrity of Unit Prices** - Subparagraph (c) is hereby deleted.
- 52.215-27 **Termination of Defined Benefit Pension Plans** - If this Purchase Order requires certified cost or pricing data and any pre-award or post-award cost determinations will be subject to FAR 31.2, "Government" means Government and Buyer.
- 52.215-31 **Waiver of Facilities Capital Cost of Money** - (Applies only if the Seller does not propose facilities capital cost of money in the offer.)
- 52.219-8 **Utilization of Small Business Concerns and Small Disadvantaged Business Concerns** - If this Purchase Order exceeds \$10,000.

- 52.219-9 **Small Business and Small Disadvantaged Business - Subcontracting Plan** - If this Purchase Order exceeds \$500,000, unless Seller is a small business. "Contracting Officer" means Buyer in the first sentence of paragraph (c).
- 52.219-13 **Utilization of Women-Owned Small Businesses** - If this Purchase Order exceeds \$25,000.
- 52.220-3 **Utilization of Labor Surplus Area Concerns** - If this Purchase Order exceeds \$25,000.
- 52.220-4 **Labor Surplus Area Subcontracting Program** - If this Purchase Order exceeds \$500,000. "Contracting Officer" means Buyer.
- 52.222-1 **Notice to the Government of Labor Disputes** - "Contracting Officer" means Buyer.
- 52.222-4 **Contract Work Hours and Safety Standards Act-Overtime Compensation** - Add the following: "(f) Buyer shall have the right at its election either to withhold or recover from Seller such sums as the Contracting Officer withholds or recovers from Buyer because of liabilities of Seller or its subcontractors under this clause." Seller shall add this clause into all its subcontracts.
- 52.222-20 **Walsh-Healey Public Contracts Act** - If this Purchase Order exceeds \$10,000.
- 52.222-26 **Equal Opportunity** - If this Purchase Order exceeds \$10,000.
- 52.222-35 **Affirmative Action for Special Disabled and Vietnam Era Veterans** - If this Purchase Order exceeds \$10,000.
- 52.222-36 **Affirmative Action for Handicapped Workers** - If this Purchase Order exceeds \$2,500.
- 52.222-37 **Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era** - If this Purchase Order is for \$10,000 or more.
- 52.223-1 **Clean Air and Water Certification** - The Clean Air and Water Certification signed by Seller related to this Purchase Order is hereby incorporated into this Purchase Order by this reference.
- 52.223-2 **Clean Air and Water** - If this Purchase Order exceeds \$100,000.
- 52.223-3 **Hazardous Material Identification and Material Safety Data.**
- 52.225-10 **Duty-Free Entry** - Except where noted herein "Contracting Officer" and "Contracting Administration Office" mean Buyer; and "Foreign" means non-U.S. In paragraph (B)(1) change "20 days" to "30 days" and "Contract" means the Prime Contract. In paragraph (b)(2), delete the 5th word "determines" and substitute the words "has been notified". In paragraph (D), "Contracting Officer" means Contracting Officer; and "This Contract" means the Prime Contract. In paragraph (E), "This Contract" means the Prime Contract; and, "Contracting Officer"

	means Contracting Officer. In paragraph (H), "Contract Administration Office" means Contract Administration Office; and "Contracting Officer" means Contracting Officer.
52.225-13	Restriction on Contracting with Sanctioned Persons.
52.227-1	Authorization and Consent and its Alternate 1.
52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement - Applicable if this Purchase Order exceeds \$25,000. Buyer shall also receive a copy of notice sent to Government.
52.227-10	Filing of Patent Applications - Classified Subject Matter.
52.229-10	State of New Mexico Gross Receipts and Compensating Tax.
52.233-3	Protest After Award - Add "under the prime contract" after "protest." "Contracting Officer" and "Government" mean Buyer.
52.237-2	Protection of Government Buildings, Equipment, and Vegetation - (Note - This clause shall only apply to Government installations).
52.242-12	Report of Shipment.
52.243-1	Changes - The following language is added: In Paragraph (c) change 30 to 15. Add after the second sentence, the following: Seller agrees to submit a ROM proposal within ten (10) days of receipt of a request for a change proposal from Buyer. In the event a firm fixed price proposal is requested by Buyer, Seller agrees to submit its FFP proposal to Buyer within fifteen (15) days of Buyer's request.
52.244-5	Competition in Subcontracting - If this Purchase Order exceeds \$25,000.
52.245-2	Government Property (Fixed Price Contracts) - "Contracting Officer" means Buyer. "Government" means Buyer. "Government" means Buyer except: 1) in the terms "Government Furnished Property", "Government Property" and "Government Owned Property"; 2) the second time it appears in paragraph (b)(1)(ii); 3) in paragraph (c)(1); 4) the first, second and fourth times it appears in paragraph (c)(3); and 5) when it is used in paragraph (c)(4)(i) and (c)(4)(ii). "Government" means Government or Buyer A) in paragraph (f) and in the following phrase "its" becomes "their", and B) in paragraph (j) and subparagraph (j)(1). The fourth sentence of paragraph (h) is changed to read: "Neither the Government nor the Buyer shall be liable...." In paragraph (c)(2), delete the second sentence in its entirety. In paragraph (c)(3) the first line, add ", special tooling," between the word "facilities" and the word "and".
52.245-18	Special Test Equipment.
52.246-2	Inspection of Supplies - Fixed Price "Contracting Officer" means Buyer. "Government" means Buyer except that the first

- time it appears in the first sentence of paragraph (b) and in the fourth sentence of paragraph (b) it means Buyer and the Government (provided, however, that an inspection system accepted by the Government will be deemed acceptable to the Buyer), and the first time it appears in paragraph (k) it means Government or Buyer. The provisions of the clause for access, rights to inspect, safety protection and relief from liability apply equally to Buyer and the Government.
- 52.246-4 **Inspection of Services - Fixed Price "Contracting Officer"** means Buyer. "Government" means Buyer except that in paragraph (b) it means Buyer and the Government (provided, however, that an inspection system accepted by the Government will be deemed acceptable to the Buyer). The provisions of the clause for access, rights to inspect, safety protection and relief from liability apply equally to Buyer and the Government.
- 52.246-7 **Inspection of Research and Development - Fixed Price "Contracting Officer"** means Buyer. "Government" means Buyer except that in paragraph (a) it means Buyer and the Government (provided, however, that an inspection system accepted by the Government will be deemed acceptable to the Buyer). The provisions of the clause for access, rights to inspect, safety protection and relief from liability apply equally to Buyer and the Government.
- 52.246-23 **Limitation of Liability.**
- 52.247-63 **Preference for U.S. Flag Air Carriers.**
- 52.247-64 **Preference for Privately Owned US Flag Commercial Vessels and its Alternative I.**
- 52.248-1 **Value Engineering - "Contracting Officer"** means Buyer except in paragraph (j), sentence 3. "Government" means Buyer in paragraphs (e)(1), (e)(2), (g)(4), and (i)(4) and means Government and Buyer in paragraph (m), sentence 1 and in sentence 2 of the legend. Replace the share percentage figures in paragraphs (f) and (j) with those the parties agree upon.
- 252.203-7001 **Special Prohibition on Employment -** If this Purchase Order exceeds \$25,000.
- 252.204-7005 **Overseas Distribution of Defense Subcontracts -** If this Purchase Order exceeds \$100,000.
- 252.204-7008 **Telecommunications Security Equipment, Devices, Techniques and Services -** Pursuant to DFARS 204.503 and in accordance with paragraph (c) of the above-referenced clause, the Seller shall be able to communicate with the following telecommunications security equipment or devices:

RICOH 3312TA	Fax Machine
RICOH 2112T	Fax Machine
KG84A	Encryption Device
STU III	Secure Telephone
Macintosh	Desk Top Computer

Applicable if this Purchase Order requires securing telecommunications.

- 252.208-7000 **Required Sources for Miniature and Instrument Ball Bearings.**
- 252.208-7001 **Required Sources For Precision Components and Mechanical Time Devices.**
- 252.208-7002 **Required Sources for High-Purity Silicon.**
- 252.208-7003 **Required Sources for High Carbon Ferrochrome (HCF).**
- 252.208-7006 **Required Sources for Anti-friction Bearings.**
- 252.209-7001 **Acquisitions from Defense Contractors Subject to On-Site Inspection Under the Intermediate Range Nuclear Forces (INF) Treaty - If this Purchase Order exceeds \$1,000,000.**
- 252.210-7005 **Acquisition Streamlining.**
- 252.215-7000 **Aggregate Pricing Adjustment.**
- 252.215-7001 **IMIP Productivity Savings Rewards - If Seller is participating in a DoD-approved Industrial Modernization Incentives Program (IMIP) business agreement. "DoD" means DoD or Buyer. The referenced certification shall be changed to reflect the identities of the parties involved.**
- 252.215-7002 **Availability of Contractor Records.**
- 252.219-7000 **Small Business and Small Disadvantaged Business Subcontracting Plan.**
- 252.223-7001 **Safety Precautions for Ammunition and Explosives.**
- 252.223-7002 **Change in Place of Performance - Ammunition and Explosives.**
- 252.223-7004 **Hazardous Material Identification and Material Safety Data - (For the purpose of paragraph (b) of the above referenced clause; the offeror certifies that the material to be delivered () is (X) is not a hazardous material as defined in paragraph (a) of said clause.)**
- 252.223-7005 **Notice of Radioactive Materials - (For the purpose of paragraph (a) of the above referenced clause, the number of days prior written notice required in advance of delivery of the item or completion of the servicing to assure that required licenses are obtained and appropriate personnel are notified to institute any necessary safety and health precautions is thirty (30)).**
- 252.225-7001 **Buy American Act and Balance of Payments Program.**

252.225-7002	Qualifying Country Sources as Subcontractors.
252.225-7007	Supplies to be Accorded Duty-Free Entry.
252.225-7008	Duty-Free Entry - Qualifying Country End Products and Supplies
252.225-7011	Preference for Domestic Specialty Metals (Major Programs).
252.225-7014	Duty-Free Entry - Additional Provisions "Foreign" and "foreign" mean non-U.S. In paragraph (a) after the word "subcontracts" delete the words "which term includes purchase orders" and insert the words "lower tier hereunder" in lieu thereof. In paragraph (a)(1) "prime contract" means subcontract. In paragraph (a)(2) "subcontractor" means subcontractor; "Contract" means contract; and "domestic" means U.S. In paragraph (b) after the first appearance of the word "contract" insert the words "through Buyer"; and the last two words "this contract" mean the prime contract under which this Purchase Order is issued. In paragraph (c) after the word "furnished" insert the words "through Buyer." In paragraph (c)(9) "this contract" means the prime contract. For purposes of paragraph (d) of this clause the address of the CAO is AF/AFSC, Aeronautical Systems Division (Attn: ASD/YPK Wright-Patterson AFB, OH 45433- 6503. Pursuant to DOD FAR 225.603(a)(5) the CAO activity address is (see DOD FAR Appendix N).
252.225-7023	Restriction on Acquisition of Foreign Machine Tools.
252.225-7030	Restriction on Acquisition of Poly-Acrylonitrile (Pan) Based Carbon Fiber.
252.227-7013	Rights in Technical Data and Computer Software.
252.227-7018	Restrictive Markings on Technical Data.
252.227-7026	Deferred Delivery of Technical Data or Computer Software.
252.227-7027	Deferred Ordering of Technical Data or Computer Software.
252.227-7029	Identification of Technical Data.
252.227-7031	Data Requirements.
252.227-7036	Certification of Technical Data Conformity.
252.227-7037	Validation of Restrictive Markings on Technical Data.
252.228-7006	Accident Reporting and Investigation Involving Aircraft, Missiles, and Space Launch Vehicles.
252.231-7000	Supplemental Cost Principles.
252.233-7000	Certification of Requests for Adjustment or Relief Exceeding \$100,000.
252.234-7001	Cost/Schedule Control Systems.
252.235-7004	Frequency Authorization.
252.242-7001	Material Management and Accounting System Requirements and Standards.
252.243-7000	Engineering Change Proposals.

252.243-7001	Pricing of Adjustments.
252.247-7203	Transportation of Supplies by Sea.
252.271-7001	Recovery of Non-Recurring Cost On Commercial Sales of Defense Products and Technology and of Royalty Fees for Use of DOD Technical Data - If this Purchase Order is \$1,000,000 or more.

**AF FAR Suppl.
Clauses**

Title

52.204-9000	Notification of Government Security Activity.
52.204-9001	Visitor Group Security Agreements.
52.209-9001	Notification of Debarment/Suspension Status.
52.223-9004	Safety and Accident Prevention.
52.235-9000	Scientific/Technical Information.

**AFSC FAR Suppl.
Clauses**

Title

52.203-9000	Straight Arrow Program.
52.215-9001	Subcontractor Productivity Savings Award.
52.223-9100	Physical Security of Sensitive Conventional Arms Ammunitions and Explosives at Contractor Facilities.
52.245-9000	Base Support.
52.247-9002	LOGMARS.
52.247-9003	Specialized Containers.
52.247-9004	Hazardous Materials Packaging Certification of Equivalency.

D. (i) If this contract will be performed outside the United States, its possessions, or Puerto Rico, the clauses listed below also apply.

52.230-5	Disclosure and Consistency of Cost Accounting Practices.
52.227-8	Reporting of Royalties (Foreign) - "Contracting Officer" means Buyer.
52.227-7032	Rights in Technical Data and Computer Software.

(ii) If acceptance is to take place outside the United States, its possessions, or Puerto Rico, the clause listed below also applies.

52.225-11	Certain Communist Areas.
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(iii) If this contract will be performed outside the United States, its possessions, or Puerto Rico, the clauses listed below, which are included herein, do not apply to such performance.

52.203-5	Covenant Against Contingent Fees.
52.212-8	Defense Priority and Allocation Requirements.
52.219-8	Utilization of Small Business Concerns and Small Disadvantaged Business Concerns.
52.219-9	Small Business and Small Disadvantaged Business Subcontracting Plan.
52.219-13	Utilization of Women-Owned Small Business.
52.220-3	Utilization of Labor Surplus Area Concerns.
52.220-4	Labor Surplus Area Subcontracting Program.
52.222-4	Contract Work Hours and Safety Standards Act--Overtime Compensation.
52.222-20	Walsh-Healey Public Contracts.
52.222-26	Equal Opportunity.
52.222-35	Affirmative Action for Special Disabled and Vietnam Era Veterans.
52.222-36	Affirmative Action for Handicapped Workers.
52.222-37	Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era.
52.223-1	Clean Air and Water Certification.
52.223-2	Clean Air and Water.
52.230-3	Cost Accounting Standards.

(iv) If this contract will be performed and delivery will be outside the United States, its possessions, or Puerto Rico, the clause listed below, which is included herein, does not apply to such performance and delivery.

52.227-1 **Authorization and Consent.**

- E. If Buyer is subject to any cost, damage or liability as a result of a failure of Seller to comply with the requirements of this Purchase Order, Seller agrees to indemnify and hold Buyer harmless, to the full extent of any amount claimed by the Government, from and against any loss, cost, damage, expense, or liability resulting from such failure. Seller agrees that in any action brought hereunder the Federal Statute of Limitations shall apply.

- F. Seller agrees to comply with all applicable local, state and federal laws, executive orders, and regulations issued pursuant thereto. Seller further agrees to indemnify and hold Buyer harmless against any loss, cost, damage, or liability by reason of Seller's violation of this paragraph. Seller agrees that in any action brought hereunder the Federal Statute of Limitations shall apply.

G. Procurement Integrity Subcontractor Involvement During Award of Prime Contract

As an express condition of the award of this Purchase Order Seller represents and warrants to Buyer, in relation to the award of the Prime Contract under which this Purchase Order applies is issued, has complied, and will continue to comply, in all respects with the procurement integrity provisions of the Office of Federal Procurement Policy Act Amendments of 1988 (The Act), 41 U.S.C. 423, and its implementing Federal Acquisition Regulations (see FAR 3.104). Seller further agrees that Seller shall comply with The Act and implementing regulations in relation to any and all modifications or extensions of the Prime Contract under which this Purchase Order is issued. In the event of any violations of The Act by the Seller or Seller's subcontractors:

- (1) Seller shall reimburse the Buyer, by adjustment of Purchase Order amount or otherwise, the amount by which Buyer's Prime Contract amount is reduced pursuant to FAR 52.203-10 (d), and
- (2) Buyer shall have the right to terminate this Purchase Order for default. The rights and remedies of Buyer provided for under this Article are in addition to any other rights and remedies provided by law or under this Purchase Order. The rights and obligations set forth in this Article shall survive completion of, final payment under, or termination of this Purchase Order.

Further, Seller shall comply with the requirements of the Act notwithstanding any suspension of the Act.

H. Submission of Small Business and Small Disadvantaged Business Subcontracting Plan

The clause contained in FAR 52.219-9, entitled "Small Business and Small Disadvantaged Business Subcontracting Plan (APR 1984)", applies to the work hereunder except the plan shall be submitted with your proposal when the Purchase Order will exceed \$500,000.

I. Implementation of the Small Business and Small Disadvantaged Business Subcontracting Plan/Goals

The Seller shall comply with the provisions of its Small Business and Small Disadvantaged Business Plan submitted in response to Buyer's RFP and incorporated herein by reference and Seller shall comply with the subcontracting goals therein.

J. Anti-Kickback Procedures

Seller agrees to abide by the Anti-Kickback Act of 1986 (41 U.S.C. 51 through 58) and FAR 52.203-7, "Anti-Kickback Procedures", incorporated above. In addition to reporting possible violations of the Anti-Kickback Act to the Government pursuant to 41 U.S.C. 57(c), Seller shall report such possible violations, if related to Buyer, to the Buyer. Seller agrees to hold Buyer harmless from, defend Buyer against, and indemnify Buyer for all costs, expenses, and offsets Buyer may incur as a consequence of violations of this clause by Seller or by Seller's subcontractors or suppliers. The rights and obligations set forth in this clause shall survive completion of, final payment under, or termination of, this Purchase Order.

K. Cost Accounting Standards (CAS) Noncompliance

Award of this Purchase Order does not constitute a determination that the Seller's disclosed and applied accounting practices used in pricing this Purchase Order are in compliance with Cost Accounting Standards (CAS). The Government retains its right to adjust the total Purchase Order amount under the CAS clauses of this Purchase Order if a subsequent final determination of noncompliance is made by the Contracting Officer.

L. Recognition of the ATF Paperless System

Data required to be delivered under any Supplier Data Requirements List (SDRL) of this Purchase Order that would be deemed technical data under DFARS 252.227-7013 if it were delivered in written form, shall not lose its status as technical data solely because access by the Government or delivery by the Seller is by electronic means. The rights of the parties in said technical data shall be as specified in DFARS 252.227-7013.

ARTICLE 21

FACILITIES PROVIDED BY SELLER

In the event Buyer elects to place a resident representative(s) at the Seller's facility, Seller agrees to provide such representative(s) with suitable office space, office supplies, furnishings, secretarial help, telephone, dedicated terminal link(s) (if required) and electronic communications service, at no charge to Buyer.

ARTICLE 22

DEFENSE PRIORITY AND ALLOCATION REQUIREMENTS

- A. This is a rated order certified for National Defense use when a DPAS Rating is entered, and Seller is required to follow all provisions of the Defense Priorities and Allocation System regulation (15 CFR 350).
- B. Acknowledgment In accordance with 15 CFR 350, if this Purchase Order has a DPAS Rating, it must be accepted or rejected in writing within ten (10) working days after receipt if DO rated, or five (5) working days after receipt of DX rated order. If rejected, the reason(s) for such rejection shall be included in the notice to Buyer.

ARTICLE 23

ACCEPTANCE

Acknowledgment of this order or, in any event, delivery in whole or in part constitutes acceptance of this order. This Purchase Order is not subject to variation irrespective of the wording of Seller's acceptance. No charges are binding on Buyer unless in writing and signed by an authorized person of Buyer's procurement department.

ARTICLE 24

NOTICES

All notices required or permitted to be given hereunder shall be deemed to be properly given if delivered in writing personally or sent by United States certified or registered mail addressed to Seller or Buyer, whatever the case may be, to the addresses set forth on the face of this Purchase Order with postage thereon fully prepaid. The effective time of notice shall be at the time of mailing.

ARTICLE 25

NOTICE OF RIGHTS IN TECHNICAL DATA AND COMPUTER SOFTWARE

The parties agree that of the technical data and computer software required to be furnished under this Purchase Order, or to which the Buyer has the right to procure under the Deferred Ordering of Technical Data or Computer Software clause, (including data and software to be furnished in whole or in part by a subcontractor) only the technical data and computer software listed below pertains to items, components or processes developed at private expense, and only such items will be identified as limited rights data or restricted rights software in accordance with DoDFARS 252.227-7013: [LIST]

ARTICLE 26

NOTICE OF SECURITY CLASSIFICATION

DD Form 254, Contract Security Classification Specification, incorporated herein by this reference, shall be furnished to the Seller by the Buyer when appropriate and such notice shall be approved in writing by the Contracting Officer.

ARTICLE 27

RECEIPT OF DOCUMENTS

The Seller expressly agrees and acknowledges that it has received the drawings, specifications and documents referenced in this Purchase Order either prior to or simultaneous with the execution of this Purchase Order.

ARTICLE 28

GOVERNMENT VISITS

Seller agrees that the Contracting Officer or a representative thereof is authorized to visit its facilities (with advance notification to the contractor and Seller) to review progress and witness testing of the Purchase Order requirements.

ARTICLE 29

SECURITY

A. Buyer's Facilities

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

B. Seller's Facilities

In the event this Purchase Order should require the handling of classified matter, Seller shall immediately contact Buyer in order to obtain appropriate security instructions and the following shall apply.

1. Seller shall comply with the requirements of FAR 53.303-DD-254, Contract Security Classification Specification, and United States Department of Defense Industrial Security Manual for the Safeguarding of Classified Information, DOD Directive 5220-22M, as applicable, when releasing information concerning this Purchase Order or the Supplies or services

procured hereunder within the United States and when releasing such information anywhere else in the world.

2. The Seller is governed by DoD Directive 5220.22S, COMSEC supplement to the Industrial Security Manual. Access to COMSEC material/information is restricted to U.S. citizens holding final U.S. Government clearances and is not releasable to personnel holding only a reciprocal clearance. Personnel requiring COMSEC access shall be briefed in accordance with DoD Directive 5220.22S. Note: The COMSEC/Crypto briefing applies only to the use and control of crypto equipment and specialized COMSEC publications. NACSIM/NACSEM documents are not considered COMSEC controlled material. Additionally, cryptographic information/equipment must be retained in a Seller facility COMSEC account in accordance with DoD Directive 5220.22S. The Government shall designate the number of personnel requiring cryptographic access. The number will be limited to the minimum necessary and will be based on a strict need-to-know basis. Personnel requiring cryptographic access will be briefed in accordance with DoD Directive 5220.22S.
3. TEMPEST requirements apply to all classified Management/ Technical Information Systems (M/TIS) equipment used to process SECRET and above classified information to the extent set forth in the DD Form 254, Section J, Attachment 5 (to be provided). Classified M/TIS will be performed at such facilities as the Buyer shall specify.
4.
 - a. The Seller shall ensure that compromising emanations (TEMPEST) conditions related to this Purchase Order are minimized. (S/NF) HQ USAF/SCT/AFSCS/SR Letter dated 12 Jan 90, TEMPEST Policy (U), NACSIM 5100A, NACSEM 5201, NACSIM 5203, NACSEM 5204 and NISSI shall be used as guidelines to meet this requirement.
 - b. The Seller shall provide vulnerability assessment data to Buyer in the form of a TEMPEST Vulnerability Assessment Request ("TVAR"). The TVAR shall be submitted to the Buyer no later than twenty (20) days prior to bringing classified M/TIS on line. The reply should be specific responses to the areas covered in paragraphs (1) through (3) below; Seller's standard security plan is unacceptable as a "stand alone" response. This information will be used to complete a TEMPEST Vulnerability Assessment ("TVA") of Seller's facility to be performed by the Government TEMPEST professional(s) using current Air Force TEMPEST directives. When any of the information required below changes (such as changing location or equipment or increasing the classification level or volume of processing that increased the control area established in the initial TVA), Seller shall notify Buyer of these changes so that a new TVA may be accomplished. Seller shall submit to

Buyer a new TVAR, identifying the new configuration, at least twenty (20) days before the changes occur; Seller shall not commence SECRET or higher processing with the new configuration until receiving approval to do so from Buyer.

(1) System Description

- (a) System/Facility - Full name and address of company (Seller) submitting request and RFP/contract number and duration. Also, provide a brief title identifying the overall system or facility (e.g., XYZ missile word processing system, ABC aircraft interactive graphics system, etc.)
- (b) Location - Identify the address (include city, state, facility, building and room number) where the system or facility is located. Seller, or its subcontractors, located in the areas defined by (S/NF) HQ USAF/SCT/AFSC/SR letter 12 Jan 90, TEMPEST policy (U), Paragraph 6, shall provide dimensioned maps showing their exact location(s) of classified processing at the SECRET or higher level.
- (c) Equipment - List the manufacturer and exact model number, nomenclature (terminal, disk drive, video systems, etc.) and quantity of each equipment involved in classified processing. Please do not provide the complete inventory of all the Seller's processing equipment.

(2) Responsible Personnel

- (a) Security Officer/Manager - Provide name, title, office symbol and telephone number. Include the same for the Seller Appointed TEMPEST Authority (SATA), if applicable.
- (b) System Custodian - If different from (a) above, provide name, title, office symbol and telephone number.

- (3) Operational Risk - Level/Amount of Classified: Identify the levels of classification (including specific control designators, such as SCI, SAP, SIOP, etc.) that will be processing, the estimated hours per day/month for each level and the percent of total material processed for each level. If time sharing a computer, list classification(s) and percentage(s) of use by other Program(s).

- c. TEMPEST is applied on a case by case basis and further information may be required to complete the TVA: should this be the case, Seller shall provide this information to Buyer when requested.
 - d. The Prime Contractor shall ensure that Seller and its subcontractors/vendors comply with TEMPEST requirements as set forth in the DD Form 254, Attachment (to be provided) when performing classified processing related to this Purchase Order Schedule.
 - e. Classified processing shall not be done until TEMPEST approval is provided by the Contracting Officer through the Prime Contractor and Buyer and the M/TIS procedures have been approved by the Defense Investigative Service (DIS) or ASD/YF, as applicable.
5. All communications with DOD organizations are subject to Communications Security (COMSEC) review. Seller personnel will be aware that telecommunications networks are continually subject to intercept by unfriendly intelligence organizations. The DOD has authorized the military departments to conduct COMSEC monitoring and recording of telephone calls originating from or terminating at DOD organizations. Therefore, civilian seller personnel are advised that any time they place a call to, or receive a call from a USAF organization, they are subject to COMSEC procedures. The Seller will assume the responsibility for ensuring wide and frequent dissemination of the above information to all employees dealing with official DOD information.

C. Foreign Sources

1. Seller shall comply with the United States Department of State, International Traffic in Arms Regulations (ITAR), Sub-chapter M of Chapter I of Title 22, Code of Federal Regulations (22 CFR Parts 120 through 130) for all activities of Seller, associated with this Purchase Order outside the geographical limits of the United States.
2. In the event that the Seller anticipates soliciting foreign source(s) for any work under this Purchase Order, the Seller shall notify the Buyer 20 working days before either solicitation of the foreign source(s), or before applying for an export license under ITAR, 22 CFR Sections 121-128, whichever shall occur first. This notification shall include detailed description(s) of the Government data/equipment to be exported and a copy of the application for an export license, if such application has been made. This notification to the Buyer shall not be construed as an application for an export license, nor shall it in any way be interpreted to impede the Seller's right to apply for an export license. Buyer will forward to the Contracting Officer (CO), Seller's notification, and, if the CO disagrees with Seller's actions, the Seller will be so notified.

D. Foreign Nationals

1. For purposes of this Article, foreign nationals are all persons not citizens of, or immigrant aliens to, the United States. Nothing in this Article is intended to waive any requirement imposed by any other US Government agency with respect to employment of foreign nationals or export control.
2. The Seller acknowledges that equipment/technical data generated or delivered in performance of this Purchase Order is controlled by the International Traffic in Arms Regulation (ITAR) 22 CFR Sections 121-128, and may require an export license before assigning any foreign national to perform work under this Purchase Order or before granting access to foreign nationals to any equipment/technical data generated or delivered in performance of this Purchase Order (See 22 CFR Section 125.03 in this regard). The Seller agrees to notify the Buyer 20 working days prior to assigning or granting access to any work, equipment or technical data generated or delivered in performance of this Purchase Order. This notification will include the name and country of origin of the foreign national, 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 (Reference: Section 3 of DOD 5220.22-M, "Industrial Security Manual for Safeguarding Classified Information").
3. These requirements shall not be construed as an application for an export license nor shall they in any way be interpreted to impede Seller's right to apply for an export license. Buyer will forward to the Government Contracting Officer (CO), Seller's notification and if the CO disagrees with Seller's actions, Seller will be so notified.

E. KOV-5 Provisions

1. Seller and its potential subcontractors for the Program of the KOV-5/Advanced Avionics COMSEC Unit ("AACU") shall be limited to those on the list of NSA approved COMSEC sources. No other contractors may be solicited for the Program's version of the AACU without prior consent of NSA.
2.
 - a. The Government shall deliver to Seller, F.O.B. carrier's equipment, wharf, or freight station, where the work will be performed, the following property to be used in the performance of the Purchase Order. (To Be Determined)
 - b. Seller shall inspect the property within fifteen (15) days of its receipt. Damaged or defective property will be promptly reported to Buyer.
 - c. A representative of the Government shall be present to inspect the condition of the equipment prior to its return to the Government.

- d. Reporting of Government property inventory shall be submitted in accordance with FAR 45.508.
 3. Unless the written approval of the Contracting Officer is obtained in advance, no KOV-5 COMSEC development work shall be performed at any facility, other than Lockheed or COMSEC subcontractor's plant located in Fort Worth, Texas (Lockheed Fort Worth Company) and Scottsdale, Arizona (Motorola Inc., Government Electronics Group).
 4. After completion of Purchase Orders, Seller shall not retain in its possession (unless specified by the Purchase Order document) any drawings, sketches, prints, reports or other data developed on the KOV-5 portion of the Purchase Order without written approval of NSA.
 5. The accountable COMSEC material produced under any resultant Purchase Order or provided as GFP, will be distributed through COMSEC distribution channels. Seller shall establish a COMSEC account, nominate a custodian and an alternate custodian, and control the material in accordance with procedures specified in the COMSEC supplement to the Industrial Security Manual for Safeguarding Information dated April 1975. Existing COMSEC accounts established as a result of previous or other contracts may be used.
 6. Neither this Purchase Order nor any subcontracts nor purchase orders which involve design, manufacture, production, assembly, inspection or test, in a location not in the United States, of equipment, assemblies, subassemblies, accessories or parts, which are not covered by a specification or standard listed in MIL-P-11268, MIL-E-16400, or MIL-E-5400 shall be made under the AACU development without the prior written approval of NSA. Under no circumstance will any custom Large Scale Integrated Circuit (LSIC) or any likeness thereof be sent outside the United States for any reason.
 7. DCMAO, Phoenix (Mr. Stanley L. Debber) is designated to administer the maintenance by Seller of all accountable COMSEC Material.
- F. Any subcontract issued under this Purchase Order shall contain all the limitations set forth in this Article 29.

ARTICLE 30

SMALL BUSINESS SUBCONTRACTING PROGRAM

- A. A basic objective of the F-22 Program is to establish and maintain an aggressive and comprehensive Small Business and Small Disadvantaged Business Subcontracting Program which ensures that Small Business and Small

Disadvantaged Business concerns have the maximum practicable opportunity to participate in the Program, both as first-tier and lower tier subcontracts. To measure performance of this objective, the following reporting requirements are applicable to this Agreement.

- B. Seller shall provide to Buyer the data concerning subcontract awards required by paragraph 15 through 17 of Standard Form (SF) 294. Reporting may be accomplished by submission of SF 294 or its equivalent in Seller's format. The term "subcontract awards" for the purposes of this requirement includes all awards made directly by Seller to its next tier subcontractors as well as awards made by Seller's lower tier subcontractors subject to this requirement. Subcontracting percentages are not required.
- C. Seller's reporting shall include Small Business and Small Disadvantaged Business report from their first and second-tier, large business subcontractor's receiving subcontracts, in excess of \$100,000.
- D. In addition, Seller shall identify with its reports, the name and phone number of Seller's Small Business Liaison Officer, or other person in charge of its Small Business program. Each report shall also include a list of Small Disadvantaged Business concerns receiving awards during the reporting period. Names, addresses and phone numbers shall be provided for each subcontractor identified.
- E. Reports shall be provided by Buyer on a quarterly basis within twenty (20) days after the end of each calendar year quarter.
- F. The requirements of this Article are in addition to and are not intended to supersede or replace the obligations of other provisions pertaining to Small Business and Small Disadvantaged Business subcontracting (e.g., FAR 52.219-9) which are contained elsewhere in the terms and conditions applicable to this Agreement.