



**LOCKHEED MARTIN – CANADA**

**CORPDOC 41 (CA)**

**SUBCONTRACTS/PURCHASE ORDERS IN SUPPORT OF GOVERNMENT OF CANADA PRIME CONTRACTS**

**SECTION I: STANDARD PROVISIONS**

**1. ACCEPTANCE OF CONTRACT/TERMS AND CONDITIONS**

### **3. ASSIGNMENT**

Any assignment of SELLER's Contract rights or delegation of SELLER's duties shall be void, unless prior written consent is given by LOCKHEED MARTIN. Nevertheless, SELLER may assign rights to be paid amounts due, or to become due, to a financing institution if LOCKHEED MARTIN is promptly furnished a signed copy of such assignment reasonably in advance

**7. COMPLIANCE WITH THE CORRUPTION OF FOREIGN PUBLIC OFFICIALS ACT AND OTHER ANTICORRUPTION LAWS AND REGULATIONS**

(a) SELLER shall comply with applicable laws and regulations relating to bribery and anti-corruption, including, without limitation, (i) the domestic bribery and corruption provisions of the Criminal Code (R.S.C., 1985, c. C-46) (ii) the



(g) In the event that Work delivered under this Contract constitutes or includes Counterfeit Work, SELLER shall, at its expense, promptly replace such Counterfeit Work with genuine Work conforming to the requirements of this Contract. Notwithstanding any other provision in this Contract, SELLER shall be liable for all costs relating to the removal and replacement of Counterfeit Work, including without limitation LOCKHEED MARTIN's costs of removing Counterfeit Work, of installing replacement Work and of any testing necessitated by the reinstallation of Work after Counterfeit Work has been exchanged. The remedies contained in this paragraph are in addition to any remedies LOCKHEED MARTIN may have at law, equity or under other provisions of this Contract.

(h) SELLER shall include paragraphs (a) through (f) and this paragraph (h) of this clause or equivalent provisions in lower tier subcontracts for the delivery of items that will be included in or furnished as Work to LOCKHEED MARTIN.

## 10. DEFAULT

(a) LOCKHEED MARTIN, by written notice, may terminate this Contract for default, in whole or in part, if SELLER (i) fails to comply with any of the terms of this Contract; (ii) fails to make progress so as to endanger performance of this Contract; (iii) fails to provide adequate assurance of future performance; (iv) files or has filed against it a petition in bankruptcy; or (v) becomes insolvent or suffers a material adverse change in financial condition. SELLER shall have ten (10) days (or such longer period as LOCKHEED MARTIN may authorize in writing) to cure any such failure after receipt of notice from LOCKHEED MARTIN. Default involving delivery schedule delays, bankruptcy or adverse change in financial condition shall not be subject to the cure provision.

(b) Following a termination for default of this Contract, SELLER shall be compensated only for Work actually delivered and accepted. LOCKHEED MARTIN may require SELLER to deliver to LOCKHEED MARTIN any supplies and materials, manufacturing materials, and manufacturing drawings that SELLER has specifically produced or acquired for the terminated portion of this Contract. LOCKHEED MARTIN and SELLER shall agree on the amount of payment for these other deliverables.

(c) Upon the occurrence and during the continuation of a default, LOCKHEED MARTIN may exercise any and all rights and remedies available to it under applicable law and equity, including without limitation, cancellation of this Contract. If after termination for default under this Contract, it is determined that SELLER was not in default, such termination shall be deemed a termination for convenience.

(d) SELLER shall continue all Work not terminated or cancelled.

## 11. DEFINITIONS

The following terms shall have the meanings set forth below:

(a) "Contract" means the instrument of contracting, such as "Purchase Order", "PO", "Subcontract", or other such type designation, including these General Provisions, all referenced documents, exhibits, and attachments. If these terms and conditions are incorporated into a "master" agreement that provides for releases, (in the form of a Purchase Order or other such document) the term "Contract" shall also mean the release document for the Work to be performed.

(b) "LOCKHEED MARTIN" means LOCKHEED MARTIN CANADA, INC., acting through its companies or business units, as identified on the face of this Contract. If a subsidiary or affiliate of LOCKHEED MARTIN CANADA, INC. is identified on the face of this Contract, then "LOCKHEED MARTIN" means that subsidiary or affiliate.

(c) "LOCKHEED MARTIN Procurement Representative" means a person authorized by LOCKHEED MARTIN's cognizant procurement organization to administer and/or execute this Contract.

(d) "SELLER" means the party identified on the face of this Contract with whom LOCKHEED MARTIN is contracting.

(e) "Work" means all required labor, articles, materials, supplies, goods, and services constituting the subject matter of this Contract.

## **12. DISPUTES**

(a) All disputes under this Contract that are not disposed of by mutual agreement may be decided by recourse to an action at law or in equity. With the exception of motions or actions for injunctive relief, the SELLER agrees to submit to the exclusive jurisdiction of the Province of Ontario, in any action brought by the parties concerning the Contract or the performance thereunder.

(b) Each party hereby irrevocably waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect to any action or litigation directly or indirectly arising out of under or in connection with this

Products Act or, for Work originating in the United States, the United States Occupational Safety and Health Act (OSHA), and agrees to comply with any special requirements of LOCKHEED MARTIN as may be noted in this Contract.

(c) If the Work or any portion thereof is to be shipped to or performed in the United States:

(1) SELLER represents that each chemical substance constituting or contained in Work sold or otherwise transferred to LOCKHEED MARTIN hereunder is on the list of chemical substances compiled and published by the Administrator of the Environmental Protection Administration pursuant to the Toxic Substances Control Act (15 U.S.C. Sec. 2601 et seq.) as amended.

(2) SELLER shall provide to LOCKHEED MARTIN with each delivery any Material Safety Data Sheet applicable to the Work in conformance with and containing such information as required by the Occupational Safety and Health Act of 1970 and regulations promulgated thereunder, or its State approved counterpart.

## 15. EXPORT CONTROL

(a) SELLER shall comply with all applicable export laws and regulations of Canada, the United States of America, the European Union and any other country applicable to, or having jurisdiction over, the SELLER, products, services or shipment and/or delivery of the products or services covered by the Contract. Applicable export laws and regulations shall include, but are not limited to, those enacted by the Canadian Government (e.g. Export and Import Permits Act, the Export Control List, the Area Control List, Special Economic Measures Act); the U.S. Government (e.g. the International Traffic in Arms Regulations ("ITAR") (22 C.F.R. Parts 120 et seq.), the Export Administration Regulations ("EAR") 15 CFR Parts 730-774, and the Foreign Assets Control Regulations (31 C.F.R. Parts 500-598); the European Union (e.g., controls on exports of dual-use items and technology impl5(x)-2.2(p)123.9(a) e..5(u)4.7(see)-2.4()-2.3(p)1.2()-2.2icune totdds I Regu31.9







**20. INFORMATION ASSURANCE**

(a) Information provided by LOCKHEED MARTIN to SELLER remains the property of LOCKHEED MARTIN. SELLER shall comply with the terms of any proprietary information agreement with LOCKHEED MARTIN and comply with all proprietary information markings and restrictive legends applied by LOCKHEED MARTIN to anything provided hereunder to SELLER. SELLER shall not use any LOCKHEED MARTIN provided information for any purpose except to perform this Contract and shall not disclose such information to third parties without the prior written consent of LOCKHEED MARTIN. SELLER shall maintain data protection processes and systems sufficient to adequately protect LOCKHEED MARTIN provided information and comply with any law or regulation applicable to such information.

(b) If SELLER becomes aware of any compromise of information used in the performance of this Contract or provided by LOCKHEED MARTIN to SELLER, its officers, employees, agents, suppliers, or subcontractors (an "Incident"), SELLER shall take appropriate immediate actions to investigate and contain the Incident and any associated risks, including notification within seventy-two (72) hours to LOCKHEED MARTIN after learning of the Incident. As used in this clause, "compromise" means that information has been exposed to unauthorized access, inadvertent disclosure, known misuse, loss, destruction, or alteration other than as required to perform the Work. SELLER shall provide reasonable cooperation to LOCKHEED MARTIN in conducting any investigation regarding the nature and scope of any Incident. Any costs incurred in investigating or remedying Incidents shall be borne by SELLER.

(c) Any LOCKHEED MARTIN provided information identified as proprietary or subject to restrictions on public disclosure by law or regulation shall be encrypted (i) if transmitted via the Internet, or (ii) during electronic storage if potentially accessible by the Internet or otherwise by non-authorized users.

(d) The provisions set forth above are in addition to and do not alter, change or supersede any obligations contained in a proprietary information agreement between the parties.

**21. INFORMATION OF SELLER**

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

**22. INSPECTION, ACCEPTANCE AND TEST**

(a) LOCKHEED MARTIN and its customer may inspect all Work at reasonable times and places, including, when practicable, during manufacture and before shipment. SELLER shall provide all information, facilities, and assistance necessary for safe and convenient inspection without additional charge.

(b) No such inspection shall relieve SELLER of its obligations to furnish and warrant all Work in accordance with the requirements of this Contract. LOCKHEED MARTIN's final inspection and acceptance shall be at destination.

(c) If SELLER delivers non-conforming Work, LOCKHEED MARTIN may, in addition to any other remedies available at law



developed or otherwise generated in the performance of this Contract by or on behalf of SELLER. SELLER hereby assigns and agrees to assign all right, title, and interest in the foregoing to LOCKHEED MARTIN, including without limitation all

**26. OFFSET CREDIT/INDUSTRIAL BENEFITS**

This Contract has been entered into in direct support of LOCKHEED MARTIN's domestic and/or international offset or industrial benefits programs. All offset or industrial benefit credits resulting from this Contract are the sole property of LOCKHEED MARTIN to be applied to the offset or industrial program of its choice. SELLER agrees to assist LOCKHEED MARTIN in securing appropriate offset or industrial credits from the respective country government authorities.

**27. PACKING AND SHIPMENT**

- (a) Unless otherwise specified, all Work is to be packed in accordance with good commercial practice.
- (b) A complete packing list shall be enclosed with all shipments. SELLER shall mark containers or packages with necessary lifting, loading, and shipping information, including the LOCKHEED MARTIN Contract number, item number, dates of shipment, and the names and addresses of consignor and consignee. Bills of lading shall include this Contract number.
- (c) Unless otherwise specified, delivery shall be Delivery Duty Paid (INCOTERMS 2010 DDP) to the destination identified in this Contract.

**28. PARTS OBSOLESCENCE**

LOCKHEED MARTIN may desire to place additional orders for Work purchased hereunder. SELLER shall provide LOCKHEED MARTIN with a "Last Time Buy Notice" at least twelve (12) months prior to any action to discontinue any Work purchased under this Contract.

**29. PAYMENTS, TAXES, AND DUTIES**

- (a) Unless otherwise provided, terms of payment shall be net thirty (30) days from latest of the following: (1) LOCKHEED MARTIN's receipt of SELLER's proper invoice; (2) scheduled completion of performance date of the Work; or (3) actual completion of performance of the Work.
- (b) Each payment made shall be subject to reduction to the extent of amounts which are found by LOCKHEED MARTIN or SELLER not to have been properly payable, and shall also be subject to reduction for overpayments. SELLER shall promptly notify LOCKHEED MARTIN of any such overpayments and remit the amount of the overpayment except as otherwise directed by LOCKHEED MARTIN.
- (c) LOCKHEED MARTIN shall have a right of setoff against payments due or at issue under this Contract or any other Contract between the parties.
- (d) Payment shall be deemed to have been made as of the date of mailing LOCKHEED MARTIN's payment or electronic funds transfer.
- (e) Unless otherwise specified, prices include all applicable federal, state, and local taxes, duties, tariffs, and similar fees imposed by any g Tm [4(.)10.5(2)(e)--2.1(ie)-3.3K)-1.6(H)Co(e)11.03 4.8(-)-2.4n4 5.1(s)1y(W)73.9(e)9.6(is)1c.8(-)-1.8shall81.4(

### **30. PERSONAL INFORMATION**

(a) In this clause, Personal Information means information about an identifiable individual.

(b) SELLER agrees that any collection, use, disclosure and storage of Personal Information in the performance of the Contract, whether furnished by LOCKHEED MARTIN or collected by the SELLER, shall be collected, used, disclosed and stored in accordance with the data privacy laws of the applicable country or province/state in from which such Personal Information originates, including but not limited to, the Canadian Personal Information Protection and Electronic Documents Act (PIPEDA Act) and the European Data Protection Directive.

(c) SELLER agrees to permit LOCKHEED MARTIN to have access to its premises, records and employees at any reasonable time, to perform any reviews and audits to ensure that SELLER is meeting the requirements of this clause and SELLER shall provide its full co-operation for the purposes of such reviews or audits.

### **31. PLACE OF PERFORMANCE**

If SELLER intends to change the place of performance of Work under this Contract from the place(s) identified in

### **35. RETENTION OF RECORDS**

Unless a longer period is specified in this Contract or by law or regulation, SELLER shall retain all records related to this Contract for six (6) years from the date of final payment received by SELLER. Records related to this Contract include, but are not limited to, financial, proposal, procurement, specifications, production, inspection, test, quality, shipping and export, and certification records. At no additional cost, SELLER shall timely provide access to such records to the Canadian Government and/or LOCKHEED MARTIN upon request.

### **36. SEVERABILITY**

Each clause, paragraph and subparagraph of this Contract is severable, and if one or more of them are declared invalid, the remaining provisions of this Contract will remain in full force and effect.

### **37. SURVIVABILITY**

All rights, obligations, and duties hereunder, which by their nature or by their express terms extend beyond the expiration or termination of this Contract, including but not limited to warranties, indemnifications, intellectual property

(c) SELLER shall provide LOCKHEED MARTIN status of performance of this Contract when requested. In addition, if SELLER becomes aware of an impending labor dispute involving SELLER or any lower tier subcontractor, or any other difficulty in performing the Work, SELLER shall timely notify LOCKHEED MARTIN, in writing, giving pertinent details. These notifications shall not change any delivery schedule.

(d) In the event of a termination for convenience or change, no claim will be allowed for any manufacture or procurement in advance of SELLER's normal flow time unless there has been prior written consent by LOCKHEED MARTIN.

#### **40. TRAVEL COSTS**

(a) All travel incurred by SELLER in the performance of this Contract is included within the Contract price and shall not be separately reimbursed by LOCKHEED MARTIN unless such travel is expressly authorized in writing in advance by LOCKHEED MARTIN's Procurement Representative.

(b) When travel is authorized under this Contract, SELLER shall be reimbursed only for necessary, reasonable, and actual travel expenses for transportation, lodging, meals and incidental expenses only to the extent that they do not exceed the maximum per diem rate in effect at the time of travel, as set forth in the National Joint Council Travel Directive approved by the Treasury Board of Canada Secretariat for the area of travel authorized under this Contract. Air travel shall be reimbursed for coach class only. Lodging expenses are reimbursable only where incurred from establishments serving the general public.

(c) SELLER shall provide a detailed summary of all such costs by category of expense with each invoice. SELLER shall provide a legible receipt for each claimed individual expense exceeding \$75.00.

#### **41. USE OF FREE, LIBRE AND OPEN SOURCE SOFTWARE (FLOSS)**

(a) This clause only applies to Work that includes the delivery of software (including software residing on hardware).

(b) SELLER shall disclose to LOCKHEED MARTIN in writing any FLOSS that will be used or delivered in connection with this Contract and shall obtain LOCKHEED MARTIN's prior written consent before using or delivering such FLOSS in connection with this Contract. LOCKHEED MARTIN may withhold such consent in its sole discretion.

(c) As used herein, "FLOSS License" means the General Public License (GPL), Lesser/Library GPL, (LGPL), the Affero GPL (APL), the Apache license, the Berkeley Software Distribution (BSD) license, the MIT license, the Artistic License (e.g., PERL), the Mozilla Public License (MPL), or variations thereof, including without limitation licenses referred to as "Free Software License", "Open Source License", "Public License", or "GPL Compatible License."

(d) As used herein, "FLOSS" means software that incorporates or embeds software in, or uses software in connection with, as part of, bundled with, or alongside any (1) open source, publicly available, or "free" software, library or documentation, or (2) software that is licensed under a FLOSS License, or (3) software provided under a license that (a) subjects the delivered software to any FLOSS License, or (b) requires the delivered software to be licensed for the purpose of making derivative works or be redistributable at no charge, or (c) obligates LOCKHEED MARTIN to sell, loan,



distribute, disclose or otherwise make available or accessible to any third party (i) the delivered software, or any portion thereof, in object code and/or source code formats, or (ii) any products incorporating the delivered software, or any portion thereof, in object code and/or source code formats.

(e) SELLER shall defend, indemnify, and hold harmless LOCKHEED MARTIN, its customers and suppliers from and against any claims, damages, losses, costs, and expenses, including reasonable attorney's fees, relating to use in connection with this Contract or the delivery of FLOSS. No other provision in this Contract, including but not limited to the Indemnity

(e)(1) Prior to entry on Premises, SELLER shall coordinate with LOCKHEED MARTIN to gain access. SELLER shall provide





SACC D3010C (2016-01-28) DELIVERY OF DANGEROUS GOODS / HAZARDOUS PRODUCTS (Applies if Seller will deliver dangerous good or hazardous products.)

SACC D3015C (2014-09-25) DANGEROUS GOODS/HAZARDOUS PRODUCTS - LABELLING AND PACKAGING COMPLIANCE (Applies if Seller will deliver dangerous good or hazardous products.)