



Lockheed Martin Aeronautics Company  
1011 Lockheed Way, Palmdale, CA 93599

Document No.: 60-LTP-2012-ACSD 001-0  
Date: October 26, 2012

Alameda County Sheriff's Department  
Office of Homeland Security and Emergency Services  
4985 Broder Blvd.  
Dublin, CA 94568-3309

Attention: Tom Madigan, Captain

Subject: Alameda County Sheriff's Department-QR425s QuadRotor Cost Summary Proposal

Reference: Email correspondence between Tom Madigan (Alameda County Sheriff Department) and James Hill (AirCover Integrated Solutions) dated October 18, 2012, titled "Alameda Sheriff Quote".

Enclosure: NT12-701 Alameda County Sheriff's Department-QR425s QuadRotor Cost Summary Proposal dated October 26, 2012

Dear Captain Madigan,

Lockheed Martin Aeronautics Company hereby provides the following Cost Plus Fixed Fee (CPFF) Cost Summary Proposal # NT 12-701 dated October 26, 2012. This proposal is in response to the referenced request to provide a QR425 QuadRotor System, FAA Certificate of Authorization, and training to support the Alameda County Sheriff's Department. Please note the premises contained in the proposal which are required in the performance of this effort.

**Total Price \$49,981**

This offer shall remain valid through November 26, 2012 unless otherwise extended. Lockheed Martin eagerly waits for your reply and looks forward to working with the Alameda County Sheriff's Department to get this effort on contract.

If you have any questions or comments regarding this proposal, please contact the undersigned below at (661)572-4623 or by email at [Levi.Martinez@lmco.com](mailto:Levi.Martinez@lmco.com).

Sincerely,

LOCKHEED MARTIN CORPORATION  
Lockheed Martin Aeronautics Company

A handwritten signature in black ink, appearing to read "Levi Martinez".

Levi Martinez  
Contract Negotiations  
Advanced Development Programs

**Alameda County Sheriff's Department  
QR425 QuadRotor System**

**Cost Summary Proposal**

**October 26, 2012**

**Prime Contractor/Lead Organization  
LOCKHEED MARTIN CORPORATION  
LOCKHEED MARTIN AERONAUTICS COMPANY  
Advanced Development Programs**

**Large Coporation incorporated on August 29, 1994  
DUNS# 619434590; Cage Code 0L1E5**

**Technical Point of Contact  
Program Manager  
Mr. Kevin Lewelling  
1011 Lockheed Way, Palmdale, CA 93599  
661/572-2423 (VCE) / 661/572-5625 (FAX)  
Email: Kevin.w.lewelling@lmco.com**

**Administrative Point of Contact  
Contract Administrator  
Mr. Levi Martinez  
1011 Lockheed Way, Palmdale, CA 93599  
661/572-4623 (VCE)  
Email: levi.martinez@lmco.com**

**Award Instrument: Cost Plus Fixed Fee**

**Base Award \$49,981  
Valid Until November 26, 2012**

**LOCKHEED MARTIN PROPRIETARY INFORMATION**

This proposal or quotation includes data that shall not be disclosed outside the Government and shall not be duplicated, used or disclosed, in whole or in part, for any purpose other than to evaluate this proposal or quotation. If, however, a contract is awarded to this offeror or quoter as a result of, or in connection with, the submission of this data, the Government shall have to the right to duplicate, use, or disclose the data to the extent provided in the resulting contract. This restriction does not limit the Government's right to use information contained in this data if it is obtained from another source without restriction. The data subject to this restriction are contained in all sheets.

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**Attachments:**

- 1) Lockheed Martin Corporation Model Contract

**Introduction**

Lockheed Martin Corporation, acting through its Lockheed Martin Aeronautics Company, is pleased to submit this request for a Cost Plus Fixed Fee proposal for \$49,981.

**Price Summary**

	<b>CY-2012</b>	<b>TOTAL</b>
<b>TOTAL PRICE</b>	<b>\$49,981</b>	<b>\$49,981</b>

If you have any questions about this proposal, please contact Levi Martinez (Contracts) at (661) 572-4623, Lockheed Martin Corporation, Lockheed Martin Aeronautics Company - 1011 Lockheed Way, Palmdale, CA 93599.

## 1.0 Program Summary Information

### 1.1 Basis Of Proposal

1. Authorization of this Proposal is requested on or before November 26, 2012. If authorization is not received by this date, this Proposal will expire.
2. This proposal reflects task and schedule requirements set forth in the requirements listed in the email correspondence between Tom Madigan (Alameda Sheriff Department) and James Hill (AirCover Intergrated Solutions) dated October 18, 2012 titled "Alameda Sheriff Quote".
3. This effort is proposed on a Cost Plus Fixed Fee (CPFF) basis.
4. The QR425 QuadRotor System includes system components, spares, training, and warranty.
5. Warranty for the QR425 QuadRotor System will be honored by AirCover and will start on the day the system is delivered to the customer.
6. The QR425 QuadRotor System cannot be legally operated before completion of FAA Certificate of Authorization in Alameda County. Delivery date of the Quadrotor system is contingent on completion of FAA COA.
7. Once the QR425 QuadRotor System is delivered to the customer, LM assumes no liability or responsibility of any claims made against Lockheed Martin Corporation or Lockheed Martin Aeronautics Company. Operators who successfully complete the offered training courses are thought to be proficient in piloting the QR425 QuadRotor vehicles.
8. This proposal is based upon mutually agreed to Terms and Conditions set forth in the Email correspondence between Tom Madigan (Alameda County Sheriff Department) and James Hill (AirCover Intergrated Solutions) dated October 18, 2012 titled "AirCover Official Quote Request".
9. Please review attachment 1-Lockheed Martin proposed contract, which include Terms and Conditions. If acceptable, please sign and return to Mr. Levi Martinez at [Levi.martinez@lmco.com](mailto:Levi.martinez@lmco.com), or mailing address 1011 Lockheed Way, Palmdale, CA 93599.

**1.2 Total Proposed Price**

\$49,981

**1.3 Program Schedule**

The period of performance is 12 Months ARO.

**1.4 Deliverables:**

- One (1) 2012 QR425 VTOL UAS QuadRotor system, including:

**System Components**

- One (1) 2012 QR425 VTOL UAS QuadRotor vehicle
- One (1) Ground Control Station
- Three (3) Quick Change Battery Packs (plus 2 yr upgrades)
- One (1) HDFMV Camera Color System
- One (1) QR425 Mobile Charging System
- One (1) Custom Case with Foam Padding
- Two (2) GIS NavLINK Mission Track Manager
- One (1) QR425 Extended Range Antenna

**Spares**

- One (1) 2012 QR425 VTOL UAS Quadrotor Vehicle (special pricing)
- One (1) Special Warranty – One Year Auto PWR Upgrade (Aircover supplied)
- Special Warranty- One year auto power upgrade

**Training**

- Certificate of Authorization (COA) Alameda County (8 Weeks)
- Gleim Part 141 Online Ground School
- Gleim Knowledge ISBN978-1-58194-236-1

**Warranty**

- Two year warranty covering field support, replacement, repair and upgrades

**1.5 Deliverable Schedule:**

- FAA Certificate of Authorization Alameda County and Online ground school- 8 weeks (Estimated) ARO
- One (1) QR425 QuadRotor System and spares- 1 week before FAA COA completion

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**Attachment: 1**

**Alameda County Sheriff's Department  
QR425 QuadRotor System**

**Contract/Terms and Conditions**

**October 26, 2012**

**Prime Contractor/Lead Organization  
LOCKHEED MARTIN CORPORATION  
LOCKHEED MARTIN AERONAUTICS COMPANY  
Advanced Development Programs**

**Large Coporation incorporated on August 29, 1994  
DUNS# 619434590; Cage Code 0L1E5**

**Technical Point of Contact  
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661/572-4623 (VCE)  
Email: levi.martinez@lmco.com**

**Award Instrument: Cost Plus Fixed Fee**

**Base Award \$49,981  
Valid Until November 26, 2012**

### Preamble

This Agreement, hereinafter referred to as "Contract," is entered into by and between Lockheed Martin Aeronautics Company, having its principal place of business at 1011 Lockheed Way, Palmdale, California, 93599, United States of America, hereinafter referred to as "seller" and Alameda County Sheriff's Department-Office of Homeland Security and Emergency Services, having its principal place of business at 4985 Broder Blvd, Dublin, CA 94568-3309 in the state of California, United States of America, hereinafter referred to as the "buyer." The Buyer and the Seller may also be referred to in the singular as "Party" and in the plural as "Parties."

### Basis For Agreement

**WHEREAS**, the Seller wishes to provide certain Goods or Services or both to the Buyer; and

**WHEREAS**, the Buyer wishes to purchase said Goods or Services or both at the prices provided herein and subject to agreed-upon terms and conditions; and

**NOW THEREFORE**, in consideration of the mutual promises and covenants hereinafter set forth, the parties hereto agree as follows:

### Definitions

**After Receipt of Order (ARO):** Shall mean that period of time beginning with the Effective Date of this Contract, the day immediately following the Effective Date being Day 1 ARO.

**Authorized Representatives:** Shall mean those persons by name and title who have the authority to bind each of the Parties, and shall include the Duly Authorized On-Site Representative as specified in this Contract, other individuals specified in this Contract, or as specified on Notices sent by one of the Parties to the other pursuant to the Notices Clause hereof.

**Buyer-Furnished Property, Personnel, and Support:** Shall mean the items (for example: equipment, spare parts, technical documentation, software, personnel, and support) to be provided by the Buyer to Seller in conformance with the Program Schedule for Buyer- Furnished Property, personnel, and support, in accordance with the Statement of Work.

**Calendar:** Shall mean the Gregorian calendar unless otherwise specified. All references to time periods will be made using the Gregorian calendar.

**Cure Notice:** The notice sent to the Seller by the Buyer (as provided by the Notices Section) alleging a material breach of the Contract and referencing or specifying the contractual time for correction.

**Date of Execution:** Shall mean the date on which this Contract is signed by the last Party as indicated on the last signature page of this Contract.

**Data:** Shall mean drawings, designs, inventions, and other technical information to be supplied by Seller and/or Buyer under this Contract and the Statement of Work, including all Exhibits and Appendices.

**Days:** Shall mean calendar days unless otherwise specified.



**Defects:** Shall mean Discrepancies that result in the failure in the article, component or part which results in the failure of the article, component or part to meet the performance requirements of the specifications of the contract.

**Delivery:** Shall mean to transfer goods or an interest in goods from one person to another; however, "Delivery" is different from "shipment," which normally means the physical act of sending goods by an established means of transportation.

**Discrepancy:** Shall mean non-conformance to the applicable contract provisions; however, all discrepancies are not necessarily Defects.

**Dollars or US\$:** Shall mean the lawful currency of the United States of America.

**Effective Date:** Shall mean the date on which the last of all of the events listed in the Effective Date of the Contract Clause have occurred.

**Equitable Adjustment:** Shall mean an adjustment resulting in a change to the contract requirements which may require a change in price, schedule and/or the terms and conditions of the contract.

**Government of the United States of America:** Shall mean any agency or authority of the Government of the United States of America whose actions may affect this Contract.

**Intellectual Property Rights:** Shall mean all trade marks, service marks, patents, registered designs, utility models applications for any of the foregoing, copyrights, unregistered designs, inventions, confidential, know-how and database rights (whether registered or not) and the goodwill attaching to any of them, and applications for any of them and any right or form of protection of a similar nature and having an equivalent or similar effect to any which may subsist anywhere.

**Material Breach:** Shall mean a failure, without contractual excuse, that is significant enough to impact the substantial performance of the contract.

**Notice:** Shall mean, as between the Parties, a written notice sent by one of the Parties to the other pursuant to the Notices Clause.

**Program Schedule:** Shall mean the Program Schedule as set forth in the Contract.

**Software:** Shall mean software, firmware, embedded instructions, programmed and programmable devices, machine readable instructions capable of controlling computers and supporting documentation to be used in or in connection with [insert Project, Facilities, etc.]"

**Statement of Work:** Shall mean the Statement of Work attached as Exhibit [ ] which is made a part of this contract and contains the Seller's entire obligation to perform work under this contract.

**Working Days:** Shall mean the normally scheduled days of work at each location where the respective work is being performed, usually excluding holidays and weekends.

### Term of the Contract

The term of the contract shall be from the Effective Date of the Contract until the Contract is complete or terminated, as specified below.

#### 1. Effective Date of Contract

1.1. This Contract shall become effective when:

1.1.1. This Contract has been signed by both the Buyer and the Seller;

1.2. Seller shall notify the Buyer of the Effectivity Date of this Contract upon completion of the events set forth above. The Buyer shall notify the Seller of receipt of this notification; in any event, receipt shall be presumed after forty-eight (48) hours.

1.3. In the event the conditions of effectiveness specified in this clause have not been completed by November 26, 2012 due to causes not attributable to the Seller, the Contract Price will become invalid and the Seller shall have the right to submit a revised price for the Goods and Services provided herein. The Parties will mutually agree on a revised Contract Price.

2. 2.1. The contract will be deemed complete upon the latter of the following: 2.1.1. Receipt of final payment 2.1.2. Completion of the Warranty Period

### Scope/Description of Work

1. The Seller shall supply to the Buyer the following work products (hereinafter such work shall hereafter be called the "Product" or "Products" or "Goods" or Services") under the terms and conditions of this Contract. The Product(s) to be delivered under this contract are:

#### Deliverables:

- One (1) 2012 QR425 VTOL UAS QuadRotor system, including:

#### System Components

- One (1) 2012 QR425 VTOL UAS QuadRotor vehicle
- One (1) Ground Control Station
- Three (3) Quick Change Battery Packs (plus 2 yr upgrades)
- One (1) HDFMV Camera Color System
- One (1) QR425 Mobile Charging System
- One (1) Custom Case with Foam Padding
- Two (2) GIS NavLINK Mission Track Manager
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#### Spares

- One (1) 2012 QR425 VTOL UAS Quadrotor Vehicle (special pricing)
- One (1) Special Warranty – One Year Auto PWR Upgrade (Aircover supplied)
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**Training**

- Certificate of Authorization (COA) Alameda County (8 Weeks)
- Gleim Part 141 Online Ground School
- Gleim Knowledge ISBN978-1-58194-236-1

**Warranty**

- Two year warranty covering field support, replacement, repair and upgrades

**Deliverable Schedule:**

- FAA Certificate of Authorization Alameda County and Online ground school- 8 weeks (Estimated) ARO
- One (1) QR425 QuadRotor System and spares- 1 week before FAA COA completion

**Documents Incorporated by Reference**

The Seller shall observe and satisfy the requirements contained in the documents listed below. Every document incorporated shall be dated and attached; otherwise, it shall be used only as guidance and shall not be binding on this contract. Provisions in the Contract Articles and any Attachments, Exhibits (etc.) to this Contract shall have precedence over a document incorporated below by reference.

The following documents are incorporated by reference to the extent referenced herein:

- Article 1) Lockheed Martin Aeronautics Proposal Transmittal Letter dated October 26, 2012: Document No.: 60-LTP-2012-ACSD 001-0
- Article 2) Cost Summary Proposal NT 12-701 dated October 26, 2012

**Price**

1. In accordance with the Payment Terms and other conditions of this contract, the Buyer agrees to pay and the Seller agrees to sell the Goods and Services defined in Article 2-Cost Summary Proposal NT 12-701 for the total price of US\$49,98, in consideration of Seller's performance as described in the Contract:

**Payment Terms**

1. The total Contract Purchase Price of U.S.\$49,981, as set forth in Article 2 hereof, and as it may subsequently be amended, shall be paid to the Seller as follows:

2. The Buyer shall remit the all payments by electronic funds transfer to the Seller's account with:

2.1. Bank Name: \_\_\_\_\_

2.2. Routing No: \_\_\_\_\_

2.3. Account No: \_\_\_\_\_

3. All payments will be due within 30 days from the date of the Seller's invoice. Late payments will be assessed interest at LIBOR + [(contact Treasury for guidance on late payment interest)] per annum, calculated on the number of days beyond the invoice due date the amount is actually outstanding.

#### **Taxes And Duties**

1. The price includes all applicable taxes, duties, fees, levies etc., which might be imposed upon the Seller, its subcontractors, and/or employees to the extent specified and as a consequence of this contract, by the United States Government and/or any political subdivisions thereof, in effect as of the Effective Date of this Contract.

2. The price is exclusive of import duties, value added taxes, withholding taxes, GST or other fees which may be imposed by the Buyer's Government or any political subdivision thereof, and which, if any, shall be borne by the Buyer. If the Seller is required to pay any such taxes, duties, or other levies imposed by the Buyer's Government or any political sub-division thereof on the Seller during or after completion of this affected Contract, said taxes, duties, or other levies shall be added to the total price of this Contract and shall immediately be paid by the Buyer upon the Seller's request in writing.

#### **Delivery And Schedule**

1. Seller agrees to deliver the items specified under Article 2, Scope, in accordance with the delivery schedule, the acceptance criteria, and delivery terms set forth in this Contract (including Attachments and Exhibits). Partial shipments are allowed. The Seller may deliver ahead of schedule without penalty. Unless otherwise specified in the Contract, all scheduled deliveries are assumed to be on the last day of the stated delivery month.

2. At any time prior to the time of shipment of Products, Seller reserves the right to make the necessary corrections or changes in part number, provided that form, fit, and function of assemblies or components is not affected.

3. (If there are manufactured items which are susceptible to variation in quantity): Variations in quantities of Products to be shipped pursuant to the provisions of this contract will be accepted as being in compliance with this contract to the extent of [Business Unit to determine value] percent (%) variation for those items for which the unit price does not exceed \$ [Business Unit to determine value] when caused by conditions of loading, shipping, packing, or allowance in the manufacturing process.

#### **Inspection And Acceptance**

##### **1. INSPECTION AND ACCEPTANCE OF GOODS**

1.1 Subject to all applicable governmental regulations and proprietary restrictions, Buyer's authorized representatives shall have the right to witness Seller's acceptance test and inspection of Goods on a non-interference basis. Expenses incurred by Buyer's inspection shall be borne by Buyer.

1.2 Seller shall provide Buyer with sixty (60) days advance notification of the date of acceptance test and inspection. Buyer shall notify Seller within thirty (30) days of Seller's notifications of Buyer's intent to participate in the acceptance test and inspection.

1.3 Buyer's authorized representative shall, within twenty four (24) hours after successful completion of the inspection and test in accordance with the contract requirements, sign an Inspection and Acceptance Certificate substantially in the format in Attachment \_\_. If Buyer's representative fails to provide a response as stated above or to be present at the appointed inspection, Seller's Quality Assurance representative shall

sign the Inspection and Acceptance Certificate with the same effect as if said certificate had been signed by Buyer's representative.

1.4 The acceptance procedures and plans (including waiver and deviation process) are identified in the Statement of Work (*Technical Specifications, Attachment \_\_, or wherever stated in contract*).

1.5 If the Buyer uses the Goods (prior to final acceptance or without signing the Inspection and Acceptance Certificate), the Goods are deemed accepted and Seller may sign the Inspection and Acceptance Certificate, if required, on the Buyer's behalf.

1.6 (*If applicable*) Seller's Warranty obligation shall commence upon execution of the Inspection Acceptance Certificate pursuant to Clause 1.3 above.

#### **Force Majeure/Excusable Delay**

Neither party shall be liable to the other Party for delays in performing its obligations under this contract, and the date on which those obligations are to be fulfilled shall be extended for a period equal to the time lost by reason of any force majeure/excusable delay. Examples of force majeure/excusable delays include, but are not limited to, the following: acts of God, action/inaction of any governmental authorities, war, riot, revolution, earthquakes, fires, strikes, terrorism, capture and detention, sabotage, epidemics, inability to obtain insurance, storms, floods, acts of public enemy, port congestion, civil disobedience, nuclear incidents, labor disputes, failure of buyer to make milestone payments in accordance with Article \_\_ of the contract or inability of sellers subcontractors to perform.

The Party affected by a Force Majeure event shall inform the other Party of the existence of a Force Majeure event in writing, within sixty (60) days of becoming aware of the commencement of a Force Majeure event.

The parties shall agree to a revised basis for continuing contract performance at the end of the delay, including adjustments of schedule and price. If after one hundred and eighty (180) days.

#### **Warranty**

(1) Seller warrants that Goods provided by Seller shall be free from defects in materials, workmanship and title and shall be in accordance with the specifications of this contract. Seller's obligations as set forth below shall begin on the date of acceptance as specified in the contract or on the date upon which the Goods are placed into use by the Buyer, whichever occurs first, and shall continue for a period of 24 months from that date.

(2) Seller's obligation under this warranty is limited to replacement or repair, at Seller's option, of Goods returned to Seller.

(3) Seller's obligations under the provisions of this warranty shall not apply to any product or part thereof, which (1) is normally consumed in operation, or (2) has a normal life inherently shorter than the warranty period or (3) is not properly stored, installed, maintained or repaired or is modified, other than to Seller's instructions or approval or (4) has been subjected to misuse, exposure or damage or (5) has been tampered with, or is subject to war or acts of terrorism.

(4) To receive the benefit of this warranty, the Buyer must give Seller written notification within thirty (30) days after the Buyer knows, or reasonably should have known of the defect. Such notification shall contain details of the circumstances of discovery by the Buyer and nature of the defect. The Buyer shall, in

accordance with Seller's instructions, provide the allegedly defective Goods or parts to Seller. Transportation costs of the Goods or parts to and from the location specified by Seller shall be borne by Buyer. The Seller will determine if the alleged defective products or parts fall within paragraph (2) of the Warranty Clause. The costs of such repairs or replacement under this Clause shall be borne by the Seller. Repaired or replaced parts shall be subject to the remainder of the original warranty.

(5) Should the Seller determine that the warranty provisions are not applicable for the returned Goods, the Seller shall not be obligated to repair or replace the Goods and shall request disposition instructions from the Buyer.

(6) With respect to Goods not manufactured by the Seller, (except to integral parts of Seller's Products, to which Warranties set forth above shall apply), Seller provides only the warranty as provided by the original manufacturer.

(7) This Clause sets forth the exclusive remedies for claims based upon defects as specified herein, whether the claim is in contract, warranty, tort (including negligence) or otherwise. **THE FOREGOING WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES EXPRESS OR IMPLIED, INCLUDING WARRANTY OF MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSE.** Seller shall not be liable for incidental or consequential damages.

### **Intellectual Property Rights**

1. Seller shall retain all rights and title to, ownership of and interest in all Intellectual Property, including but not limited to all trade marks, service marks, patents, registered designs, utility models applications for any of the foregoing, copyrights, unregistered designs, inventions, confidential information, know-how, data and computer software rights (whether registered or not) and the goodwill attaching to any of them etc., that Seller either creates, develops or delivers under the performance of this contract.
2. Subject to third party license restrictions as set forth in Appendix XX, Seller grants to Buyer and [Buyer's final customer], solely for purposes of operation and maintenance, a non-exclusive, non-transferable "right to use" hardware, software, data, documentation specified as deliverables under this Contract. This right is nontransferable and personal to Buyer, and [Buyer's final customer].

### **Dispute Resolution**

- 1 The Parties' shall attempt through negotiation to amicably and in good faith resolve any dispute arising under or related to this Contract or concerning an alleged breach of this Contract within thirty (30) days of notice by one Party to the other that a dispute exists, or such other time period as they may mutually agree.
- 2 In the event that a dispute is not resolved as provided for under paragraph 1, the dispute shall be escalated for resolution to senior management within the respective Parties' organizations.
- 3 Should such higher level of management be unable to resolve the dispute within thirty (30) days of referral or such other time as they may mutually agree, then the dispute shall be submitted to mediation under the **Commercial Dispute Resolution Procedures (including Mediation and Arbitration Rules) of the American Arbitration Association. The venue for such Mediation shall be in Washington D.C.**
4. Any dispute between the Parties that has not been resolved to the satisfaction of the Parties as set forth in paragraphs 1 - 3 above shall be settled by binding arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules and the Supplementary Procedures for Large, Complex Disputes, and judgment on the award rendered by the arbitrators may be entered in any court having jurisdiction thereof.

5 Within fifteen days after the commencement of arbitration, each Party shall select one person to act as arbitrator and the two selected shall select a third arbitrator within ten days of their appointment. If the arbitrators selected by the Parties are unable to agree upon the third arbitrator, then the third arbitrator shall be appointed by the American Arbitration Association. If the Parties fail to select two arbitrators within the time limit specified, then three arbitrators shall be appointed by the American Arbitration Association as provided in its Commercial Arbitration Rules. All arbitrators shall be lawyers knowledgeable in international trade. Prior to the commencement of hearings, each of the arbitrators appointed shall provide an oath or undertaking of impartiality.

6. The award shall be in writing, shall be signed by a majority of the arbitrators, and shall include a statement regarding the reasons for the disposition of the dispute.

7. Within thirty days of receipt of any award (which shall not be binding if an appeal is taken), either Party may notify the American Arbitration Association of an intention to appeal to a second arbitral tribunal, constituted in the same manner as the initial tribunal. The appeal tribunal shall be entitled to adopt the initial award as its own, modify the initial award or substitute its own award for the initial award. The appeal tribunal shall not modify or replace the initial award except for clear errors of law or because of clear and convincing factual errors. The arbitrator's decision will be final and binding upon, and will be the sole and exclusive remedy of, the Parties who hereby waive all right to judicial review of said decision. The Parties waive any claim of sovereign immunity in connection with such arbitration. The award of the appeal tribunal shall be final and binding, and judgment will be enforceable in the courts of the United States of America and [Buyer's country], or judgment may be entered in any court having jurisdiction, as expressly limited by paragraph 10 below.

8. Each Party shall bear its own costs and expenses and an equal share of the arbitrators' and administrative fees of arbitration, including, if any, appeal unless the arbitrator has determined one of the Parties has acted in bad faith.

9. The place of arbitration shall be Washington, D.C., United States of America, although the substantive Laws of the State of Maryland, United States of America, specifically including the provisions of the Uniform Commercial Code as adopted in that state, and excluding (a) the provisions of the United Nations Convention on the International Sale of Goods, and (b) the laws of the States of Maryland with respect to choice or conflict of laws, shall be applied to the interpretation of this Contract. The language of the arbitration shall be English.

10. Judgment upon the award rendered may include compensatory damages against any Party, but under no circumstances will special, incidental, indirect, consequential, punitive, exemplary or multiple damages including, but not limited to, lost profits, be authorized, made or paid.

11. Either Party has the right to seek immediate injunctive relief in the event its proprietary information or export controlled information is about to be disclosed without authorization or otherwise misused.

=====

**Order Of Precedence**

1. In the event of any conflict among the provisions of this Contract and any attachments to this Contract, such conflict shall be resolved in the following order:

- 1.1. Contract Articles or Clauses
- 1.2. Statement of Work
- 1.3. Specification
- 1.4. Exhibits, Annexes as applicable

### **Severability and Waiver**

1. If any provision of the Contract is determined to be illegal, invalid or unenforceable, the remainder of the Contract shall continue in full force and effect, unless it is determined that such provision destroys the essence of the contract.

2. The failure to enforce any provision of the Contract by either Party shall not invalidate such provision or any other provision of the Contract nor the Contract as a whole. The failure in one or more instances of a Party to enforce any provision of this Contract shall not affect the subsequent enforcement of such provision.

### **Survivability**

In case of termination or completion of the Contract the provisions of the following clause shall survive:

- Confidentiality
- Intellectual Property
- Patent Indemnity (this clause may or may not be desired to survive-consult with local IP counsel)
- Permits and licenses
- Limitation of Liability
- Indemnification
- Arbitration/Disputes Resolution
- Notices
- Governing Law
- Export Requirements
- Taxes and Duties
- Payment
- And others as applicable

*Note: The elements of this clause may be incorporated into the applicable clauses in lieu of having a separate clause.*

### **Independent Contractor**

The Parties shall act as independent contractors in the performance of this Agreement. Neither Party shall act as agent for or partner of the other Party without the prior written consent of the other Party. The employees of each Party remain the employees of that Party exclusively without any relationship to the other Party. Nothing in this Agreement shall be constitute, create, give effect to, or otherwise recognize a joint venture, partnership, pooling arrangement, or other formal business organization of any kind. The rights and obligations of the Parties shall be limited to those expressly set forth in this Contract.

### **Assignment**

1. The benefits and responsibilities of this Contract shall be binding upon the respective successors and assigns of the parties hereto, but neither party may assign any portion of this contract to a separate legal entity without the prior written consent of the other party. Neither party will unreasonably withhold consent.

2. Notwithstanding Article 1, Seller may assign any or part of this Contract to its parent company or to a wholly owned subsidiary or affiliate of the parent company.



3. The consent requirements set forth in Article 1 shall not apply to contracts novated due to acquisition or corporate Organization.

### **Export Laws and Regulations**

EXPORT (State Department)

(a) This Contract is subject to all applicable United States of America laws and regulations.

(b) Without limiting the generality of (a) above, (i) the prior written approval of the United States Department of State must be obtained by Buyer before any articles exported from the United States of America under this Contract may be resold, diverted, transferred, transshipped, reshipped, or re-exported to, or disposed of in, any country other than that described on the export license as the country of ultimate destination; and (ii) the following statement shall be entered by Seller on the shipper's export declaration, the bill of lading, and the invoice for all articles exported from the United States of America under this Contract: "These commodities are licensed by the U.S. Government for export to [ ]. They may not be resold, diverted, transferred, transshipped, or otherwise be disposed of in any other country, either in their original form or after being incorporated through an intermediate process into other end-items, without the prior written approval of the U.S. Department of State."

(c) As required by rules and regulations of the United States of America, the parties hereto agree as follows:

(i) This Contract shall not enter into force, and shall not be amended or extended, without the prior written approval of the Department of State of the U.S. Government.

(ii) This Contract is subject to all United States laws and regulations relating to exports and to all administrative acts of the U.S. Government pursuant to such laws and regulations.

(iii) The parties to this Contract agree that the obligations contained in this Contract shall not affect the performance of any obligations created by prior Contracts or subcontracts which the parties may have individually or collectively with the U.S. Government.

(iv) No liability will be incurred by or attributed to the U.S. Government in connection with any possible infringement of privately owned patent or proprietary rights, either domestic or foreign, by reason of the U.S. Government's approval of this Contract.

(v) The technical data or defense service exported from the United States in furtherance of this Contract and any defense article which may be produced or manufactured from such technical data or defense service may not be transferred to a person in a third country or to a national of a third country except as specifically authorized in this Contract unless the prior written approval of the United States Department of State has been obtained.

(vi) All provisions in this Contract which refer to the U.S. Government and the United States Department of State will remain binding on the parties after the termination of the Contract.

(d) Notwithstanding the provisions of the Contract Article entitled Effective Date of the Contract, if Seller agrees, upon Buyer's request, to arrange for the export shipment of any Goods or Services, then, Seller will seek to obtain, in its own name or in the name of Buyer as the case requires, such licenses from the U.S. Government as may be required for the exportation of the articles to be furnished to Buyer under this Contract; provided, however, that if the U.S. Government refuses to grant any such license, or revokes or suspends any such license previously granted, Seller shall so notify Buyer. In the event Seller cannot obtain any such license, or the removal of any such revocation or suspension, prior to said date, Seller may tender

for payment only such articles on said date at Seller's plant in [ ], and, upon such tender, the full balance of the total purchase price of such articles remaining unpaid shall become due and payable to Seller in accordance with Article [ ] hereof.

(e) Notwithstanding the provisions of the Contract Article entitled Effective Date of the Contract, Buyer shall pay Seller for all fees and expenses, incurred after the signature date of the contract, including but not limited to those covering preparation of consular invoices, freight, storage, and insurance, upon submission of Seller's invoices. Seller will prepare consular documents according to Buyer's instructions or, in the absence thereof, according to its best judgment but without liability for error or incorrect declarations and without liability for fines or other charges.

(f) Buyer shall comply fully with all export and import control regulations of the U.S. Government as they may apply to the Goods and Services ordered hereunder.

(g) Lockheed Martin Corporation shall be responsible for obtaining any required authorizations such as an Export License, or any other required U.S. Government authorization. Buyer and Lockheed Martin shall assist each other in securing and complying with such authorizations as may be required. Buyer's obligation to pay for completed and partially completed Services ordered hereunder shall not be affected by any delay in or inability of Lockheed Martin to obtain the issuance or renewal of any such license.

**Entire Agreement**

The provisions contained or incorporated by reference constitute the entire Contract between the Parties and supersede all previous communication, agreements or representations, either oral or written. No change, modification, or revision to this Contract shall be valid unless it is in writing and signed by authorized officers or representatives of both Parties. The paragraph headings are for convenience only and shall not limit in any way the scope of this Contract.

**Signature Page**

In Witness Whereof, Buyer and Seller have caused this Contract to be executed by their duly authorized representatives as of the day and year last written below.

Buyer  
[Name Of  
Buyer \_\_\_\_\_]

Seller  
[Lockheed Martin Corporation (Lockheed Martin  
Aeronautics Company)]

Signature: \_\_\_\_\_  
Name:  
(Typed or Printed)  
Title:  
Date:

Signature: \_\_\_\_\_  
Name:  
(Typed or Printed)  
Title:  
Date: :