



SUPPLIER TERMS AND CONDITIONS GENERAL PROVISIONS

DEFINITIONS

As used in this Subcontract, the following terms shall have the meanings set forth below:

"Buyer" means M & L Precision Machining, Inc. as represented by an authorized representative.

"Buyer's Customer" means Buyer's customer(s) under the Prime Contract, as applicable.

"Government" means the United States of America ("U.S.") or its authorized representative.

"Parties" means Buyer and Seller collectively, as referred to herein.

"Party" means Buyer or Seller individually, as referred to herein.

"Prime Contract" means the contract, if any, between Buyer and a higher-tier customer.

"Seller" means the party identified on the face of this Subcontract with whom Buyer is contracting, including any applicable Seller personnel (e.g., Seller's officers, employees, agents, and suppliers and other Subcontractors).

"Subcontract" means the purchase order or subcontract or other such type designation, including all referenced documents, exhibits, and attachments, under which these terms and conditions are incorporated by reference.

"Subcontractor" means any supplier or other company, at any tier, utilized by Seller to perform Work required by this Subcontract.

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

ACCEPTANCE OF SUBCONTRACT TERMS AND CONDITIONS

- (a) This Subcontract integrates, merges, and supersedes any prior offers, negotiations, and agreements (including any letter contract) concerning the subject matter hereof and constitutes the entire agreement between the Parties. Seller's acknowledgment, acceptance of payment, or commencement of performance shall constitute Seller's unqualified acceptance of this Subcontract.
- (b) Unless expressly accepted in writing by Buyer, additional or differing terms or conditions proposed by Seller or included in Seller's acknowledgment are objected to by Buyer and have no effect.
- (c) The headings used in this Subcontract are inserted for the convenience of the Parties and shall not define, limit, or describe the scope or the intent of the provisions of this Subcontract.

APPLICABLE LAWS

- (a) This Subcontract and any matter arising out of or related to this Subcontract shall be governed by and construed and enforced in accordance with the laws of the state shown in Buyer's address printed on the face of this Subcontract (without regard to that state's conflicts of law's provisions), including its provisions of the Uniform Commercial Code, but specifically excluding the provisions of the 1980 U.N. Convention on the International Sale of Goods.
- (b) Seller represents and warrants that all Work has been manufactured and sold, and all services provided, in compliance with all applicable local, state, and federal laws, orders, rules, regulations, and ordinances of the U.S. and the country where Seller will be performing this Subcontract;
- (c) Seller shall be responsible for compliance with all requirements and obligations relating to its employees under all local, state, and federal statutes, ordinances, rules, and obligations including, but not limited to, employer's obligations under laws relating to: income tax withholding and reporting; civil rights; equal employment opportunity; discrimination on the basis of age, sex, race, color, religion, disability, national origin, or veteran status; overtime; minimum wage; social security contribution and withholding; unemployment insurance; employer's liability insurance; workers' compensation; veteran's rights; and all other employment, labor, or benefits related laws.
- (d) Notwithstanding Seller's other representations and warranties contained herein, Seller represents and warrants that Seller does not source or use any "conflict minerals", as defined in Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, as well as California Senate Bill 861, from the Democratic Republic of the Congo or any adjoining countries ("DRC Countries") for use in the manufacture of their products supplied to Buyer. "Conflict minerals" include: (a) columbite-tantalite, also known as coltan (the metal ore from which tantalum is extracted); (b) cassiterite (the metal ore from which tin is extracted); (c) gold; (d) wolframite (the metal ore from which tungsten is extracted); (e) the derivatives of (a)-(d); or (f) any other mineral or its derivatives determined by the U.S. Secretary of State to be financing conflict in the DRC Countries.

ASSIGNMENT

Seller shall not assign its rights or obligations under this Subcontract without Buyer's prior written consent. Any purported assignment without Buyer's written consent shall be void. Seller agrees to obtain Buyer's written consent before subcontracting this Subcontract or any portion thereof; provided, however, that this limitation shall not apply to the purchase of standard commercial goods or raw material.

CHANGES

- (a) Buyer may at any time, by written order and without notice to sureties or assignees, make changes within the general scope of this subcontract in any one or more of the following:
- a. Drawings, designs, or specifications;
 - b. Method of shipping or packing;
 - c. Place of inspection, acceptance, or point of delivery;
 - d. Description of Work to be performed
 - e. Time of performance
 - f. Place of performance
 - g. Delivery schedule; and
 - h. Amount of Buyer-furnished property.
- (b) If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of Work to be performed under this Subcontract, Buyer shall make an equitable adjustment in the:
- a. Estimated price, delivery, or completion schedule, or both
 - b. Amount of any fixed fee; and/or
 - c. Other affected terms.

Changes to the delivery schedule, however, may be subject to a price adjustment only.

- (c) Seller must submit any proposal for adjustment under this clause within thirty (30) days from the date of receipt, from Buyer, of the written order directing the change. If Seller's proposal includes the cost of property made obsolete or unusable by the change, Buyer shall have the right to prescribe the manner of disposition of such property.
- (d) Failure to agree to any adjustment shall be resolved in accordance with the "Disputes" clause of this Subcontract. However, nothing in this "Changes" clause shall excuse Seller from proceeding without delay in the performance of this Subcontract as changed.

COMMUNICATION WITH BUYER'S CUSTOMER

Buyer shall be solely responsible for all liaison and communication with Buyer's Customer, as it affects the applicable Prime Contract, this Subcontract, and any related contract or agreement.

CONSEQUENTIAL DAMAGES

EXCEPT AS PROVIDED OTHERWISE IN THIS SUBCONTRACT, NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY (OR ANY PERSON OR ENTITY CLAIMING THROUGH SUCH OTHER PARTY) FOR ANY CONSEQUENTIAL, SPECIAL, PUNITIVE, EXEMPLARY, OR INCIDENTAL LOSSES OR DAMAGES, INCLUDING LOST PROFITS, ARISING OUT OF OR IN CONNECTION WITH THIS SUBCONTRACT, REGARDLESS OF THE CAUSE OF ACTION AND WHETHER OR NOT SUCH PARTY HAS BEEN INFORMED OF, OR OTHERWISE MIGHT HAVE ANTICIPATED, THE POSSIBILITY OF SUCH DAMAGES.

CONTRACT DIRECTION

- (a) Sole authority to make changes in or amendments to this Subcontract and to affect deviations (by way of addition or deletion) from Work specified herein is granted by Buyer to Buyer's Supply Management Representative ("SMR") for this Subcontract (as indicated on the face of this Subcontract). All contractual direction, in order to be valid, must be written and signed by the SMR or his/her authorized representative. Buyer reserves the right to change or amend the SMR or his/her contact information at any time provided notification is sent to Seller within ten (10) days of any such change.
- (b) Except as otherwise provided herein, all notices to be furnished by Seller to Buyer shall be in writing and sent to Buyer's SMR via e-mail addressed to the SMR or via US Mail addressed to the SMR at Buyer's Address.

COUNTERFEIT WORK

- (a) For purposes of this clause, Work consists of those parts delivered under this Subcontract that are the lowest level of separately identifiable items (e.g., articles, components, goods, and assemblies). "Counterfeit Work" means Work that: (1) is or contains items misrepresented as having been designed and/or produced under an approved system or other acceptable method; (2) is not genuine and authentic; or (3) has reached a design life limit or has been damaged beyond possible repair, but is altered and misrepresented as acceptable.
- (b) Seller agrees and shall ensure that Counterfeit Work is not delivered to Buyer under this Subcontract.
- (c) If Seller becomes aware or suspects that it has furnished any Counterfeit Work to Buyer, Seller shall immediately notify Buyer. When requested by Buyer, Seller shall provide Buyer with OCM/OEM documentation that authenticates traceability of the parts, components, or equipment to the applicable OCM/OEM.
- (d) In the event Work delivered under this Subcontract constitutes or includes Counterfeit Work, Seller shall, at its sole cost and expense, promptly replace such Counterfeit Work with genuine and authentic Work conforming to all requirements of this Subcontract. Buyer shall be under no obligation to return suspect or confirmed Counterfeit Work. Notwithstanding any clause or provision in this Subcontract to the contrary, Seller shall be liable, without limitation, to Buyer for all costs and expenses relating to the investigation, analysis, and disposition (including removal and replacement) of Counterfeit Work. The remedies contained in this paragraph are in addition to any other remedies Buyer may have at law, equity, or under other provisions of this Subcontract.
- (e) This clause applies in addition to any quality provision, specification, statement of work, or other provision included in this Subcontract addressing the authenticity of Work. To the extent such provisions conflict with this clause, this clause prevails.
- (f) Seller shall include this clause or an equivalent provision in all lower-tier subcontracts for the delivery of items that will be furnished to, or included in Work furnished to, Buyer under this Subcontract.

DIMINISHING MANUFACTURING SOURCES AND MATERIAL SHORTAGES/LIFETIME BUY

At any time during the life of this Subcontract, if Seller becomes aware of diminishing manufacturing sources or material shortages related to any Work to be provided under this Subcontract, Seller shall immediately notify Buyer in writing.

DISPUTES

- (a) All disputes, controversies, or claims arising out of or in connection with this Subcontract, or the breach, termination, or invalidity thereof, that after good faith negotiations cannot be resolved by the Parties, may be resolved by submitting the dispute, controversy, or claim to a court of competent jurisdiction or, if agreed upon by the Parties, an arbitration proceeding.
- (b) Pending final resolution or settlement of any dispute arising under this Subcontract, Seller shall proceed diligently with the performance of this Subcontract as directed by Buyer.

ELECTRONIC CONTRACTING

The Parties agree that if this Subcontract is transmitted electronically neither Party shall contest the validity of this Subcontract, or any acknowledgment thereof, on the basis that this Subcontract or the acknowledgment contains an electronic signature.

EXPORT CONTROL

- (a) Seller agrees to comply with all applicable U.S. export control laws and regulations including, but not limited to, the requirements of: (1) the Arms Export Control Act (22 U.S.C. 2751-2799) as amended, including the International Traffic in Arms Regulations ("ITAR") (22 C.F.R. 120-130) as amended; (2) the Export Administration Act (50 U.S.C. 2401-2420) as amended, including the Export Administration Regulations (15 C.F.R. 730-774) as amended; and (3) Department of Defense Directive 5230.25, Withholding of Unclassified Technical Data from Public Disclosure. Seller agrees that it shall not transfer any export-controlled item, data, or services, to include transfer to foreign persons employed by, associated with, or under contract to Seller or Seller's Subcontractors, without the authority of an export license, agreement, or applicable exemption or exception
- (b) Seller agrees to notify Buyer if any deliverable under this Subcontract is restricted by export control laws or regulations.
- (c) Seller shall immediately notify Buyer if Seller is, or becomes: (1) listed in any Denied Parties List or if Seller's export privileges are otherwise denied, suspended, or revoked in whole or in part by any Government entity or agency; (2) listed as a Specially Designated National by the U.S. Office of Foreign Assets Control; or (3) involved in any violation or potential violation of the ITAR that may affect Seller's performance of this Subcontract.
- (d) If Seller is engaged in the business of either exporting or manufacturing (whether exporting or not) defense articles or furnishing defense services, Seller represents that it is registered with the Directorate of Defense Trade Controls, as required by the ITAR, and it maintains an effective export/import compliance program in accordance with the ITAR.
- (e) Where Seller is a signatory under a Buyer export license or export agreement, Seller shall provide prompt notification to Buyer in the event of changed circumstances including, but not limited to, ineligibility, a violation or potential violation of the ITAR, or the initiation or existence of a Government investigation into Seller's export/import practices that could affect Seller's performance under this Subcontract. (f) Seller shall be responsible for all losses, costs, claims, causes of action, damages, liabilities, and expenses, including attorney's fees, all expenses of litigation and/or settlement, and court costs, arising from any failure of Seller to comply with this clause.
- (f) Seller shall be responsible for all losses, costs, claims, causes of action, damages, liabilities and expense, including attorney's fees, all expense of litigation and/or settlement, and court costs, arising from any act or omission of Seller, its officers, employees, agents, suppliers, or subcontractors at any tier, in the performance of any of its obligations under this clause.

EXTRAS

Work shall not be supplied in excess of quantities specified in this Subcontract. Seller shall be liable for handling charges and return shipment costs for any excess quantities, unless agreed to in writing by Buyer.

FAIR LABOR STANDARDS ACT

Seller represents that all Work provided under this Subcontract has, where applicable, been manufactured in compliance with all terms, rules, and regulations issued under the Fair Labor Standards Act of 1938 ("FLSA"), as amended. The administration and enforcement of the FLSA is the responsibility of the U.S. Department of Labor, and any questions as to the requirements of the FLSA or its applicability to Work provided under this Subcontract should be addressed to the Administrator, Wage and Hour Division, U.S. Department of Labor, Washington, D.C., 20210, or to a Labor Department Regional Office.

FORCE MAJEURE

- (a) Neither Party shall be liable for damages for delay in delivery arising out of causes beyond its reasonable control and without its fault or negligence including, but not limited to, acts of God or of the public enemy, acts of any U.S. or foreign governmental authority, fires, floods, epidemics, quarantine restrictions, strikes, embargoes, or unusually severe weather.
- (b) If the delay in delivery is caused by the delay of a Subcontractor of Seller and if such delay arises out of causes beyond the reasonable control of both Seller and the Subcontractor, and without fault or negligence of either of them, Seller shall not be liable to Buyer in damages unless the articles or services to be furnished by the Subcontractor were obtainable from other sources in sufficient time to permit Seller to meet the required delivery schedule. Seller shall notify Buyer in writing within ten (10) days after the beginning of any such delay.

FURNISHED PROPERTY

- (a) Buyer may provide to Seller property owned by either Buyer or Buyer's Customer ("Furnished Property"). Furnished Property shall be used only for the performance of this Subcontract. (b) Seller shall clearly mark, maintain an inventory of, and keep segregated or identifiable all Furnished Property. Seller assumes all risk of loss, destruction, or damage to Furnished Property, except reasonable wear and tear, while in Seller's possession, custody, or control. Seller shall manage, maintain, and preserve Furnished Property in accordance with good commercial practices.
- (b) Title to Furnished Property shall not be affected by the incorporation or attachment of such property to any property not owned by Buyer or Buyer's Customer, nor shall Furnished Property, or any part thereof, be or become a fixture or lose its identity due to its attachment to Seller's realty. Seller shall immediately notify Buyer if Furnished Property is lost, damaged, or destroyed. Seller shall include nothing in its prices for direct damage insurance on Furnished Property.
- (c) As directed by Buyer and/or upon completion, termination, or cancellation of this Subcontract, Seller shall submit, in an acceptable form, an inventory list of Furnished Property in Seller's possession and shall promptly deliver Furnished Property in Seller's possession, to the extent such property has not been incorporated into Work delivered to Buyer, to Buyer or make such other disposal as may be directed by Buyer. Particularly, Seller shall promptly return to Buyer all drawings, specifications, and other data furnished by Buyer in connection herewith, together with all copies or reprints then in Seller's possession and control. Further, Seller shall thereafter make no further use of nor disclose to others any such drawings, specifications, data, or documents, or any information derived there from, without Buyer's prior written consent.
- (d) Buyer shall have the right to enter Seller's premises at reasonable times to inspect Furnished Property and Seller's records pertaining to such property. At the request of Buyer, Seller shall execute any documents including, but not limited to, financial statements, required by Buyer to protect Buyer's and/or Buyer's Customer's interest in Furnished Property.
- (e) Seller's obligations under this clause shall survive termination or completion of this Subcontract until such time that Seller shall deliver Furnished Property to Buyer or be relieved of this responsibility as directed in writing from Buyer.

GRATUITIES/KICKBACKS

- (a) Seller shall not offer or give a kickback or gratuity (in the form of entertainment, gifts, or otherwise) for the purposes of obtaining or rewarding favorable treatment as a LOCKHEED MARTIN supplier.
- (b) By accepting this Contract, Seller certifies and represents that it has not made or solicited and will not make or solicit kickbacks in violation of FAR 52.203-7 of the Anti-Kickback Act of 1986 (41 USC 51-58), both of which are incorporated herein by this specific reference, except that paragraph (c)(1) of FAR 52.203-7 shall not apply.

HAZARDOUS MATERIALS AND DANGEROUS GOODS

Packaging, packing, marking, labeling, shipping paper designations and certifications, handling, and movement of materials ordered herein shall be in accordance with all relevant and applicable U.S. laws and regulations, including 49 C.F.R., Subt B, Ch. I, Subch. C, and all international regulations (e.g., International Air Transport Association ("IATA") or International Maritime Dangerous Goods ("IMDG")) covering shipments of dangerous goods or hazardous materials.

- (a) Chemical Substances:
 - a. Seller represents that each chemical substance constituting or contained in Work sold or otherwise transferred to Buyer hereunder is on the list of chemical substances compiled and published by the U.S. Environmental Protection Agency ("EPA") pursuant to the Toxic Substances Control Act (15 U.S.C. 2601-2692) as amended.
- (b) Material Safety Data Sheet:
 - a. Prior to shipping hazardous materials (solids, liquids, cryogenic liquids, gases) hereunder, Seller shall provide Buyer with a copy (electronic submittal preferred) of the Material Safety Data Sheet ("MSDS") for each material, inclusive of all required information as described in 29 C.F.R. 1910.1200 as amended. Seller also shall include one (1) hard copy of the MSDS with the shipment of the material(s).
- (c) Definitions:
 - a. A hazardous material is a material which:
 - i. Is defined as a hazardous material by the Occupational Safety and Health Act of 1970, U.S. Department of Transportation, EPA, IATA, IMDG, or any other federal, state, or local environmental, health, or safety agency;
 - ii. In the course of normal operations or foreseeable emergencies, may produce dusts, gases, vapors, mists, fumes, or smoke; or
 - iii. If used without special precautions, would constitute a health or physical hazard to humans.
- (d) Where two (2) or more hazardous materials are supplied separately or in kit form for the purpose end compound, which is the result, in whole or in part, of a chemical reaction, Seller shall provide one for each component part.
- (e) Proprietary or trade secret information about products containing a hazardous material, as defined 42 U.S.C. 11043, 40 C.F.R. 372.45, and 29 C.F.R. 1910.1200(i), as amended.
- (f) Mandatory resubmission of an MSDS is required with each change in:
 - a. Formulation of combining such materials to form an MSDS for the end compound as well as above, shall be disclosed as required by the material that affects its hazardous characteristics;
 - b. Information regarding the material's hazardous characteristics; and
 - c. Information regarding handling procedures for the material.

- (g) Hazardous Materials Incorporated into Work For materials that do not require an MSDS, Seller agrees to submit a list to Buyer of the hazardous materials, including those considered as ingredients, with their common chemical names and percentage of content of each to be incorporated into Work provided under this Subcontract. A statement shall be made to the effect that the degree of toxicity will not be increased by making any change in the composition without first advising Buyer. All shipments CONTAINING hazardous materials shall be clearly marked in accordance with all applicable federal, state, and local regulations. (d) Ozone Depleting Substances Seller shall label products which contain or are manufactured with ozone depleting substances in the manner and to the extent required by 40 C.F.R. Part 82, Subpart E, as follows:

WARNING: Contains (or manufactured with, if applicable) * _____, a substance(s) which harm(s) public health and environment by destroying ozone in the upper atmosphere.

*Seller shall insert the name of the substance(s).

INDEPENDENT CONTRACTOR RELATIONSHIP AND SELLER PERSONNEL

- (a) Seller's relationship to Buyer shall be that of an independent contractor and this Subcontract does not create an agency, partnership, or joint venture relationship between Buyer and Seller or Buyer and Seller personnel. Seller is not granted and shall not exercise the right or authority to assume or create any obligation or responsibility including, without limitation, contractual obligations and obligations based on warranties or guarantees, on behalf of or in the name of Buyer. Seller shall not misrepresent its authority to any third-party. Personnel supplied by Seller hereunder shall be deemed employees of Seller and shall not for any purposes be considered employees or agents of Buyer. Seller assumes full responsibility for the actions and supervision of such personnel while performing Work under this Subcontract. Buyer assumes no liability for Seller personnel.
- (b) Seller shall inform Buyer if a former employee of Buyer or its parent or any subsidiary will be assigned Work under this Subcontract, and any such assignment shall be subject to Buyer's consent.
- (c) Nothing contained in this Subcontract shall be construed as granting to Seller or any Seller personnel rights under any Buyer benefit plan.
- (d) Seller shall ensure that Seller personnel assigned to work on Buyer's or Buyer's Customer's premises comply with any on-premises guidelines and:
- a. Do not bring weapons of any kind onto Buyer's or Buyer's Customer's premises;
 - b. Do not manufacture, sell, distribute, possess, use, or be under the influence of controlled substances or alcoholic beverages while on Buyer's or Buyer's Customer's premises;
 - c. Do not possess hazardous materials of any kind on Buyer's or Buyer's Customer's premises without Buyer's authorization;
 - d. Remain in authorized areas only;
 - e. Not conduct any non-Buyer related business activities (such as interviews, hiring's, dismissals, or personal solicitations) on Buyer's or Buyer's Customer's premises;
 - f. Not send or receive non-Buyer related mail through Buyer's or Buyer's Customer's mail systems; and
 - g. Not sell, advertise, or market any products or memberships, or distribute printed, written, or graphic materials, on Buyer's or Buyer's Customer's premises without Buyer's written permission or as permitted by law.
 - h. All persons, property, and vehicles entering or leaving Buyer's or Buyer's Customer's premises are subject to search.
 - i. Seller shall promptly notify Buyer and provide a report of any accidents or security incidents involving loss of or misuse or damage to Buyer's or Buyer's Customer's intellectual or physical assets.
 - j. Prior to entry on Buyer's or Buyer's Customer's premises, Seller shall coordinate with Buyer to gain access to facilities. Seller shall provide information reasonably required by Buyer or Buyer's Customer to ensure proper identification of Seller personnel including, but not limited to, verification of citizenship, lawful permanent resident status, protected individual status, comply with all Buyer or Buyer's Customer security, safety, rules of conduct, badging and personal on Buyer's or Buyer's Customer's premises, or other status. Seller personnel shall identify, and related requirements while
- (e) Seller personnel shall:
- a. Not remove Buyer or Buyer's Customer assets from Buyer's or Buyer's Customer's premises without Buyer's authorization;
 - b. Use Buyer or Buyer's Customer assets only for purposes of this Subcontract;
 - c. Only connect with, interact with, or use computer resources, networks, programs, tools, or routines that Buyer agrees are needed to provide services related to this Subcontract; and
 - d. Not share or disclose Buyer or Buyer's Customer user identifiers, passwords, cipher keys, or computer dial port telephone numbers. Buyer may periodically audit Seller's data residing on Buyer or Buyer's Customer information assets.
- (f) Buyer may, at its sole discretion, have Seller remove any specified employee of Seller from Buyer's premises and request that such employee not be reassigned to Buyer's premises for Work under this Subcontract. (j) Violation of this clause may result in termination of this Subcontract in addition to any other remedy available to Buyer at law or in equity.
- (g) Seller shall reimburse Buyer or Buyer's Customer for any unauthorized use of Buyer or Buyer's Customer assets. Seller shall be responsible for and indemnify, defend, and hold harmless Buyer (and Buyer's affiliates and their respective directors, officers, employees, and agents) and Buyer's Customer from and against all losses, costs, claims, causes of action, damages, liabilities, and expenses, including attorney's fees, all expenses of litigation and/or settlement, and court costs, by reason of property damage or loss or injury or death to any person caused in whole or in part by the actions or omissions of Seller or Seller personnel.
- a. Seller shall indemnify, defend, and hold harmless Buyer (and Buyer's affiliates and their respective directors, officers, employees, and agents) from and against any actual or alleged liability, losses, costs, damages, attorneys' fees, and other expenses which Buyer may sustain or incur in consequence of.

INFORMATION OF BUYER

- (a) Information provided by Buyer to Seller remains the property of Buyer. Seller agrees to keep confidential and otherwise protect from disclosure all information obtained by Seller from Buyer in connection with this Subcontract and identified by Buyer as confidential or proprietary including, but not limited to, information subject to a non-disclosure agreement between the Parties. Unless otherwise expressly authorized herein or by Buyer, Seller shall use such information, and any other information provided by Buyer to Seller, only in the performance of and for the purposes of this Subcontract. Seller shall maintain data protection processes and systems sufficient to adequately protect Buyer's information and comply with any law or regulation applicable to such information.
- (b) If Seller becomes aware of any compromise of information provided by Buyer to Seller (an "Incident"), Seller shall take appropriate immediate actions to investigate and contain the Incident and any associated risks, and shall promptly notify Buyer of the Incident. As used in this clause "compromise" means that any information provided by Buyer has been exposed to unauthorized access, inadvertent disclosure, known misuse, loss, destruction, or alteration other than as required to perform Work. Seller shall additionally provide its reasonable cooperation to Buyer in any investigation Buyer may conduct regarding the nature and scope of an Incident. Any costs that may be incurred by Buyer or Seller for investigative or remedial actions related to an Incident shall be borne by Seller.
- (c) Any Buyer provided information identified as proprietary, confidential, or subject to restrictions on public disclosure by law or regulation shall be encrypted by Seller:
 - a. If transmitted via the Internet;
 - b. During electronic storage if potentially accessible by the Internet or otherwise by non-authorized users.
- (d) Upon Buyer's request, and in any event upon the completion or cancellation of this Subcontract, Seller shall return to Buyer all confidential or proprietary information provided by Buyer to Seller or make such other disposition as may be directed by Buyer. In all subcontracts issued by Seller for performing Work, Seller shall, with Buyer's prior written consent, be permitted to disclose Buyer's information under the same obligations as are contained in this clause.
- (e) Seller shall be liable to Buyer for any loss of Buyer's confidential or proprietary information provided by Buyer to Seller
- (f) Prior to commencement of Work, Seller shall have a written agreement with all Seller personnel performing services hereunder sufficient to enable Seller to comply with this clause.
- (g) The provisions in this clause are in addition to and do not alter, change, or supersede any obligations contained in any non-disclosure agreement between the Parties.

INFORMATION OF SELLER

Seller shall not provide any confidential or proprietary information to Buyer without prior execution of a non-disclosure agreement by the Parties.

INSPECTION OF WORK (ACCEPTANCE/REJECTION)

- (a) Buyer and Buyer's 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 Subcontract. Buyer's final inspection and acceptance shall be at destination. Acceptance is not conclusive as to latent defects, fraud, or gross mistakes amounting to fraud.
- (c) If any Work delivered by Seller to Buyer is found to be defective in material or workmanship, or otherwise not in conformity with this Subcontract, Buyer may, in addition to any other remedies available at law or at equity:
 - a. Accept all or part of such Work at an equitable price reduction;
 - b. Reject such Work; or
 - c. Require Seller, at Seller's cost, to make all repairs, modifications, or replacements at the direction of Buyer necessary to enable such Work to comply in all respects with the requirements of this Subcontract, in a reasonable timeframe as determined by Buyer.
 - d. Replaced or repaired Work shall be subject to the provisions of this clause to the same extent as original Work.
- (d) Except as otherwise specified in this Subcontract, Seller shall:
 - a. Bear all risks as to rejected Work after notice of rejection;
 - b. Pay all shipping costs on rejected Work; and
 - c. Not re-tender rejected Work without disclosing the corrective action taken.

INSURANCE

Seller shall be solely responsible for any and all third-party liability incurred by it in connection with the performance of this Subcontract.

INTELLECTUAL PROPERTY

- (a) Seller agrees that Buyer shall be the owner of all inventions, data, copyrights, reports, technology, designs, works of authorship, mask works, technical information, computer software, business information, and other information conceived, developed, or otherwise generated in the performance of this Subcontract by or on behalf of Seller. Seller hereby assigns and agrees to assign all right, title, and interest in the foregoing to Buyer including, without limitation, all copyrights, patent rights, and other intellectual property rights therein and further agrees to execute, at Buyer's request and expense, all documentation necessary to perfect Buyer's title in the same.
- (b) Seller shall promptly disclose to Buyer in writing any invention, data, copyright, report, technology, design, work of authorship, mask work, technical information, computer software, business information, or other information conceived, developed, or otherwise generated in the performance of this Subcontract by or on behalf of Seller.

- (c) Seller shall maintain and disclose to Buyer written records of, and otherwise provide Buyer with full access to, the subject matter covered by this clause. All such subject matter shall be deemed information of Buyer and subject to the protection provisions of the clause entitled "Information of Buyer." Seller agrees to assist Buyer, at Buyer's request and expense, in every reasonable way, in obtaining, maintaining, and enforcing patent and other intellectual property protection on the subject matter covered by this clause.
- (d) Seller warrants that Work performed or delivered under this Subcontract shall not infringe or otherwise violate the intellectual property rights of any third-party in the U.S. or any foreign country. Seller agrees to defend, indemnify, and hold harmless Buyer (and Buyer's affiliates and their respective directors, officers, employees, and agents) and Buyer's Customer from and against any claims, damages, losses, costs, and expenses, including attorney's fees, arising out of any action by a third-party that is based upon a claim that Work performed or delivered under this Subcontract infringes or otherwise violates the intellectual property rights of any third-party. Seller shall report to Buyer promptly and in reasonable written detail each notice or claim of infringement or other violation of the intellectual property rights of any third-party arising out of the performance of this Subcontract of which Seller has knowledge. In the event of any claim or suit against Buyer on account of any infringement or other violation of the intellectual property rights of any third-party arising out of the performance of this Subcontract, Seller shall furnish to Buyer, when requested, all evidence and other information in Seller's possession pertaining to such suit or claim.
- (e) To the extent that any pre-existing inventions, technology, designs, works of authorship, mask works, technical information, computer software, and other information or materials are used, included, or contained in Work performed or delivered under this Subcontract and not owned by Buyer pursuant to this or a previous agreement with Seller, Seller grants to Buyer an irrevocable, nonexclusive, world-wide, royalty-free license to: (1) make, have made, sell, offer for sale, use, execute, reproduce, display, perform, distribute (internally or externally) copies of, and prepare derivative works based upon, such pre-existing inventions, technology, designs, works of authorship, mask works, technical information, computer software, and other information or materials and derivative works thereof; and (2) authorize others to do any, some, or all of the foregoing.
- (f) All reports, memoranda, or other materials in written form, including machine readable form, prepared by Seller pursuant to this Subcontract and furnished to Buyer by Seller hereunder shall become the sole property of Buyer.

MAINTENANCE OF RECORDS (Applies if this Subcontract is a time-and-material or labor-hour type contract.)

- (a) Seller shall maintain complete and accurate records in accordance with generally accepted accounting principles to substantiate Seller's charges hereunder. Such records shall include, but not be limited to, applicable financial, proposal, procurement, specifications, production, inspection, test, quality, shipping and export, and certification records, as well as time sheets, job cards, phone bills, travel receipts, and job summaries. Unless a longer period is required by law, Seller shall retain such records for four (4) years from final payment under this Subcontract, or such longer period that is agreed upon by the Parties.
- (b) Buyer shall have access to such records, and any other records Seller is required to maintain under this Subcontract, for the purpose of audit during normal business hours, upon reasonable notice and at no cost to Buyer, for so long as such records are required to be retained.
- (c) *All records shall be shredded after the retention period has expired.*

NEW MATERIALS

Work to be delivered under this Subcontract shall consist of new materials, not used, reconditioned, remanufactured, or of such age as to impair such materials' usefulness or safety.

NOTICE OF LABOR DISPUTES

Whenever Seller has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this Subcontract, Seller shall immediately give notice thereof, including all relevant information relating thereto, to Buyer.

OCCUPATIONAL SAFETY AND HEALTH ACT (OSHA) COMPLIANCE

Any Work furnished by Seller pursuant to this Subcontract shall comply with the Occupational Safety and Health Act of 1970 and regulations issued pursuant thereto, collectively referred to as "OSHA." Seller agrees to repair, modify, or replace any Work not complying with OSHA at Seller's sole cost and expense, and to hold harmless and indemnify Buyer (and Buyer's affiliates and their respective directors, officers, employees, and agents) from any liability and expense (including attorney's fees) by reason of property damage or personal injury (including death) occasioned in whole or in part from a violation of OSHA.

PACKAGING AND SHIPMENT

- (a) Unless otherwise specified, all Work shall be packed in accordance with the best available commercial practices and in compliance with applicable federal, state, and local transportation regulations. Seller is solely liable for packaging design. Seller shall reimburse Buyer for any expense incurred by Buyer as a result of improper preservation, packaging, packing, or marking. Unless otherwise specified, prices include all charges for packing, shipping, hauling, storage, and transportation to the point of delivery.
- (b) Seller shall ship all Work to the destination specified by Buyer in this Subcontract. Buyer reserves the right to specify the mode of shipment.
- (c) A complete packing list shall be enclosed with all shipments. All shipping documents, shipping labels, packing sheets and lists, and Bills of Lading, as well as any interior and exterior containers, shall show full and complete information, where applicable, as to the names and addresses of consignor and consignee, Subcontract number, Subcontract line item number, dates of shipment, serial number of the item being shipped, and quantity.
- (d) Unless otherwise specified, if any transportation charges paid by Seller are subject to reimbursement, Seller shall show such charges on its invoice as a separate line item with the freight bill receipt attached accordingly.

PAYMENTS, PRICES, AND TAXES

- (a) All payments are contingent on acceptance of Work by Buyer and Buyer's Customer.

- (b) Invoices shall be submitted to Buyer within ten (10) days after shipment. Invoices shall be supported by documents in such form as Buyer may reasonably request and shall bear such certification as may be required by law, regulation, or this Subcontract. Draft invoices will not be accepted. Seller shall issue separate invoices for each shipment. All invoices shall include full and complete information, where applicable, as to the amount of material shipped, Subcontract number, Subcontract line item number, dates of shipment, serial number of the item being shipped, and quantity.
- (c) Each payment made shall be subject to reduction for amounts which are found by Buyer or Seller not to have been properly payable and shall also be subject to reduction for overpayments. Seller shall promptly notify Buyer of any such overpayments and remit the amount of the overpayment, except as otherwise directed by Buyer.
- (d) Buyer shall have a right to recoup or setoff, as the case may be, against payments due or at issue under this Subcontract or any other agreement between the Parties.
- (e) Payment shall be deemed to have been made as of the date of mailing of Buyer's payment or electronic funds transfer.
- (f) Unless otherwise specified, prices include all federal, state, and local taxes, duties, tariffs, and similar fees imposed by any government, all of which shall be listed separately on the invoice. Prices shall not include taxes, impositions, charges, and exactions for which Buyer has furnished an exemption certificate.
- (g) No adjustments to the prices, payments, or value of Work shall be made based on the fluctuation in currencies or rates of exchange, unless the Parties agree otherwise.
- (h) Seller warrants that the price of all Work set forth herein does not exceed that price which is charged by Seller to any other customer purchasing similar Work of like quantity, quality, and circumstance.

PRECEDENCE

- (a) Any inconsistencies in this Subcontract shall be resolved in accordance with the following descending order of precedence:
 - a. Face of this Subcontract;
 - b. Any non-disclosure agreement between the Parties;
 - c. This document, including general provisions; and
 - d. Other documents incorporated and made a part of this Subcontract, with such precedence as indicated on the face of this Subcontract.

PRIORITY RATING

If so identified, this Subcontract is a "rated order" certified for national defense use, and Seller shall follow all the requirements of the Defense Priorities and Allocation System Regulation (15 C.F.R. Part 700) as amended.

QUALITY CONTROL

- (a) Seller shall provide and maintain a quality control system to an industry recognized quality standard and in compliance with any other specific quality requirements identified in this Subcontract.
- (b) Records of all quality control inspection work by Seller shall be kept complete and made available to Buyer and Buyer's Customer.

RELEASE OF INFORMATION

Except as required by law, no public release of any information, or confirmation or denial of same, with respect to this Subcontract or the subject matter hereof, will be made by Seller without Buyer's prior written consent. Seller shall not use "M & L Precision Machining, Inc." or any other trademark or logo owned by Buyer (or Buyer's affiliates), in whatever shape or form, without Buyer's prior written consent.

SEVERABILITY

The terms and conditions of this Subcontract are severable, and should any term or provision of this Subcontract be declared invalid or become inoperative for any reason such invalidity or failure shall not affect the validity of any other term or provision of this Subcontract.

STOP WORK

- (a) Buyer may, at any time, by written order to Seller, require Seller to stop all or any part of Work called for by this Subcontract for a period of ninety (90) days after the order is delivered to Seller, and for any further period to which the Parties may agree the written order shall be specifically identified as a "Stop Work Order" issued under this clause. Upon receipt of such an order, Seller shall immediately comply with the order's terms and take all reasonable steps to minimize the incurrence of costs allocable to Work covered by the order during the period of Work stoppage. Within a period of ninety (90) days after a Stop Work Order is delivered to Seller, or within any extension of that period which the Parties shall have agreed, Buyer shall either:
 - a. Cancel the Stop Work Order; or
 - b. Terminate Work covered by such order as provided in the "Termination for Default" or "Termination for Convenience" clause of this Subcontract.
- (b) If a Stop Work Order issued under this clause is canceled or the period of the Stop Work Order or any extension thereof expires, Seller shall resume Work covered by the order. In either event, an equitable adjustment in accordance with the principles of the "Changes" clause of this Subcontract shall be made to the delivery schedule, price, or other provisions(s) affected by the Work stoppage, if applicable, provided that Seller shall submit a claim for equitable adjustment within thirty (30) days after the date of the notice to continue.

SURVIVABILITY

If this Subcontract expires, is completed, or is terminated, Seller shall not be relieved of those clauses:

- (a) Applicable Laws

- (b) Counterfeit Work,
- (c) Electronic Contracting,
- (d) Export Control,
- (e) Furnished Property,
- (f) Obligations contained in the following:
 - a. Independent Contractor Relationship and Seller Personnel
 - b. Information of Buyer
 - c. Insurance
 - d. Intellectual Property
 - e. Maintenance of Records
 - f. Prohibited Software
 - g. Release of Information
 - h. Retention of Records
 - i. Warranty

TERMINATION FOR CONVENIENCE

- (a) Buyer reserves the right to terminate this Subcontract, or any part hereof, for Buyer's convenience. In the event of such termination, Buyer shall terminate by delivering to Seller a notice of termination specifying the extent of termination and the effective date. This notice shall be specifically identified as a "Termination Notice."
- (b) Upon receipt of a Termination Notice and except as otherwise directed by Buyer, Seller shall immediately
 - a. Stop all Work to the extent directed in the Termination Notice;
 - b. Cancel and/or stop work under its subcontracts and orders, to the extent such agreements relate to Work directed to be terminated;
 - c. With Buyer's prior written consent, settle any termination claims made by its Subcontractors related to Work directed to be terminated;
 - d. Exert every effort to realize the maximum salvage from the work-in-process, tools, and manufacturing drawings and data produced or acquired by Seller specifically for Work directed to be terminated;
 - e. Inventory, segregate, and report all property relating to Work directed to be terminated to Buyer;
 - f. Transfer title and deliver to Buyer, as Buyer may direct, all supplies and materials, work-in-process, tools, and manufacturing drawings and data produced or acquired by Seller specifically for Work directed to be terminated; and
 - g. Take such other action as may be necessary or as Buyer may direct in writing to minimize the cost of the termination.
- (c) Subject to the terms of this Subcontract, Seller shall be paid a percentage of this Subcontract's price reflecting the percentage of Work performed prior to the Termination Notice, plus reasonable charges that Seller can demonstrate, to the satisfaction of Buyer using Seller's standard record keeping system, have resulted from the termination. Seller shall not be paid for any Work performed or costs incurred which reasonably could have been avoided. In no event shall Buyer be liable for lost or anticipated profits, or unabsorbed indirect costs or overhead, or for any sum in excess of the total Subcontract price. Seller's termination claim shall be submitted within ninety (90) days from the effective date of the termination.
- (d) Seller shall continue all Work not terminated.

TERMINATION FOR DEFAULT

- (a) Buyer, by written notice to Seller, may terminate the whole or any part of this Subcontract if Seller:
 - a. Fails to comply with any of the terms of this Subcontract, including the delivery schedule;
 - b. Fails to make progress so as to endanger performance of this Subcontract;
 - c. Fails to provide adequate assurance of future performance;
 - d. Files or has filed against it a petition in bankruptcy; or
 - e. Becomes insolvent or suffers a material adverse change in financial condition.
- (b) Seller shall have ten (10) days (or such longer period as Buyer may authorize in writing) to cure any such failure after receipt of notice from Buyer. Seller, however, shall not have the opportunity to cure default relating to delivery schedule delays (i.e., any failure to meet the delivery schedule), bankruptcy, or an adverse change in financial condition.
- (c) If this Subcontract is terminated in whole or in part as provided in this clause, Buyer may procure, upon such terms and in such manner as Buyer may deem appropriate, work similar to that terminated, and Seller shall be liable to Buyer for any incidental and also for direct damages (i.e., excess or re-procurement costs and consequential damages) incurred for such similar work.
- (d) If this Subcontract is terminated in whole or in part as provided in this clause, Seller shall be compensated only for Work actually delivered and accepted. Buyer, however, may withhold from amounts otherwise due Seller such sum, as Buyer determines to be necessary, to protect Buyer against loss because of outstanding liens or claims of former lien holders. Buyer also may require Seller to deliver to Buyer any supplies and materials, manufacturing materials, and manufacturing drawings that Seller has produced or acquired for the terminated portion of this Subcontract. Buyer and Seller shall agree on the amount of payment for these other deliverables.
- (e) If, after notice of termination of this Subcontract as provided in this clause, it is determined for any reason that Seller was not in default or that the default was excusable, the rights and obligations of the Parties shall be the same as if the notice of termination had been issued pursuant to the "Termination for Convenience" clause of this Subcontract.
- (f) 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 by law or in equity or under this Subcontract including, without limitation, cancellation of this Subcontract.
- (g) Seller shall continue all Work not terminated or cancelled.

TIMELY PERFORMANCE

- (a) Seller's timely performance is a critical element of this Subcontract.
- (b) Unless advance shipment has been authorized in writing by Buyer, Buyer may store at Seller's expense, or return, with shipping charges paid by Seller, all Work received in advance of the scheduled delivery date.
- (c) If Seller becomes aware of difficulty in performing Work, including meeting the delivery schedule, Seller shall notify Buyer within five (5) days of any such difficulty, in writing, giving pertinent details. This notification shall not change any delivery schedule.
- (d) In the event of a termination pursuant to the "Termination for Convenience" clause of this Subcontract or a Buyer-directed change pursuant to the "Changes" clause of this Subcontract, no claim shall be allowed for any manufacture or procurement in advance of Seller's normal flow time unless Buyer has provided prior written consent.

TITLE AND RISK OF LOSS

Unless otherwise specified in this Subcontract, where applicable, title to any Work covered by this Subcontract shall pass to Buyer upon Buyer's final acceptance of such Work, regardless of when or where Buyer takes physical possession. Risk of loss or damage to Work shall remain with Seller until:

- (a) Final acceptance by Buyer or receipt of Work by Buyer at the destination specified in this Subcontract, whichever is later, regardless of the point of inspection.
- (b) Notwithstanding the above, the risk of loss or damage to Work that fails to conform, so as to give rise to Buyer's right of rejection, shall remain with Seller until cure and final acceptance.

WAIVER, REVIEWS, APPROVALS, AND REMEDIES

- (a) Failure by either Party to enforce any of the provisions of this Subcontract or applicable laws shall not constitute a waiver of the requirements of such provisions or laws, or a waiver of the right of a Party thereafter to enforce such provisions or laws.
- (b) Buyer's review or approval of any Work hereunder, or of any designs, drawings, specifications, or documents prepared hereunder, shall not relieve Seller of any of its obligations under this Subcontract, nor excuse or constitute a waiver of any defects or nonconformities in any Work furnished under this Subcontract, nor change, modify, or otherwise affect any of the provisions of this Subcontract including, but not limited to, the prices and delivery schedules contained herein.
- (c) The rights and remedies of the Parties set forth in this Subcontract are cumulative and in addition to any other rights or remedies that they may have at law or in equity.

WARRANTY

- (a) Seller warrants that all Work furnished pursuant to this Subcontract shall strictly conform to applicable specifications, drawings, samples, descriptions, and other requirements of this Subcontract and be free from defects in design, material, and workmanship. This warranty shall begin upon final acceptance and extend for a period of one (1) year.
- (b) If any nonconforming Work is identified within the warranty period, Seller, at Buyer's option, shall promptly repair, replace, or re-perform such Work. Transportation of replacement Work, return of nonconforming Work, and re-performance of Work shall be at Seller's expense. If repair, replacement, or re-performance of Work is not timely, Buyer may elect to return, re-perform, repair, replace, or re-procure the non-conforming Work at Seller's expense. All warranties run to Buyer and Buyer's Customer.
- (c) No inspection, test, or approval of any kind, including approval of designs, shall affect Seller's obligation under this clause. Repaired, replaced, or re-performed Work shall be subject to the provisions of this clause to the same extent as the original Work, except that the warranty shall run from the last delivery date.