

**SOFTWARE MAINTENANCE ADDENDUM**  
**FIRM FIXED PRICE ORDER FOR COMMERCIAL ITEMS – NON-U.S. GOVERNMENT**  
**Northrop Grumman Systems Corporation**

**THIS ADDENDUM MUST BE USED IN CONJUNCTION WITH NG CTM-P-ST-005**

THE FOLLOWING TERMS AND CONDITIONS SHALL PREVAIL TO THE EXTENT THEY CONFLICT WITH NG CTM-P-ST-005 OR ANY OTHER TERMS AND CONDITIONS GOVERNEING THIS AGREEMENT. FURTHERMORE, THIS ADDENDUM CONTAINS ADDITIONAL TERMS AND CONDITIONS UNIQUE TO THE ABOVE INDICATED COMMODITY. ALL NON-CONFLICTING TERMS AND CONDITIONS IN THE NG CTM-P-ST-005 SHALL REMAIN IN FULL FORCE UNLESS OTHERWISE INDICATED HEREIN.

**CLAUSE TITLE AND NUMBER**

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**ADDITIONS AND MODIFICATIONS TO GENERAL PROVISIONS:**

**1. DEFINITIONS (MODIFICATION TO CLAUSE 1 OF CTM-P-ST-005)**

- A. "Buyer," "Customer," "Licensee," or "Lessee" means Northrop Grumman Systems Corporation, unless a different legal entity is identified on the face of this Order, in which case "Buyer," "Customer," "Licensee," or "Lessee" shall mean such other entity.
- B. "Seller" means the party with whom Customer is contracting and any reference to "vendor," "subcontractor," "contractor" or "supplier" shall also mean Seller. Any reference to Seller shall also be understood to include Seller's employees.

**3. ORDER OF PRECEDENCE (MODIFICATION TO CLAUSE 3 OF CTM-P-ST-005)**

In the event of any inconsistency between any parts of this Order, the inconsistency shall be resolved by giving precedence in the following order:

- a. Change Order Document
- b. Order Document
- c. Commodity Specific Addendum (This document)
- d. Order Terms & Conditions (CTM-P-ST-005)
- e. Statement of Work
- f. Specifications/Drawings
- g. Quality/Mission Assurance Requirements
- h. Supplier Data Requirements List (SDRL)/Data Item Description (DID)
- i. Other Referenced Documents

**5. SUBCONTRACTING (ADDITION TO CLAUSE 5 OF CTM-P-ST-005)**

- C. Any subcontract awarded to a foreign person, as defined in the International Traffic in Arms Regulations or the Export Administration Regulations, must comply with the Export and Import Compliance clause herein.

**15. DISPUTES (MODIFICATION TO CLAUSE 15 OF CTM-P-ST-005)**

- B. If a dispute cannot be resolved to both Parties' mutual satisfaction, after good faith negotiations, within ninety (90) days from the date the written claim is received by the other Party, or such additional time as the Parties agree upon in writing, either Party may bring suit only in the state or federal court located in Los Angeles County, California. Seller consents to personal jurisdiction for this purpose in Los Angeles County, California.
- D. Buyer and Seller hereby waive their respective right to trial by jury of any cause of action, claim, counterclaim or cross-complaint in any action, proceeding or hearing brought by either Seller against Buyer or Buyer against Seller on any matter whatsoever arising under, relating to, or in any way connected with this Order, the relationship of Seller and Buyer or any claim of injury or damage, or the enforcement of any remedy under any law, statute or regulation now or hereafter in effect.

**22. INFORMATION OF BUYER AND SELLER (MODIFICATION/ADDITION TO CLAUSE 22 OF CTM-P-ST-005)**

- B. Seller shall make no use, either directly or indirectly, of any of Buyer's Proprietary Information or any information derived therefrom, except in performing this Order, without obtaining Buyer's written consent and shall return Buyer's Proprietary Information upon Buyer's request. The foregoing limitation on disclosure and use shall not apply to Data or information which (i) was in the rightful possession of the receiving Party without restriction, prior to the first receipt from the disclosing Party; or (ii) now or hereafter, through no act or failure to act on the part of the receiving Party, becomes generally known and available to the public without restriction; or (iii) is hereafter disclosed and made available to a receiving Party without restriction by others having the right to make such disclosure.
- H. Seller further hereby grants to Buyer a non-exclusive, irrevocable, worldwide, right and license to copy, modify, use and disclose to the U.S.G. or any higher tier contractor, any information received from Seller, including Seller Proprietary Information, for the performance of this Order and any higher tier contract from which this Order is issued.
- I. Notwithstanding the foregoing, nothing in this clause is intended to affect the rights or exercise of rights, if any, obtained by the U.S. Government under the "Rights in Technical Data – Noncommercial Items" clause, DFARS 252.227- 7013, and "Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation" clause, DFARS 252.227-7014, or any

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similar or successor clauses, or other clauses that may be contained in any contracts or subcontracts between Buyer and Seller and any customer.

**25. INTELLECTUAL PROPERTY INDEMNIFICATION (ADDITION TO CLAUSE 25 OF CTM-P-ST-005)**

- B. Seller shall indemnify, defend, and hold harmless Buyer, its directors, officers, employees, consultants, agents, affiliates, successors, permitted assigns and customers ("Indemnitees") from and against all claims, suits, actions, awards (including, but not limited to, awards based on intentional infringement of patents known at the time of such infringement, exceeding actual damages and/or including attorney's fees and/or costs), liabilities, damages, costs and attorney's fees related to the actual or alleged infringement of any U.S. or foreign intellectual property right (including, but not limited to, any right in a patent, **trademark**, copyright, industrial design or semiconductor mask work, or based on misappropriation or wrongful use of information or documents) and arising out of the performance of Seller under this Order or the manufacture, sale or use of Products delivered by Seller under this Order, or the provision of Services by Seller under this Order, by either Buyer or Buyer's customer ("Infringement Claims"). Buyer and/or its customer will duly notify Seller of any such Infringement Claim and Seller will, at its own expense, fully defend such Infringement Claim on behalf of the Indemnitees. Seller will have no obligation under this clause with regard to any infringement arising from (a) the compliance of Seller's new Product design with formal specifications issued by Buyer where infringement could not be avoided in complying with such specifications or (b) use or sale of Products for other than their intended application in combination with other items when such infringement would not have occurred from the use or sale of those Products solely for the purpose for which they were designed or sold by Seller.

**31. COMPLIANCE WITH LAWS (ADDITION TO CLAUSE 31 OF CTM-P-ST-005)**

- D. Seller shall not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin and warrants compliance with Section 508 of the Rehabilitation Act. Where applicable, the Supplier agrees to provide products and services which are Section 508 compliant and agrees to provide a Voluntary Product Accessibility Template® (VPAT®) to Customer Representatives, if requested.

**ADDITIONAL PROVISIONS APPLICABLE TO COMMODITY:**

**61. APPLICABILITY TO SOFTWARE LICENSE AGREEMENT**

During the warranty period of any agreement between Vendor and Customer pertaining to the Software described in the Purchase Order, all of the provisions of this Agreement shall be applicable without additional charge.

**62. CHARGES**

Computation. Charges shall be as stated in the Purchase Order. These charges shall cover all Services provided under this Agreement, and all charges shall be paid in accordance with the payment terms referenced in the purchase order.

**63. CONFIDENTIALITY OF VENDOR'S INFORMATION**

Customer hereby agrees that it shall use reasonable efforts to avoid disclosure of Vendor's proprietary/confidential information to any third party other than Buyer's consultants, agents and representatives having access to Customer proprietary data. Further, Vendor agrees that all such proprietary/confidential information shall be marked with a stamp or legend indicating its confidential/proprietary nature. For the purposes of the Agreement, the term "reasonable efforts" shall mean that Customer shall treat such proprietary/confidential information in accordance with Customer's procedures regarding vendor/customer proprietary information. Further, Customer shall have the right to copy the Software for backup and archival purposes.

Customer shall not be liable for use or disclosure of any such proprietary information if the same is:

- i. In the public domain at the time it was disclosed;
- ii. Known to the party receiving it at the time of disclosure;
- iii. Used or disclosed inadvertently provided the appropriate degree of care is exercised;
- iv. Used or disclosed with the prior written approval of the other party;
- v. Independently developed by the receiving party;
- vi. Becomes known to the receiving party without similar restrictions from a source other than the disclosing party having the right to disclosure.

**64. DATA BREACH NOTIFICATION**

Seller will promptly notify Buyer of any actual or potential exposure or misappropriation of Buyer data ("breach") that comes to Seller's attention. Seller will cooperate with Buyer and in investigating any such breach, at Seller's expense. Seller will likewise cooperate with Buyer and, as applicable, with law enforcement agencies in any effort to notify injured or potentially injured parties, and such cooperation will be at Seller's expense, except to the extent that the breach was caused by Buyer. The remedies and obligations set forth in this subsection are in addition to any others Buyer may have, including, but not limited to, any requirements in the "Privacy, Confidentiality, and Security" provisions of this Agreement.

**65. DATA CONTROL**

Seller will have policies and procedures in place to protect any data that Buyer provides, including destruction methods employed and how audit and system log information is protected. Buyer may upon request, review Seller's applicable policies and procedures.

**66. DIVESTITURES – IT PRODUCTS & SERVICES**

- A. Upon Buyer's divestiture of any affiliate, division, business unit, line of business or sector ("divested entity"), Buyer may assign in whole or in part the software and/or maintenance services that are the subject of this order to that divested entity. Upon execution of an assignment, Buyer shall have no further rights or obligations with respect to the assigned licenses and/or services (with the exception of any unpaid license and/or maintenance service fees which remain due on the effective date of such assignment) and the divested entity shall become the "customer" of record for those assigned licenses and/or services. Any such assignment or other transfer of licenses to the software and/or maintenance services made to a third party will be subject to the prior written consent of Seller/licensor which consent will not be unreasonably withheld or delayed.
- B. Divested entities will have the right, for a period of twelve (12) months post-divestiture, to continue to purchase the software products and/or maintenance services covered under this order, or Buyer may purchase such licenses under this order on behalf of the divested entities. If a divested entity wishes to order from Seller directly, Seller reserves the right to require such divested entity to provide financial information sufficient to determine creditworthiness before accepting any orders.
- C. For software. In the event of a divestiture, Buyer shall be permitted to use the software products to provide managed services for the divested entity during a period of transition, provided that Buyer's use in such case is only for the divested entity. Once the transition period ceases, Buyer shall assign the licenses to the divested entity as provided in the "divestiture" provision in this purchase order.
- D. Buyer shall have the unrestricted right to transfer the software license(s) to its parent and/or any subsidiary or affiliate of Buyer upon

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written notification to Seller/licensor of such transfer without payment of additional costs or fees provided that the number of licenses transferred does not exceed the Buyers total licensed count. In each such instance, Buyer shall inform Seller/licensor of the transfer, and shall provide details on the name and address of assignee, including which products (and how many licenses of each) are being transferred.

**68. MERGERS AND ACQUISITIONS – IT PRODUCTS AND SERVICES**

- A. If Buyer merges with or acquires entities that have existing licensed software, the merged, or acquired entity's licenses will terminate upon completion of the acquisition or merger and the merger/acquired entity's licenses will be combined with Buyer's existing licenses of the same license type under the terms of this purchase order, provided that Buyer and the merged/acquired entity are both current on maintenance and there are no outstanding receivables against either account. There shall be no transfer fee for combining the licenses, provided; however, that Buyer will true up the merged or acquired licenses to match Buyer's software configuration and license type(s). Maintenance will continue on the combined number of users. Buyer may, at its option, permit an acquired entity to continue to operate its existing software as a standalone operation, but subject to the terms of this purchase order at no additional cost other than continued maintenance fees.
- B. If Buyer merges with or acquires an entity or entities that have a need for Seller's products and services, Buyer and the acquired entity will be permitted to make purchases using this purchase order and price discounts in support of the acquired entity. If under any existing purchase order with an acquired entity or entities Seller currently provides or agrees to provide maintenance services, Buyer and Seller will negotiate a combined maintenance agreement sufficient to cover the combined companies so as to avoid any disruption in service.
- C. In the event Northrop Grumman acquires a company that has a pre-existing contract with Seller at lower pricing than incorporated in this Agreement, then subject to agreement by manufacturer(s) supporting the pre-existing contract (if applicable), the Parties shall amend this Award to incorporate the lower pricing and/or better discounts.

**71. PRODUCT VULNERABILITIES**

Within 24 hours of confirming vulnerability in their product line, Seller shall notify Buyer and provide a corrective action plan to address the issue. This plan should include, but not be limited to: identification of the specific vulnerability; steps to isolate and prevent further occurrences; replacement of the defective product(s); enhanced quality control procedures.

**72. RENEWAL OF THE AGREEMENT**

The Customer shall have the option, exercisable by notice given to the Vendor thirty (30) days prior to the expiration of any term of this Agreement, to renew this Agreement for annual periods. No work shall be performed by Vendor after expiration of this Agreement.

**73. REPORTING – IT SOFTWARE**

For software. Upon request, Seller will submit within 48 hours a copy of the testing procedures and test results used for the product(s) being procured.

**74. SERVICE RESPONSIBILITIES OF THE VENDOR**

- A. Maintenance. Vendor shall maintain the Software so that it operates in conformity with all descriptions and specifications herein and in the application Software License or Purchase Agreement, including specifications for the performance of all improved or modified versions of the Software which the Customer has been licensed to use. Vendor shall correct all errors discovered by the Customer or Vendor.
- B. Support and Response Time. In the event that Customer detects any error, defect or non-conformity in the Software, Vendor shall furnish complete off-site telephone support, in the form of consultations, assistance and advice on the use and maintenance of the Software, within eight (8) hours of Customer's request therefore. In the event that such problem in the Software is not corrected within twenty-four (24) hours of the initiation of such off-site telephone support, Customer may submit to Vendor a listing of output and all such other data conditions similar to those present when the error, defect or nonconformity was discovered. In the event that such problem is not corrected within five (5) working days after Vendor receives from Customer a listing of output and other data, Vendor shall within the next twenty-four (24) hours provide on-site Service. Vendor shall implement temporary work around procedures and shall demonstrate to Customer the good faith and diligent initiation and prosecution of corrective measures for all such problems involving the Software within seventy-two (72) hours of the commencement of such on-site Services. In the event it is determined that the problem was due to Customer error in the use of the Software, as opposed to an error, defect or nonconformity in the Software itself, Customer shall pay Vendor Vendor's standard commercial time and materials rates or such rate as may be established by Customer and Vendor for the reasonable value of the on-site Service provided plus Vendor's reasonable travel and per diem expenses if said costs and expenses are authorized in writing by Customer.

**75. SERVICES – SOFTWARE**

- A. In consideration of the payments to be made to the Vendor, the Vendor agrees to provide the services (the "Services") described in this Agreement, including the Purchase Order or in any attachment hereto, with respect to the software (the "Software") as referenced herein. The location(s) at which the Services shall be performed, and the term of this Agreement, shall be as set forth in the Purchase Order.

**76. SOFTWARE CHAIN OF CUSTODY**

Seller represents and warrants that it has policies and procedures in place to ensure that software code used to develop product(s) has been within Seller's configuration management and control during the entire development process. Should Buyer determine that Seller has supplied product(s) that have failed or do not properly function (i.e. harmful/malicious code embedded into software) due to lapses in the chain of custody, Buyer shall promptly notify Seller and Seller shall at its own expense immediately replace the defective product(s) with product(s) that conform to the software documentation specifications.

**79. TERMINATION/CANCELLATION – SOFTWARE MAINTENANCE**

- A. Termination-Convenience. The performance of Services under this Agreement may be terminated, in whole or in part, by Customer for Customer's convenience at any time and for any reason on Customer giving written termination notice to Vendor and shall pay to Vendor termination charges computed in the following manner; (1) a sum computed and substantiated in accordance with standard accounting practices for those reasonable costs incurred by Vendor prior to the date of termination for completed Services, Services in process, materials directly related to the Agreement, for orderly phase out of performance as requested by Customer in order to minimize the costs of the termination and for preparation and settlement of Vendor's termination claim and (2) a reasonable profit on such Services performed; provided, however, that Customer shall not be liable to Vendor for any costs which would not have been charged had the agreement not been terminated nor for any sum in excess of the total price stated in the Agreement for the terminated Services.
- B. Cancellation-Default. Except in the case of delay or failure resulting from circumstance beyond the control and without the fault or negligence of Vendor or of its suppliers or subcontractors, Customer shall be entitled, by written cancellation notice to Vendor, to cancel the whole or any part of this Agreement for default, without granting an extension of time, and to have all other rights against Vendor by reason of Vendor's default as provided by law. If it be found that Vendor was not in default, the rights and obligations of the parties shall be the same as if a Notice of Cancellation had been issued pursuant to Clause A above, Termination- Convenience.
- C. Other. By written notice to Vendor, Customer may cancel the whole or part of this Agreement in the event of suspension of Vendor's business, insolvency of Vendor, institution of bankruptcy, reorganization, arrangement, liquidation proceedings by or against Vendor or proceedings for the benefit of creditors or for any failure by Vendor to provide adequate assurances (as provided for in Uniform Commercial

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Code, section 2-609) of its ability or willingness to perform its obligations under this Agreement. Such cancellation shall be deemed “for default” in accordance with paragraph B. of this Termination/Cancellation clause and the rights and obligations of the parties shall be determined as therein provided.

- D. Vendor shall also be deemed in default if the Software program continues to exhibit defects causing serious disruption of use and/or repeated periods of downtime, notwithstanding Vendor’s remedial or maintenance efforts, over a continuous period of three months or more.
- E. Rights and Obligations of the Parties on Termination. In the event that this Agreement is terminated, each party shall forthwith return to the other all papers, materials, and other properties of the other party then in its possession or certify to the destruction of same.
- F. Refund of Payments. The Vendor shall, upon termination by Customer due to default by Vendor, and in addition to any other remedies at law or in equity available to Customer, return payments it received under this Agreement. The refund of monies paid hereunder shall not be deemed the exclusive remedy of Customer in the event of a default or breach of this Agreement by Vendor.

**82. WARRANTIES - SOFTWARE**

- A. The Vendor warrants that it will maintain the Software so that such Software will be free from all programming errors and from defects in workmanship and materials and shall conform to the performance capabilities, specifications, functions and other descriptions and standards applicable thereto as set forth in the Software License or Purchase Agreement applicable to the Software, and so that the Software will operate in conformity with all improvements, additions, or modifications of the Software installed at Customer’s site or sites. The Services will be performed in a timely and professional manner by qualified maintenance technicians familiar with the Software and its operation, and the Services shall conform to the standards generally observed in the industry for similar services.
- B. This warranty shall not be affected by Customer’s modification of the Software (including source code) so long as Vendor can discharge its warranty obligations notwithstanding such modifications or following their removal by Customer.
- C. The performance of the Services by Vendor will not in any way constitute infringement or other violation of any copyright, trade secret, trade-mark, patent, invention, proprietary information or nondisclosure rights of any third party.