

## REPAIR AND CALIBRATION SERVICES AGREEMENT

**THIS REPAIR AND CALIBRATION SERVICES AGREEMENT** (this "Agreement") dated as of the date specified on the face of the Agreement, is between Northrop Grumman Systems Corporation, acting by and through its Aerospace Systems sector ("NGAS" or "Seller") a Delaware corporation, and the party identified on the face of this Agreement ("Buyer"). In consideration of the premises and other good and valuable consideration had and received, the parties hereby agree as follows:

### **ARTICLE I: Equipment and Services**

**1.1 Services:** At Buyer's request, NGAS will provide perform the services described on the face of this Agreement ("Services") by the time so indicated, in accordance with the terms set forth in this Agreement. Shipping of equipment by Buyer to NGAS shall also constitute Buyer's acceptance of these terms and conditions.

**1.2 Relationships of Parties:** NGAS will perform all services as an independent contractor. Neither the making of this Agreement nor the performance of any part of the provisions hereof shall be construed to establish a partnership or joint venture relationship.

**1.3 Purchase Order:** Buyer shall submit an order for each performance of service(s) hereunder in purchase order ("P.O.") form which references this Agreement and specifies the desired delivery date for the item to be serviced.

### **ARTICLE II: Payment**

**2.1 Price:** For the services performed, Buyer will pay NGAS the price identified on the face of this Agreement. Prices are F.O.B. NGAS's plant in Redondo Beach, CA.

**2.2 Taxes:** NGAS's prices are exclusive of any federal, state, or local sales, use or excise taxes levied upon, or measured by, the sale, the sale price, or use of goods required in the performance of this Agreement.

### **ARTICLE III: Warranty and Liability**

**3.1 Warranties:** NGAS warrants that all services shall be free from defects in workmanship for a period of thirty (30) days after delivery of items identified on the face hereof to Buyer. If within 30 days of delivery NGAS receives notice from Buyer of defective workmanship with respect to a service, NGAS's sole obligation shall be either to re-perform the service or to refund the amount paid by Buyer. NGAS shall have no other obligation or liability whatsoever with respect to any defective material(s) or service. Materials to be replaced or Items for which services are to be re-performed shall be shipped by Buyer to NGAS's plant in Redondo Beach, California or to such location as NGAS may designate. Buyer will prepay freight and insurance of such shipment. Buyer shall provide returned items to NGAS in such a state that NGAS may inspect the item, immediately upon NGAS's receipt thereof. NGAS will prepay all freight and insurance costs of the return shipment of the replaced or re-serviced items, as the case may be. Any item(s) re-serviced shall be warranted only for the remaining period of the original warranty

THIS AGREEMENT DOES NOT GRANT ANY OTHER WARRANTY OR GUARANTEE OR MAKE ANY REPRESENTATIONS, EITHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, WHETHER ARISING BY LAW, CUSTOM, CONDUCT OR USAGE OF TRADE. THE RIGHTS AND REMEDIES PROVIDED HEREIN ARE EXCLUSIVE AND IN LIEU OF ANY OTHER RIGHTS OR REMEDIES. THIS WARRANTY SHALL NOT BE VALID IF THE ITEMS THAT ARE THE SUBJECT MATTER OF THIS AGREEMENT HAVE BEEN SUBJECTED TO ABUSE, MISUSE, ACCIDENT, ALTERATION, NEGLIGENCE, UNAUTHORIZED REPAIR, OR EXPOSURE TO CONDITIONS BEYOND THE APPLICABLE ENVIRONMENT.

**3.2 Limitation of Liability:** NGAS's liability on any claim of any kind (excluding bodily injury or death) whether based on contract, warranty, tort (including negligence), strict liability or otherwise, for any loss or damage arising out of, connected with, or resulting from this Agreement, or from the performance or breach thereof, or from all Services and items covered by or furnished under this Agreement, shall in no case exceed the price of the specific service or item which gives rise to the claim.

In no event will NGAS be liable for special, incidental, punitive, exemplary or consequential damages, however caused, including, but not limited to, loss of profits or revenue. In the event Buyer employs the services of a third party by contract and in connection with this Agreement, Buyer shall obtain from such third party a provision affording NGAS the protection of this paragraph 3.2.

**3.4 Inspection:** If this Agreement is to be performed on premises under Seller's control, Buyer shall, subject to NGAS rules and requirements regarding safety and security, at all reasonable times during the period of performance, have access to and the right to inspect all services being performed hereunder.

### **ARTICLE IV: Miscellaneous**

**4.1 Waivers:** Failure by either party to insist upon strict performance of any provision of this Agreement by the other party shall not be deemed to be a waiver by such party of its rights or remedies, or a waiver by it of any subsequent default by the other party in the performance of or compliance with any of the terms of this Agreement.

**4.2 Severability:** If any provision of this Agreement shall finally be determined to be unenforceable, such provision shall be deemed to be severed from this Agreement and every other provision of the Agreement shall remain in full force and effect.

**4.3 Export Sales:** All sales hereunder shall at all times be subject to the export control laws and regulations of the United States government and any amendments thereto. Buyer agrees that it shall not make any disposition, by way of transshipment, re-export, diversion or otherwise, except as such laws and regulations may expressly permit, of items or the results of services that are the subject matter of this Agreement, other than in and to the ultimate country of destination specified in this Agreement.

**4.4 Choice of Law:** This Agreement shall be construed in accordance with the laws of the State of California excepting those that relate to conflict of laws.

**4.5 Force Majeure:** NGAS shall be excused from liability for non-delivery, delay in delivery, or delivery of nonconforming goods or services arising from any events beyond its control, whether or not they were foreseeable by either party when entering into this Agreement, specifically including but not limited to, war, riot, strikes, lockouts, labor disturbances, or acts of God.

**4.6 Shipping Instructions:** In the absence of special instructions by Buyer, all packing materials and methods and the carrier and type of conveyance shall be selected by NGAS, which selection shall conform to standard commercial practices of NGAS for domestic or international (as the case may be) shipment of goods so as to minimize damage to the items in transit.

**4.7 Risk of Loss:** Buyer shall bear all risk of loss and/or damage to items, except if caused by NGAS's gross negligence.

**4.8 Insurance:** If in the performance of this Agreement, Buyer, Buyer's Customer, or a third party is required to work in and/or enter premises occupied by or under the control of NGAS or to use or operate property furnished by NGAS, Customer shall procure and maintain during the entire performance period of this Agreement, public liability, property damage and Worker's Compensation insurance. Each of the terms will be incorporated as part of the certificate of insurance prepared by Customer:

Buyer shall maintain the following insurances: (1) Worker's or Workmen's Compensation Insurance within statutory limits as required by the laws of the state in which the work is performed and such insurance shall provide waiver of subrogation against Buyer, including All State and Voluntary Compensation endorsement; (2) Employer's Liability Insurance with a limit of \$1,000,000; (3) Comprehensive General Liability Insurance, including (i) Operations and Premises Liability (with elevator liability), (ii) Completed Operations and Product Liability (maintained in effect for a period of five years after the date of final payment), (iii) Personal Injury Liability, (iv) Contractual Liability, and (v) Broad Form Property Damage Liability (including for completed operations), on an occurrence basis in an amount of a combined single limit of not less than \$5,000,000 per occurrence; and (4) Comprehensive Automobile Liability Insurance, including (i) personal injury and (ii) property damage, to cover (a) owned automobiles, (b) automobiles under long-term lease, (c) hired automobiles, (d) employer's non-ownership liability, (e) medical payments, and uninsured motorists, in the amount of a combined single limit of not less than \$2,000,000 per occurrence.

Such insurance coverage as is required under this Agreement shall be in a form and with insurance carriers satisfactory to Buyer and without additional cost to Buyer as a price adjustment, unless otherwise expressly provided for elsewhere within this Agreement. Such insurance shall protect (i) Customer, (ii) Buyer, (iii) any other party expressly designated by Buyer elsewhere within this agreement, from claims that arise out of or result from operations by (i) Customer under this Agreement, or (ii) any lower-tier subcontractor(s) of Customer, or (iii) anyone directly or indirectly employed by any of them, or (iv) anyone for whose acts any of them may be liable.

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Customer shall have all liability insurance required under this Agreement amended or endorsed to name Buyer as an additional insured and to indicate that, with respect to the additional insured, there shall be severability of interest. As evidence of said coverage, Customer shall forward certificates of insurance, or copies of insurance policies, to Buyer, which instruments shall contain a provision requiring notification of Buyer in writing of any cancellation or non-renewal of said coverage not less than thirty days before its effectively.

If Customer fails to purchase or maintain liability insurance required under this Agreement, Buyer may, but is not obligated to, purchase such insurance on Customer's behalf and shall be entitled to be repaid for any premiums paid therefore by Buyer.

**4.9 Indemnification:** Buyer agrees to defend, indemnify and hold harmless NGAS and their respective affiliates, officers, directors, employees, shareholders and agents, from and against all losses, costs, expenses, damages, suits or liability of any nature incurred as a result of personal injury or property damage arising out of Buyer's conduct, negligence, willful misconduct or caused by Buyer's property or property under the responsibility of Buyer.

**4.10 Final Agreement:** This agreement merges all prior discussions and is the entire understanding and agreement of the parties; neither party shall be bound by additional or other representation, condition, or promise except as subsequently set forth in writing signed by the party to be bound.