

**LOCKHEED MARTIN CORPORATION**

**CORPDOC 3SER**

**GENERAL PROVISIONS AND FAR FLOWDOWN PROVISIONS FOR  
SUBCONTRACTS/PURCHASE ORDERS FOR NON-COMMERCIAL SERVICES UN  
DER A U.S. GOVERNMENT PRIME CONTRACT (ALL AGENCIES)**

**SECTION I - GENERAL PROVISIONS**

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

- (a) This Contract integrates, merges, and supersedes any prior offers, negotiations, and agreements concerning the subject matter hereof and constitutes the entire agreement between the parties.
- (b) SELLER's acknowledgment, acceptance of payment, or commencement of performance, shall constitute SELLER's unqualified acceptance of this Contract.
- (c) Unless expressly accepted in writing by LOCKHEED MARTIN, additional or differing terms or conditions proposed by SELLER or included in SELLER's acknowledgment are objected to by LOCKHEED MARTIN and have no effect.

**2. APPLICABLE LAWS**

- (a) This Contract shall be governed by and construed in accordance with the laws of the State from which this Contract is issued by LOCKHEED MARTIN, without regard to its conflicts of laws provisions, except that any provision in this Contract that is (i) incorporated in full text or by reference from the Federal Acquisition Regulation (FAR); or (ii) incorporated in full text or by reference from any agency regulation that implements or supplements the FAR or; (iii) that is substantially based on any such agency regulation or FAR provision, shall be construed and interpreted according to the federal common law of government contracts as enunciated and applied by federal judicial bodies, boards of contracts appeals, and quasi-judicial agencies of the federal Government.
- (b)(1) SELLER, in the performance of this Contract, agrees to comply with all applicable local, state, and federal laws, orders, rules, regulations, and ordinances. SELLER shall procure all licenses/permits and pay all fees and other required charges, and shall comply with all applicable guidelines and directives of any local, state, and/or federal governmental authority.
- (2) If (i) LOCKHEED MARTIN's contract price or fee is reduced; (ii) LOCKHEED MARTIN's costs are determined to be unallowable; (iii) any fines, penalties or interest are assessed on LOCKHEED MARTIN; or (iv) LOCKHEED MARTIN incurs any other costs or damages; as a result of any violation of applicable laws, orders, rules, regulations, or ordinances by SELLER, its officers, employees, agents, suppliers, or subcontractors at any tier, LOCKHEED MARTIN may proceed as provided for in (4) below.
- (3) Where submission of cost or pricing data is required or requested at any time prior to or during performance of this Contract, if SELLER or its lower-tier subcontractors: (i) submit and/or certify cost or pricing data that are defective; (ii) with notice of applicable cutoff dates and upon LOCKHEED MARTIN's request to provide cost or pricing data, submit cost or pricing data, whether certified or not certified at the time of submission, as a prospective subcontractor, and any such data are defective as of the applicable cutoff date on LOCKHEED MARTIN's Certificate of Current Cost or Pricing Data; (iii) claim an exception to a requirement to submit cost or pricing data and such exception is invalid; (iv) furnish data of any description that is inaccurate; or, if (v) the U.S. Government alleges any of the foregoing; and, as a result, (A) LOCKHEED MARTIN's contract price or fee is reduced; (B) LOCKHEED MARTIN's costs are determined to be unallowable; (C) any

finances, penalties, or interest are assessed on LOCKHEED MARTIN; or (D) LOCKHEED MARTIN incurs any other costs or damages; LOCKHEED MARTIN may proceed as provided for in (4) below.

**(4) Upon the occurrence of any of the circumstances, other than withholdings, identified in paragraphs (2) and (3) above, LOCKHEED MARTIN may make a reduction of corresponding amounts (in whole or in part) in the price of this Contract or any other contract with SELLER, and/or may demand payment (in whole or in part) of the corresponding amounts. SELLER shall promptly pay amounts so demanded. In the case of withholding(s), LOCKHEED MARTIN may withhold the same amount from SELLER under this Contract.**

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

(d) SELLER shall provide to LOCKHEED MARTIN with each delivery any Material Safety Data Sheet applicable to the

## 6. COUNTERFEIT WORK

(a) For purposes of this clause, Work consists of those parts delivered under this Contract that are the lowest level of separately identifiable items (e.g., articles, components, goods, and assemblies). "Counterfeit Work" means Work that is or contains items misrepresented as having been designed and/or produced under an approved system or other acceptable method. The term also includes approved Work that 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 LOCKHEED MARTIN.

(c) SELLER shall only purchase products to be delivered or incorporated as Work to LOCKHEED MARTIN directly from the Original Component Manufacturer (OCM)/Original Equipment Manufacturer (OEM), or through an OCM/OEM authorized distributor chain. Work shall not be acquired from independent distributors or brokers unless approved in advance in writing by LOCKHEED MARTIN.

(d) SELLER shall immediately notify LOCKHEED MARTIN with the pertinent facts if SELLER becomes aware or suspects that it has furnished Counterfeit Work. When requested by LOCKHEED MARTIN, SELLER shall provide OCM/OEM



## 11. EXTRAS

Work shall not be supplied in excess of quantities specified in this Contract. SELLER shall be liable for handling charges and return shipment costs for any excess quantities.

## 12. FURNISHED PROPERTY

(a) LOCKHEED MARTIN may provide to SELLER property owned by either LOCKHEED MARTIN or its customer (Furnished Property). Furnished Property shall be used only for the performance of this Contract.

(b) Title to Furnished Property shall remain in LOCKHEED MARTIN or its customer. SELLER shall clearly mark (if not so marked) all Furnished Property to show its ownership.

(c) Except for reasonable wear and tear, SELLER shall be responsible for, and shall promptly notify LOCKHEED MARTIN of, any loss or damage. Without additional charge, SELLER shall manage, maintain, and preserve Furnished Property in accordance with good commercial practice.

(d) At LOCKHEED MARTIN's request, and/or upon completion of this Contract, the SELLER shall submit, in an acceptable form, inventory lists of Furnished Property and shall deliver or make such other disposal as may be directed by LOCKHEED MARTIN.

(e) The Government Property Clause contained in Section II shall apply in lieu of paragraphs (a) through (d) above with respect to Government-furnished property, or property to which the Government may take title under this Contract.

## 13. GRATUITIES/KICKBACKS

(a) SELLER shall not offer or give a kickback or gratuity (in the form of entertainment, gifts, or otherwise) for the purpose 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 or 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.

## 14. INDEPENDENT CONT

Customer's premises; (ii) do not manufacture, sell, distribute, possess, use or be under the influence of controlled substances or alcoholic beverages while on LOCKHEED MARTIN's or Customer's premises; (iii) do not possess hazardous materials of any kind on LOCKHEED MARTIN's or Customer's premises without LOCKHEED MARTIN's authorization; (iv) remain in authorized areas only; (v) will not conduct any non-LOCKHEED MARTIN related business activities (such as interviews, hirings, dismissals or personal solicitations) on LOCKHEED MARTIN's or Customer's premises, (vi) will not send or receive non-LOCKHEED MARTIN related mail through LOCKHEED MARTIN's or Customer's mail systems; and (vii) will not sell, advertise or market any products or memberships, distribute printed, written or graphic materials on LOCKHEED MARTIN's or Customer's premises without LOCKHEED MARTIN's written permission or as permitted by law.

(e) All persons, property, and vehicles entering or leaving LOCKHEED MARTIN's or Customer's premises are subject to search.

(f) SELLER will promptly notify LOCKHEED MARTIN and provide a report of any accidents or security incidents involving loss of or misuse or damage to LOCKHEED MARTIN's or Customer's intellectual or physical assets, and all physical altercations, assaults, or harassment.

(g) Prior to entry on LOCKHEED MARTIN premises, SELLER shall coordinate with LOCKHEED MARTIN to gain access to facilities. SELLER shall provide information reasonably required by LOCKHEED MARTIN to ensure proper identification of personnel, including, but not limited to verification of citizenship, lawful permanent resident status, protected individual or other status.

(h) SELLER personnel: (i) will not remove LOCKHEED MARTIN or Customer assets from LOCKHEED MARTIN's or Customer's premises without LOCKHEED MARTIN authorization; (ii) will use LOCKHEED MARTIN or Customer assets only for purposes of this Contract; (iii) will only connect with, interact with or use computer resources, networks, programs, tools or routines that LOCKHEED MARTIN agrees are needed to provide services; and (iv) will not share or disclose user identifiers, passwords, cipher keys or computer dial port telephone numbers. LOCKHEED MARTIN may periodically audit SELLER's data residing on LOCKHEED MARTIN's or Customer's information assets.

(i) LOCKHEED MARTIN may, at its sole discretion, have SELLER remove any specified employee of SELLER from LOCKHEED MARTIN's premises and request that such employee not be reassigned to any LOCKHEED MARTIN premises under this Contract.

(j) SELLER shall provide LOCKHEED MARTIN any information about SELLER's personnel that LOCKHEED MARTIN is required by law to obtain, including information on "leased employees" and "management services organization" as these terms are used in Secs. 414(m), (n), and (o) of the Internal Revenue Code.

(k) Violation of this clause may result in termination of this Contract in addition to any other remedy available to LOCKHEED MARTIN at law or in equity. SELLER shall reimburse LOCKHEED MARTIN or Customer for any unauthorized use of LOCKHEED MARTIN or Customer assets.

(l) SELLER shall advise the LOCKHEED MARTIN Procurement Representative of any unauthorized direction or course of conduct.

**(m) SELLER shall be responsible for and hold harmless LOCKHEED MARTIN and its customers from and against all losses, costs, claims, causes of action, damages, liabilities, and expenses, including attorneys fees, all expenses 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 Contract.**

**(n) SELLER shall indemnify and hold harmless LOCKHEED MARTIN from and against any actual or alleged liability, loss, costs, damages, fees of attorneys, and other expenses which LOCKHEED MARTIN may sustain or**



**18. INTELLECTUAL PROPERTY**

(a) SELLER warrants that the Work performed or delivered under this Contract will not infringe or otherwise violate the intellectual property rights of any third party in the United States or any foreign country. Except to the extent that the U.S. Government assumes liability therefor, SELLER agrees to defend, indemnify, and hold harmless LOCKHEED MARTIN and its customers from and against any claims, damages, losses, costs, and expenses, including reasonable attorneys fees, arising out of any action by a third party that is based upon a claim that the Work performed or delivered under this Contract infringes or otherwise violates the intellectual property rights of any person or entity.

(b) SELLER's obligation to defend, indemnify, and hold harmless LOCKHEED MARTIN and its customers under Paragraph (a) above shall not apply to the extent FAR 52.227-1 "Authorization and Consent" applies to LOCKHEED MARTIN's Prime Contract for infringement of a U.S. patent and LOCKHEED MARTIN and its customers are not subject to any actions for claims, damages, losses, costs, and expenses, including reasonable attorneys' fees by a third party.

(c) In addition to the Government's rights in data and inventions SELLER agrees that LOCKHEED MARTIN in the performance of its Prime contract obligation, shall have an unlimited, irrevocable, paid-up, royalty-free right to make, have made, sell, offer for sale, use, execute, reproduce, display, perform, distribute (internally or externally) copies of, and prepare derivative, and authorize others to do any, some or all of the foregoing, any and all, inventions, discoveries, improvements, maskworks and patents as well as any and all data, copyrights, reports, and works of authorship, conceived, developed, generated or delivered in performance of this Contract. SELLER certifies the originality of all deliverable items and states that no portion is protected by any copyright or similar right vested in any third party.

(d) Items delivered under this Contract such as operation and maintenance manuals shall be delivered with the right to copy for internal use and/or copy and deliver with the right to use to LOCKHEED MARTIN's customers.

(e) All reports, memoranda or other materials in written form, including machine readable form, prepared by SELLER pursuant to this Contract and furnished to LOCKHEED MARTIN by SELLER hereunder shall become the sole property of LOCKHEED MARTIN.

**19. MAINTENANCE OF RECORDS**

(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 time sheets, job cards, phone bills, travel receipts and job summaries. SELLER shall retain such records for three (3) years from final payment of this Contract.

(b) LOCKHEED MARTIN shall have access to such records, and any other records SELLER is required to maintain under this Contract, for the purpose of audit during normal business hours, upon reasonable notice for so long as such records are required to be retained.

**20. OFFSET CREDIT/COOPERATION**

This Contract has been entered into in direct support of LOCKHEED2.3( su0002EeiptTc2dt.- 62.e -.4( bcop8imto, pfEth)5.2itedge f





(d) Unless SELLER has obtained LOCKHEED MARTIN's prior written consent, which LOCKHEED MARTIN may withhold in its sole discretion, SELLER shall not use in connection with this Contract, or deliver to LOCKHEED MARTIN, any Prohibited Software.

**(e) SELLER agrees to defend, indemnify, and hold harmless LOCKHEED MARTIN, its customers and suppliers from and against any claims, damages, losses, costs, and expenses, including reasonable attorneys fees, relating to use in connection with this Contract or the delivery of Prohibited Software.**

## **25. QUALITY CONTROL SYSTEM**

(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 Contract.

(b) Records of all quality control inspection work by SELLER shall be kept complete and available to LOCKHEED MA.00a4.1317 -1.14e2ir0002n3ept compc0Fr skec0F307605 -s3(c)5.4(-5.40030003605 -ss LOCKHEE)8(D)-2.7( MARTIN, )-6(it

(b) If SELLER becomes aware of difficulty in performing the Work, SELLER shall timely notify LOCKHEED MARTIN, in writing, giving pertinent details. This notification shall not change any performance schedule.

### **30. WAIVERS, APPROVALS, AND REMEDIES**

(a) Failure by either party to enforce any of the provisions of this Contract or applicable law shall not constitute a waiver of the requirements of such provisions or law, or as a waiver of the right of a party thereafter to enforce such provision or law.

(b) LOCKHEED MARTIN's approval of documents shall not relieve SELLER of its obligation to comply with the requirements of this Contract.

2. "Contract" means this contract.

3. "Contracting Officer" shall mean the U.S. Government Contracting Officer for LOCKHEED MARTIN's government prime contract under which this Contract is entered.

4. "Contractor" and "Offeror" means the SELLER, as defined in this CorpDoc, acting as the immediate subcontractor to LOCKHEED MARTIN.

5. "Prime Contract" means the contract between LOCKHEED MARTIN and the U.S. Government or between LOCKHEED MARTIN and its higher-tier contractor who has a contract with the U.S. Government.

6. "Subcontract" means any contract placed by the Contractor or lower-tier subcontractors under this Contract.

### **C. NOTES**

The following notes apply to the clauses incorporated by reference below only when specified in the parenthetical phrase following the clause title and date.

1. Substitute "LOCKHEED MARTIN" for "Government" or "United States" throughout this clause.

2. Substitute "LOCKHEED MARTIN Procurement Representative" for "Contracting Officer", "Administrative Contracting Officer", and "ACO" throughout this clause.

3. Insert "and LOCKHEED MARTIN" after "Government" throughout this clause.

4. Insert "or LOCKHEED MARTIN" after "Government" throughout this clause.

5. Communication/notification required under this clause from/to the Contractor to/from the Contracting Officer shall be through LOCKHEED MARTIN.

6. Insert "and LOCKHEED MARTIN" after "Contracting Officer", throughout the clause.

7. Insert "or LOCKHEED MARTIN PROCUREMENT REPRESENTATIVE" after "Contracting Officer", throughout the clause.

### **D. AMENDMENTS REQUIRED BY PRIME CONTRACT**

SELLER agrees that upon the request of LOCKHEED MARTIN it will negotiate in good faith with LOCKHEED MARTIN relative to amendments to this Contract to incorporate additional provisions herein or to change provisions hereof, as LOCKHEED MARTIN may reasonably deem necessary in order to comply with the provisions of the applicable Prime Contract or with the provisions of amendments to such Prime Contract. If any such amendment to this Contract causes an increase or decrease in the cost of, or the time required for, performance of any part of the Work under this Contract, an equitable adjustment shall be made pursuant to the "Changes" clause of this Contract.

### **E. PRESERVATION OF THE GOVERNMENT'S RIGHTS**

If LOCKHEED MARTIN furnishes designs, drawings, special tooling, equipment, engineering data, or other technical or proprietary information (Furnished Items) which the U. S. Government owns or has the right to authorize the use of, nothing herein shall be construed to mean that LOCKHEED MARTIN, acting on its own behalf, may modify or limit any rights the Government may have to authorize the Contractor's use of such Furnished Items in support of other U. S. Government prime contracts.

**F. PROVISIONS OF THE FEDERAL ACQUISITION REGULATION INCORPORATED BY REFERENCE**

**1. The following FAR clauses apply to this Contract:**

- (a) FAR 52.211-5 MATERIAL REQUIREMENTS (AUG 2000) (Note 2 applies.)
- (b) FAR 52.215-20 REQUIREMENTS FOR COST OR PRICING DATA OR INFORMATION OTHER THAN COST OR PRICING DATA (OCT 1997) (Note 2 applies.)
- (c) FAR 52.215-21 REQUIREMENTS FOR COST OR PRICING DATA OR INFORMATION OTHER THAN COST OR PRICING DATA - MODIFICATIONS (OCT 1997) (Note 2 applies.)
- (d) FAR 52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS (MAY 2004)
- (e) FAR 52.222-21 PROHIBITION OF SEGREGATED FACILITIES (FEB 1999)
- (f) FAR 52.222-26 EQUAL OPPORTUNITY (MAR 2007)
- (g) FAR 52.222-50 COMBATING TRAFFICKING IN PERSONS (FEB 2009) (Note 2 applies. In paragraph (e) Note 3 applies.)
- (h) FAR 52.222-54 EMPLOYMENT ELIGIBILITY VERIFICATION (JAN 2009)
- (i) FAR 52.225-13 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (JUN 2008)
- (j) FAR 52.227-14 RIGHTS IN DATA - GENERAL (JDEC 2007)
- (k) FAR 52.234-1 INDUSTRIAL RESOURCES DEVELOPED UNDER DEFENSE PRODUCTION ACT TITLE III (DEC 1994) (Notes 1 and 2 apply.)
- (l) FAR 52.242-13 BANKRUPTCY (JUL 1995) (Notes 1 and 2 apply.)
- (m) FAR 52.242-15 STOP-WORK ORDER (AUG 1989) (Notes 1 and 2 apply.)
- (n) FAR 52.243-1 CHANGES - FIXED PRICE (AUG 1987) (ALT I) (APR 1984) (ALT II) (APR 1984) (Notes 1 and 2 apply.)
- (o) FAR 52.244-6 SUBCONTRACTS FOR COMMERCIAL ITEMS (DEC 2009)
- (p) FAR 52.246-2 INSPECTION OF SUPPLIES - FIXED PRICE (A ACT TITLE III (Dt5.5(7)6)



**6. The following FAR clauses apply to this contract if the value of this contract equals or exceeds \$5,000,000.**

(a) FAR 52.203-13 CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT (DEC 2008) (Applicable if the period

- (l) FAR 52.222-41 SERVICE CONTRACT ACT OF 1965 (NOV 2007) (Applicable if this Contract is subject to the Service Contract Act. The clause does not apply if this Contract has been administratively exempted by the Secretary of Labor or exempted by 41 U.S.C. 356, as interpreted in Subpart C of 29 CFR Part 4.)
- (m) FAR 52.223-3 HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA (JAN 1997) (Applicable if this Contract involves hazardous material. Notes 2 and 3 apply, except for paragraph (f) where Note 4 applies.)
- (n) FAR 52.223-7 NOTICE OF RADIOACTIVE MATERIALS (JAN 1997) (Applicable to Work containing covered radioactive material. In the blank insert "30". Notes 1 and 2 apply.)
- (o) FAR 52.223-11 OZONE-DEPLETING SUBSTANCES (MAY 2001) (Applicable if the Work was manufactured with or contains ozone-depleting substances.)
- (p) FAR 52.225-1 BUY AMERICAN ACT -- SUPPLIES (FEB 2009) (Applicable if the Work contains other than domestic components. Note 2 applies to the first time "Contracting Officer" is mentioned in paragraph (c).)
- (q) FAR 52.225-5 TRADE AGREEMENTS (AUG 2009) (Applicable if the Work contains other than U.S. made or designated country end products as specified in the clause.)
- (r) FAR 52.225-8 DUTY FREE ENTRY (FEB 2000) (Applicable if supplies will be imported into the Customs Territory of the United States. Note 2 applies.)
- (s) FAR 52.227-1 AUTHORIZATION AND CONSENT (DEC 2007) (Applicable only if the Prime Contract contains this clause.)
- (t) FAR 52.227-9 REFUND OF ROYALTIES (APR 1984) (Applicable when reported royalty exceeds \$250. Note 1 applies except for the first two times "Government" appears in paragraph (d). Note 2 applies.)
- (u) FAR 52.227-10 FILING OF PATENT APPLICATIONS-CLASSIFIED SUBJECT MATTER (DEC 2007) (Applicable if the Work or any patent application may cover classified subject matter.)
- (v) FAR 52.227-11 PATENT RIGHTS-OWNERSHIP BY THE CONTRACTOR (SHORT FORM) (DEC 2007) (Applicable if this Contract includes, at any tier, experimental, developmental, or research Work ra fothia smRM9s



0024 Tw[aa "tbdes55(, dip55(, dire).55ad0.5byve)e ofe ontr-58v67894Govern20 (1554490-00381403 Tw0200240)

agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on its behalf in connection with the awarding of this contract.

(d) Disclosure. If any registrants under the Lobbying Disclosure Act of 1995 have made a lobbying contact on behalf of the offeror with respect to this contract, Contractor shall complete and submit, with its offer, to LOCKHEED MARTIN OMB

(ii) The IRS has filed a notice of Federal tax lien with respect to an assessed tax liability, and the taxpayer has been issued a notice under I.R.C. Sec. 6320 entitling the taxpayer to request a hearing with the IRS Office of Appeals contesting the lien filing, and to further appeal to the Tax Court if the IRS determines to sustain the lien filing. In the course of the hearing, the taxpayer is entitled to contest the underlying tax liability because the taxpayer has had no prior opportunity to contest the liability. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek tax court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

(iii) The taxpayer has entered into an installment agreement pursuant to I.R.C. Sec. 6159. The taxpayer is making timely payments and is in full compliance with the agreement terms. The taxpayer is not delinquent because the taxpayer is not currently required to make full payment.

(iv) The taxpayer has filed for bankruptcy protection. The taxpayer is not delinquent because

offeror will file and continue to file for such facilities for the life of the contract the Toxic Chemical Release Inventory Form (Form R) as described in sections 313(a) and (g) of EPCRA and section 6607 of PPA; or

(2) None of its owned or operated facilities to be used in the performance of this contract is subject to the Form R filing and reporting requirements because each such facility is exempt for at least one of the following reasons:

(i) The facility does not manufacture, process, or otherwise use any toxic chemicals listed in 40 CFR 372.65;

(ii) The facility does not have 10 or more full-time employees as specified in section 313 (b)(1)(A) of EPCRA 42 U.S.C. 11023(b)(1)(A);

(iii) The facility does not meet the reporting thresholds of toxic chemicals established under section 313(f) of EPCRA, 42 U.S.C. 11023(f) (including the alternate thresholds at 40 CFR 372.27, provided an appropriate certification form has been filed with EPA);

(iv) The facility does not fall within the following Standard Industrial Classification (SIC) codes or their corresponding North American Industry Classification System sectors:

(A) Major group code 10 (except 1011, 1081, and 1094.

(B) Major group code 12 (except 1241).

(C) Major group codes 20 through 39.

(D) Industry code 4911, 4931, or 4939 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce).

(E) Industry code 4953 (limited to facilities regulated under the Resource Conservation and Recovery Act, Subtitle C (42 U.S.C. 6921, et seq.), 5169, 5171, or 7389 (limited to facilities primarily engaged in solvent recovery services on a contract or fee basis); or

(v) The facility is not located in the United States or its outlying areas.