

LOCKHEED MARTIN CORPORATION

PRIME SUPPLEMENTAL FLOWDOWN DOCUMENT (PSFD)

**ADDITIONAL TERMS AND CONDITIONS FOR SUBCONTRACTS/PURCHASE ORDERS
UNDER**

FA 50 Development Subcontract Program

Additional Subcontract Terms and Conditions

Generated using Lockheed Martin CorpDocs 2013 Version

Original

The Terms and Conditions listed below are incorporated by reference and made a part of this Contract. Unless otherwise limited in this Contract, each document applies in its entirety.

In the event of a conflict between the version or date of a clause set forth in this document and the version or date of a clause set forth in the identified CorpDocs, the version or date of the clauses set forth in this document shall take precedence.

To the extent that any clause included in this PSFD is inapplicable to the performance of this Contract, the parties shall consider such clauses to be self-deleting and shall not impose any obligations upon the SELLER.

The attached FA 50 Procurement Special Instruction should be used in conjunction with the applicable CORPDOC 1. The clauses of the applicable CORP DOC 1 are modified as follows below. In the event of a conflict between these modifications and the clauses of the applicable CORPDOC 1, the modifications shall control.

1. Strict adherence to the delivery schedule and all specifications is essential. Any deviation requires Buyer's written approval.
2. Substitute the following change to the length of the warranty in the "WARRANTY" provision:

The warranty shall begin from the date of delivery through 31 August 2012.

3. Add the following clause, "COMPLIANCE WITH ADDITIONAL LAWS:"

If stationed in Korea, Seller and Seller's employees, subcontractors, and employees of Seller's subcontractors shall respect and abide by the laws, regulations, and rules of the Government of the Republic of Korea related to the performance of this Purchase Order.

4. Add the following relating to "PACKING, SHIPMENT, AND SHIPPING INSTRUCTIONS":

(a) Any items which are to be drop shipped to Korea shall be appropriately packed, packaged, and crated by Seller for export shipment in accordance with Seller's standard packing practices assuring seaworthiness to protect the items and to ensure assessment of the lowest applicable transportation charge.

(b) Seller shall notify Buyer of the readiness for shipment of deliverable items.

Such notification shall be made by facsimile at least (14) fourteen days prior to the anticipated shipment date, and shall include the pertinent information listed below:

- (1) Purchase Order number and a brief description of the product to be shipped;
- (2) Estimated value of the shipment;
- (3) Estimated number of crates or boxes;
- (4) Estimated weight and volume;
- (5) Purchase order number;
- (6) Date shipment will be available for pickup; and,
- (7) packing sheet which specifies that goods have been inspected and conform to the applicable specification and drawings.

5. Add the following new clause, "SALES COMMISSIONS AND FEES"

Seller certifies that the Purchase Order price (including any subcontracts awarded hereunder) does not include any direct or indirect costs of sales commissions or brokerage or contingent fees for Seller's sales representatives for the solicitation or promotion or otherwise to secure the conclusion of the sale of any of the supplies or services called for by this Purchase Order to Buyer. Should Seller breach this provision, Buyer shall have the right to deduct such costs from any amounts due Seller.

6. Add the following new clause, "TRANSFER OF INFORMATION"

Seller and Seller's subcontractors agree not to sell or transfer, either directly or through an agent, any of the rights, know how, technical data, technical assistance, or any item which is the subject of this purchase order to the Democratic People's Republic of Korea (North Korea). Any sale or transfer is a material breach of this Purchase Order. Sale or transfer includes a lease or any other assignment of any item which is the subject of this subcontract.

Seller shall not disclose any FA 50 Program Data or any other information or data obtained from or related to the performance of the Purchase Order to any third party except as required in the performance of this Purchase Order and as required by Buyer and/or the United States Government, without prior written consent of Buyer. Said data or information shall be prominently and conspicuously identified as being proprietary with an appropriate legend, stamp, or other marking. The receiving party shall protect the information or data obtained from or related to the performance of this Purchase Order and restrict disclosure only to those persons having a need to know for the performance of this Purchase Order. All employees, agents, contractors, and consultants who receive access to said information, shall execute an agreement of confidentiality. Parties shall store such information or data in a locked file cabinet or desk drawer when not in use.

The Seller may only disclose such information or data to its subcontractors if its subcontractors: 1) execute an agreement with the same obligations concerning the protection of the confidentiality of data as provided in this Purchase Order; and 2) the agreement provides that the subcontractors shall use the information or data only in connection with its work in support of this Purchase Order. The obligation to protect this information or data shall survive the termination or completion of this Purchase Order.

7. Add the following clause: "TECHNICAL DATA OWNERSHIP"

7.1 For purposes of this Subcontract, Technical Data shall consist of either “Program Data” or “Background Data” defined as follows:

“Program Data” shall mean all technical data and/or information conceived using funds from the FA-50 Development Program, which is generated during the performance of the FA-50 Development Program. Said data which is recorded in a tangible medium, such as a written document or a magnetic storage medium shall, to the extent reasonably practicable, be prominently and conspicuously identified as “ROKG FA-50

Program Data.” or “ROKG FA-50 Propriety Program Data.” ROKG FA-50

Propriety Program Data will be handled by SELLER with the same precautions as it handles its own propriety data.

“Background Data” shall mean Technical Data and/or information, other than Program Data, disclosed by one Party (the disclosing Party) to the other Party (the receiving Party) that is originated by or peculiarly within the knowledge of the disclosing Party (or another for whom it may be acting) and that is not generally available to others without compensation. Said data shall be prominently and conspicuously identified as being proprietary to the disclosing Party at the time of disclosure to the receiving Party, by an appropriate legend, stamp, or other marking.

7.2 Ownership and Use of Data

7.2.1 The parties recognize and acknowledge that the ROKG shall own the Program Data and that each Party hereto owns its respective Background Data.

7.2.2 As owner of the Program Data, the ROKG shall have the right to make, use, have made, have used, copy, license, pledge, or sell the Program Data for any purpose whatsoever; provided,

however, that the ROKG, via LM Aero, must obtain the written approval of the USG before exercising this right in any country other than the U.S.A and Korea.

7.2.3 SELLER hereby grants to LM the royalty-free right to make, use, have made, have used, copy, license, pledge, and distribute SELLER Background Data solely in furtherance of the FA-50

Development Program.

7.2.4 Without any payment to the owner, ROKG shall have the right to use Background Data belonging to SELLER for purposes of performing the FA-50 Development Program, but not for release to a third party, except as provided herein. For purposes of this Article, third party does not include other participants in the FA-50

Development Program or derivative aerospace programs within Korea.

7.3 The Parties recognize that written disclosure of Background Data in accordance with this Article is preferable to alternate forms of disclosure. However, disclosures of Background Data, other than in writing or another tangible form, will be entitled to the same protection as set forth in Article 7.4 for written disclosures, provided that:

7.3.1 At the time of first disclosure, the disclosing Party makes clear to the receiving Party the proprietary nature of the Background Data and written notation is made at that time summarizing the Background Data; or

7.3.2 The disclosing Party confirms the disclosure by transmitting the Background Data in written form (identified and marked in accordance with Article 7.1) to the receiving Party within thirty (30) working days after said disclosure.

7.4 The receiving Party shall exercise reasonable care to protect Background Data from disclosure to third parties. At a minimum, reasonable safeguards shall include restricting disclosure of Background Data to only those persons having a need-to-know in furtherance of the FA-50 Development Program and requiring the Background Data to be stored in a locked file cabinet or desk drawer when not in use. In addition, those employees, agents, contractors and consultants who receive access to said data shall execute an agreement of confidentiality with the Party employing the same.

7.5 For purposes of this Subcontract, LM Aero and KAI, the FA 50 prime contractor may disclose Background Data, belonging to the other to third parties as follows:

7.5.1 The receiving Party may incorporate Background Data in a proposal, report or other submittal to the ROKG or USG provided said disclosure bears all appropriate markings prescribed by law or regulation to protect the proprietary nature thereof.

7.5.2 The receiving Party may disclose Background Data to a qualified subcontractor provided: (i) the subcontractor executes an agreement having substantially the same obligations concerning the protection of the confidentiality of the data as provided in this Subcontract; and (ii) said agreement provides that the subcontractor shall use the Background Data only in connection with its work in support of the Parties on the FA-50 Development Program.

7.6 Although the occurrence of the following events shall not relieve the receiving Party from continuing to exercise reasonable care, the receiving Party shall not be liable hereunder for use or disclosure of Background Data if the same:

7.6.1 is not identified as Background Data in accordance with Article 7.1;

or

7.6.2 is inadvertently used or disclosed despite the exercise of the degree of care defined in Article 7.4; or

7.6.3 is readily identifiable in or observable by inspection of publicly available products; or

7.6.4 is available from a public or other lawful source; or

7.6.5 is known to the receiving Party, or is generally known in the industry; or

7.6.6 has been independently developed by the receiving Party.

7.7 Except as expressly stated herein, neither the execution of this Subcontract nor the delivery of any Background Data hereunder shall be construed as granting either expressly or by implication, estoppel, or otherwise, any right in or license under any present or future data, drawings, plans, ideas, or methods disclosed hereunder, or under any invention, patent, copyright, or trade secret now or hereafter owned or controlled by either Party.

7.8 The obligation to protect Background Data received hereunder shall survive any termination of this Subcontract, subject to the limitations specified in this Article 7.

7.9 This Article 7 shall apply in lieu of and notwithstanding any specific terms contained in any legend or statement associated with any particular Background Data received, and the duties of the Parties shall be determined exclusively by the terms and conditions hereof.