



SPECIAL PROVISIONS

**MILITARY SUPPORT PROGRAMS
P5 and Up**

**PRIME CONTRACT SPECIAL PROVISIONS
FLOWDOWN CLAUSES**

Special provisions of the Prime Contract which are required or appropriate to be included in this Contract are as follows:

A. FULL-TEXT CLAUSES.

1. CERTIFICATION OF TECHNICAL DATA CONFORMITY [A.227-023, Oct 1997]

(a) With regard to Defense FAR Supplement (“DFARS”) 252.227-7036, “Declaration of Technical Data Conformity” (JAN 1997), incorporated elsewhere herein, the CONTRACTOR shall identify, by name and title, each individual (official) authorized by the CONTRACTOR to certify in writing that the technical data is complete, accurate, and complies with all requirements of the contract. The CONTRACTOR hereby authorizes direct contact with the authorized individual responsible for certification of technical data. The authorized individual shall be familiar with the CONTRACTOR’s technical data conformity procedures and their application to the technical data to be certified and delivered.

(b) Technical data delivered under this contract may be subject to reviews by LOCKHEED MARTIN and/or the Government during preparation and prior to acceptance. Technical data is also subject to reviews by LOCKHEED MARTIN and/or the Government subsequent to acceptance. Such reviews may be conducted as a function ancillary to other reviews, such as in-process reviews or configuration audit reviews.

(c) All technical data delivered under this contract shall be accompanied by the following written certification:

“The contractor, _____, hereby certifies that, to the best of its knowledge and belief, the technical data delivered herewith under Contract No. _____ is complete, accurate, and complies with all requirements of the Contract.

Name and Title of Authorized Official

Date _____”

2. CHANGES REQUIRING NO EQUITABLE ADJUSTMENT

(a) Purpose. This provision establishes a procedure whereby a contractual amendment will be used both to direct changes of the type specified in the “Changes” clause of this Contract and to settle any question of equitable adjustments that might arise. This procedure shall apply only to those changes which will have no effect on the Contract price.

(b) Procedures. When it is proposed to make a change under the “Changes” clause and both parties hereto can agree that such proposed change will not necessitate any equitable adjustment as contemplated by said clause and this paragraph, the CONTRACTOR shall submit a written proposal or offer to accomplish the proposed change, without an equitable adjustment. If, after receipt of said proposal or offer, the LOCKHEED MARTIN Procurement

Representative determines that no adjustment is necessary, s/he may accept the CONTRACTOR’s proposal or offer by issuing an executed copy of an Amendment to this Contract. The Amendment shall (i) be issued under the “Changes” clause of this Contract; (ii) cite this paragraph; (iii) reference the CONTRACTOR’s proposal or offer; and (iv) direct the changes to be accomplished. The issuance of the Amendment shall constitute acceptance of the CONTRACTOR’s proposal or offer; shall be binding on both parties; and shall constitute a full, complete, and final settlement for the changes directed therein.

3. CONTRACTOR COMPLIANCE WITH ENVIRONMENTAL, OCCUPATIONAL SAFETY AND HEALTH, AND SYSTEM SAFETY REQUIREMENTS [A.223-006, Oct 1997]

(a) In performing work under this Contract, the CONTRACTOR shall comply with:

- (1) All applicable Federal, State, and local environmental, occupational safety and health, and system safety laws, regulations, policies and procedures in effect as of the date the Contract is executed.
- (2) Any regulations, policies and procedures in effect at any Government facility where work will be performed.
- (3) Any contract specific requirements; and
- (4) Any Contracting Officer direction, provided through the LOCKHEED MARTIN Procurement Representative.

(b) Conflicting Requirements. The CONTRACTOR shall provide written notification to the LOCKHEED MARTIN Procurement Representative of any conflicts in requirements. The notification will describe the conflicting requirements and their source; provide an estimate of any impact to the Contract’s cost, schedule, and any other terms and conditions; and provide a recommended solution. The notification will also identify any external organizations that the LOCKHEED MARTIN and/or the Government, or the CONTRACTOR may have to coordinate with in order to implement the solution. The LOCKHEED MARTIN Procurement Representative will review the notification and provide written direction. Until the LOCKHEED MARTIN Procurement Representative issues that direction, the CONTRACTOR will continue performance of the Contract, to the extent practicable, giving precedence in the following order to requirements that originates from:

- (1) Federal, state, and local laws, regulations, policies and procedures;
- (2) Government facility regulations, policies and procedures; and
- (3) Contract specific direction.

(c) Material Condition of Contract. Environmental, occupational safety and health, and system safety requirements are a material condition of the Contract. Failure of the CONTRACTOR to maintain and administer an environmental and safety program that is compliant with the requirements of this Contract shall constitute grounds for termination for default.

(d) The CONTRACTOR shall include this clause in all subcontracts.

4. CONTRACTOR REQUESTS FOR GOVERNMENT-OWNED OR CONTRACTOR-ACQUIRED PROPERTY [A.245-007, Sep 2001]

(a) All contractor-acquired property directly chargeable to this contract by CONTRACTOR or CONTRACTOR's lower-tier subcontractors must be authorized by the contract, and is subject to a determination by the LOCKHEED MARTIN Procurement Representative that it is allocable to the contract and reasonably necessary. The acquisition and/or fabrication of property requires prior LOCKHEED MARTIN approval if the property is not already specifically described in the contract as contractor-acquired.

(b) Upon determination of need for any Government-owned or contractor-acquired property for performance of this contract, CONTRACTOR shall provide to the LOCKHEED MARTIN Procurement Representative a written request justifying the need for the property and the reasons why contractor-owned property cannot be used, citing the applicable FAR or contract authority for use of Government-owned property. Property being acquired as a deliverable end item listed in the contract or as a component for incorporation into a deliverable end item listed in the contract is exempt from this requirement.

(c) CONTRACTOR's request shall include a description of each item in sufficient detail to enable the Government, after LOCKHEED MARTIN's related notice to it, to screen its inventories for available equipment or to purchase the item.

5. COOPERATION WITH GOVERNMENT'S CONTRACTING OFFICER

(a) The Contracting Officer or his representative is authorized to visit CONTRACTOR's facilities, with advance notification, to review progress, discuss problems/failures and witness testing pertaining to the requirements of this Contract.

(b) CONTRACTOR agrees to provide adequate information in response to reasonable requests of such Contracting Officer, or his duly authorized representative, on subcontract performance as required. All such requests for information shall be routed through the LOCKHEED MARTIN Procurement Representative.

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

6. ELIMINATION OF OZONE-DEPLETING SUBSTANCES ("ODS") [A.223-007, Jul 1998]

(a) Use of an Ozone-Depleting Substance ("ODS") (as defined in FAR 23.802) is prohibited under this Contract.

(b) The CONTRACTOR shall notify the LOCKHEED MARTIN Procurement Representative if any ODS is required in the performance of this Contract.

7. ENABLING CLAUSE FOR PRIME AND SUPPORT CONTRACTOR RELATIONSHIPS [A.209-013, Jun 2001]

(a) The Government has or may enter into contracts with certain companies to provide Contracted Advisory and Assistance Services (CAAS) and/or Systems Engineering and Technical Assistance (SETA). If required under the performance of this Contract, the LOCKHEED MARTIN Procurement Representative will verify to the CONTRACTOR that a particular company has such contract with the Government.

(b) In the performance of this contract, the CONTRACTOR agrees to cooperate with the companies identified above (hereafter referred to as CAAS/SETAs). Cooperation includes allowing observation of technical activities by appropriate CAAS/SETA technical personnel; discussing technical matters related to this program; responding to invitations from authorized CAAS/SETA personnel to attend meetings; and providing access to technical information and research and development planning data. The CONTRACTOR shall provide CAAS/SETA personnel access to data such as, but not limited to, design and development analyses; test data and results; equipment and process specifications; test and test equipment specifications; procedures, parts, and quality control procedures; records and data; manufacturing and assembly procedures; and schedule and milestone data. CAAS/SETA personnel engaged in general systems engineering and integration effort are normally authorized access to any technical information pertaining to this contract. However, exceptions, such as the case where the CONTRACTOR seeks to preclude CAAS/SETA personnel from having access to CONTRACTOR trade secrets, will be handled on a case-by-case basis prior to its occurrence. If the CONTRACTOR seeks to limit distribution of data to Government personnel only, the CONTRACTOR must submit this request in writing through the LOCKHEED MARTIN Procurement Representative to the Contracting Officer. **It is agreed that such CAAS/SETA contractors will not have access to corporate financial data of CONTRACTOR or of CONTRACTOR's subcontractors. Financial data for the purposes of this clause do not include contract cost data.**

(c) The CONTRACTOR further agrees to include in each subcontract a clause requiring compliance by the subcontractor and succeeding levels of subcontractors with the response and access provisions of paragraph (b) above, subject to coordination with the CONTRACTOR. This agreement does not relieve the CONTRACTOR of responsibility to manage the subcontracts effectively and efficiently, nor is it intended to establish privity of contract between the Government or CAAS/SETAs and such subcontractors.

(d) CAAS/SETA personnel are not authorized to direct the CONTRACTOR in any manner.

(e) CAAS/SETA contracts will contain an organizational conflict of interest clause that requires the CAAS/SETA contractor to protect contract data and prohibits the CAAS/SETA contractors from using such data for any purpose other than that for which the data was presented.

8. FINANCIAL REPORTING OF CONTRACT-ACCOUNTABLE PROPERTY [A.245-008, Jun 2003]

(a) The contractor shall submit quarterly reports of all property accountable to this contract and in the possession of the contractor and/or sub-contractors. Reports shall be submitted to the LOCKHEED MARTIN Procurement Representative not later than the tenth (10th) day after the end of the following reporting periods:

- (1) First Quarter: 1 September – 30 November
- (2) Second Quarter: 1 December – 28 February
- (3) Third Quarter: 1 March – 31 May
- (4) Annual Report: 1 June – 31 August

(b) Submit each report electronically, uploading full line-item detail into the Consolidated Contractor Database (CCD) as specified by the LOCKHEED MARTIN Procurement Representative. Each item must include a data field containing the appropriate Program Code to identify the program under which

the item was originally acquired, or to designate the item as "non-program." For each non-program item with a value of \$100,000 or more (capital asset) acquired during the reporting period, the contractor must also upload an electronic copy of the invoice or other valuation documentation in accordance with directions from the LOCKHEED MARTIN Procurement Representative.

(c) The contractor shall submit a final report within twenty-five (25) days after completion of the contract period of performance and within 25 days after disposition of all contract-accountable property.

9. IDENTIFICATION OF PROMOTIONAL ITEMS [A.245-006, Dec 2000]

Within twenty (20) days after receipt, CONTRACTOR shall identify in writing to the LOCKHEED MARTIN Procurement Representative any stand-alone promotional items received in conjunction with the purchase of government-furnished property or contractor-acquired property.

10. ORGANIZATIONAL CONFLICTS OF INTEREST: GENERAL [A.209-008, Mar 1996]

(a) The CONTRACTOR warrants that, to the best of its knowledge and belief, there are no relevant facts that could give rise to Organizational Conflicts of Interest, as defined in FAR 9.501. Or, alternatively, the CONTRACTOR warrants that it has disclosed all relevant information regarding any actual or potential organizational conflict of interest.

(b) The CONTRACTOR agrees that if an Organizational Conflict of Interest with respect to this Contract is discovered during its performance, an immediate and full disclosure in writing shall be made to the LOCKHEED MARTIN Procurement Representative. Such notification shall include a description of the action which the CONTRACTOR has taken or proposes to take to avoid, neutralize or mitigate such conflicts. The CONTRACTOR shall continue performance until notified by the LOCKHEED MARTIN Procurement Representative of any contrary actions to be taken. LOCKHEED MARTIN may, however, terminate the Contract for its convenience if it deems such termination to be in the best interest of the Government.

(c) If the CONTRACTOR was aware of an organizational conflict of interest before award of this Contract and did not fully disclose the conflict to the LOCKHEED MARTIN Procurement Representative, LOCKHEED MARTIN may terminate the Contract for default.

(d) The CONTRACTOR shall insert a clause containing all the terms and conditions of this clause in all subcontracts for work to be performed similar to the services provided by the CONTRACTOR, and the terms "contract," "contractor," and "LOCKHEED MARTIN Procurement Representative" modified appropriately to preserve the Government's rights.

(e) Before a contract modification is made that adds new work or significantly increases the period of performance, the CONTRACTOR shall agree to submit either an organizational conflict of interest disclosure or representation or an update of a previously submitted disclosure or representation, if requested by LOCKHEED MARTIN.

(f) CONTRACTOR further agrees that the Government may periodically review CONTRACTOR's compliance with these provisions or require such self-assessments or additional certifications as the Government deems appropriate.

11. PERSONAL CONDUCT [A.203-003, May 2003]

(a) The CONTRACTOR, its employees, and its lower tier subcontractors shall comply with the conduct requirements in effect at the Government's work-site. The Government reserves the right to exclude or remove from the work-site any employee of the CONTRACTOR or of a subcontractor whom the Government deems careless, uncooperative, or whose continued employment on the work-site is deemed by the Government to be contrary to the public interest.

(b) The CONTRACTOR shall inform its employees that the Government has a zero tolerance policy for harassing behavior. Any CONTRACTOR or lower tier subcontractor's employee determined by the Government to have engaged in harassing behavior shall be immediately escorted from the premises and denied further access to the work-site. The CONTRACTOR shall emphasize this requirement to its employees.

(c) Exclusion from the work-site under the circumstances described in this clause shall not relieve the CONTRACTOR from full performance of the Contract, nor will it provide the basis for an excusable delay or any claims against LOCKHEED MARTIN and/or the Government.

12. PROHIBITION ON CONTRACTOR ACQUISITION OF PERSONAL PROPERTY FOR USE BY GOVERNMENT EMPLOYEES [A.245-005, Jun 2001]

(a) CONTRACTOR shall purchase no personal property directly chargeable under this contract specifically for transfer to and use by a Government employee. This prohibition includes, but is not limited to, notebook and desktop computers, personal digital assistants, pagers, and cellular telephones.

(b) CONTRACTOR shall notify the LOCKHEED MARTIN Procurement Representative in writing within 20 days whenever any item of personal property acquired by CONTRACTOR is transferred to a Government employee and removed from the property records of CONTRACTOR. This report must include the following information for each item transferred:

- (1) Item description, including manufacturer, model, and serial number;
- (2) Acquisition cost and date;
- (3) Name and organization of the Government employee receiving the item; and
- (4) Date of transfer.

13. PROHIBITION ON PERSONS CONVICTED OF FRAUD OR OTHER DEFENSE-CONTRACT-RELATED FELONIES [A.203-002, May 2003] (Applicable if this Contract exceeds the simplified acquisition threshold in Part 2 of the Federal Acquisition Regulations ["FAR"], unless this Contract is for commercial items or components.)

(a) The provisions of 10 U.S.C. 2408 apply to this contract.

(b) In addition to the criminal penalties contained in 10 U.S.C. 2408, LOCKHEED MARTIN in concert with the Government may consider other available remedies, such as:

- (1) Suspension or debarment;
- (2) Cancellation of the contract at no cost to LOCKHEED MARTIN or the Government; or
- (3) Termination of the contract for default.

(c) The contractor may submit written requests through LOCKHEED MARTIN to the Contracting Officer for waiver of 10 U.S.C. 2408 prohibitions. Requests shall clearly identify--

- (1) The person involved;
- (2) The nature of the conviction and resultant sentence or punishment imposed;
- (3) The reasons for the requested waiver; and
- (4) An explanation of why a waiver is in the interest of national security.

(d) Pursuant to 10 U.S.C. 2408(c), defense contractors and subcontractors may obtain information as to whether a particular person has been convicted of fraud or any other felony arising out of a contract with the Department of Defense ("DoD") by contacting the Office of Justice Programs, Denial of Benefits Office, U.S. Department of Justice, telephone (202) 616-3507.

14. PROHIBITION ON STORAGE AND DISPOSAL OF TOXIC HAZARDOUS MATERIALS [A.223-005, Oct 1997]

(a) Definitions. As used in this clause:

- (1) "Storage" means a non-transitory, semi-permanent or permanent holding, placement, or leaving of material. It does not include a temporary accumulation of a limited quantity of a material used in or a waste generated or resulting from authorized activities, such as servicing, maintenance, or repair of Government items, equipment, or facilities.
- (2) "Toxic or hazardous materials" means those materials identified in the "EPA Title III List of Lists."

(b) The CONTRACTOR is prohibited from transporting, storing, disposing or using toxic or hazardous materials in performing this Contract except for those materials listed in (c) below or when authorized in writing by LOCKHEED MARTIN.

(c) Toxic and hazardous materials authorized for use in the performance of this Contract are as listed below:

Hydrazine (Propellant), Anhydrous Ammonia (Heat Pipes), Nickel Hydrogen (Batteries), EEDs (ordnance), and Stacer Retractable Actuators (Ordnance)

15. RESTRICTIONS ON FEES [52.244-2(h), Aug 1998]

No subcontract or modification thereof placed under this Contract shall provide for payment on a cost-plus-a-percentage-of-cost basis, and any fee payable under cost-reimbursement type subcontracts shall not exceed the fee limitations in FAR 15.404-4(c)(4)(i).

16. SECURITY REVIEW OF PATENT APPLICATIONS

(a) Before filing any foreign or domestic patent application that covers a Subject Invention which occurs in the course of or under this Contract, including any subtasks thereunder; and also before filing any foreign or domestic patent application that covers any invention which occurs in the course of or under any IR&D effort that pertains to the aforementioned Contract, the application shall be submitted to the Contracting Officer's program security officer for review, through the LOCKHEED MARTIN Procurement Representative.

(b) The CONTRACTOR shall include the foregoing language, suitably modified to identify the parties, in all subcontracts awarded hereunder, regardless of tier, for the performance of experimental, developmental, or research work.

(c) In accordance with FAR 52.244-2, SUBCONTRACTS (AUG 1998), the CONTRACTOR shall promptly notify LOCKHEED MARTIN in writing upon award of any subcontract under the aforementioned Contract including any subtasks thereunder if the subcontract concerns the performance of experimental, developmental or research work.

17. SPECIAL NOTIFICATION AND APPROVAL REQUIREMENTS [A.204-003, Jun 2003]

(a) It is a material condition of this Contract that the CONTRACTOR notify and seek approvals as required in the following situations:

- (1) Litigation or Requests for Information relating to this Contract
 - (i) The CONTRACTOR hereby agrees to immediately give notice to the LOCKHEED MARTIN Procurement Representative of any anticipated or current litigation or request for information from any third party (including individuals, organizations, and federal, state, or local government entities) involving or in any way relating to this Contract, pertinent subcontracts or the

Government's relationship with the CONTRACTOR or subcontractor(s). Said notice shall include all relevant information with respect thereto.

(ii) The Contracting Officer shall have access to and the right to examine any pertinent books, documents, papers, and records of the CONTRACTOR(s) related to any Contract litigation or request for information related to this Contract.

(2) Utilization of Government Relationship for Publicity, Advertising, Reference or Public Relations Purposes.

(i) The CONTRACTOR agrees not to use or allow to be used any aspect of this Contract for publicity, advertisement, reference or any other public purpose. This prohibition extends to announcement of contract award and of modifications adding value or time to the Contract. It is further understood that this obligation shall not expire upon completion or termination of this Contract, but will continue until rescinded by the U.S. Government.

(ii) The CONTRACTOR may request a waiver or release from the foregoing but shall not deviate therefrom unless authorized to do so in writing by the Contracting Officer through LOCKHEED MARTIN's Procurement Representative.

(3) Past Performance Information. The CONTRACTOR may provide Past Performance Information regarding this Contract to any contracting officer of the Prime Contract's Customer supporting a source selection of such Customer without the approval of the Contracting Officer or of the LOCKHEED MARTIN Procurement Representative.

(b) The CONTRACTOR agrees to insert this clause in any subcontract under this Contract. In the event of litigation, the CONTRACTOR shall immediately notify its next higher tier Subcontractor or LOCKHEED MARTIN, as the case may be, of all relevant information with respect to such litigation.

18. SUPPLEMENTAL COST PRINCIPLES [A.231-001, Mar 1996]

When the allowability of costs under this Contract is determined in accordance with Part 31 of the FAR, allowability shall also be determined in accordance with Part 31 of *The Government Acquisition Manual*, in effect on the date of this Contract.

B. FAR FLOWDOWN CLAUSES.

The following FAR clauses apply to this contract as indicated.

- (1.) **52.223-3 Alternate I HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA (JUL 1995)** (Applicable if FAR 52.223-3 applies to this Contract. Note 2 applies to this Alternate I.)
- (2.) **52.227-1 AUTHORIZATION AND CONSENT (JUL 1995)** (Applicable because contained on Prime Contract. Note that inclusion of Alternate 1 [Apr 1984] shall not be approved; request already has been denied by Lockheed Martin's prime contract customer.)
- (3.) **52.227-16 ADDITIONAL DATA REQUIREMENTS (JUNE 1987)** (Note 2 applies.)