



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

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**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) **Additional or differing terms or conditions proposed by SELLER or included in SELLER's acknowledgment hereof are hereby objected to by LOCKHEED MARTIN and have no effect unless accepted in writing by LOCKHEED MARTIN.**

**2. APPLICABLE LAWS**

- (a) This Contract shall be governed by and construed in accordance with the laws of the State from which this Contract was issued, excluding its choice of laws rules, except that any provision in this Contract that is (i) incorporated in full text or by reference from the Federal Acquisition Regulations (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 agrees to comply with all applicable laws, orders, rules, regulations, and ordinances.
- (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; or (iv) furnish data of any description that is inaccurate; if (v) the U.S. Government alleges any of the foregoing, and, as a result, (1) LOCKHEED MARTIN's contract price or fee is reduced; (2) LOCKHEED MARTIN's costs are determined to be unallowable; (3) any fines,

penalties or interest are assessed on LOCKHEED MARTIN; or (4) 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 identified in (2) and (3) above, LOCKHEED MARTIN may make a reduction of corresponding amounts (in whole or in part) in the price, or in the costs and fee, 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.

(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 Work in conformance with and containing such information as required by the Occupational Safety and Health Act of 1970 and regulations promulgated there under, or its state approved counterpart.

### 3. ASSIGNMENT

Any assignment of SELLER's contract rights or delegation of duties shall be void, unless prior written consent is given by LOCKHEED MARTIN. However, SELLER may assign rights to be paid amounts due, or to become due, to a financing institution if LOCKHEED MARTIN is promptly furnished a signed copy of such assignment reasonably in advance of the due date for payment of any such amounts. Amounts assigned to an assignee shall be subject to setoffs or recoupment for any present or future claims of LOCKHEED MARTIN against SELLER. LOCKHEED MARTIN shall have the right to make settlements and/or adjustments in price without notice to the assignee.

### 4. COMMUNICATION WITH LOCKHEED MARTIN CUSTOMER

LOCKHEED MARTIN shall be solely responsible for all liaison and coordination with the LOCKHEED MARTIN customer, including the U. S. Government, as it affects the applicable Prime Contract, this Contract, and any related contract.

### 5. CONTRACT DIRECTION

(a) Only the LOCKHEED MARTIN Procurement Representative has authority to amend this Contract. Such amendments must be in writing.

(b) LOCKHEED MARTIN engineering and technical personnel may from time to time render assistance or give technical advice or discuss or effect an exchange of information with SELLER's personnel concerning the Work hereunder. Such actions shall not be deemed to be a change under the "Changes" clause of this Contract and shall not be the basis for equitable adjustment.

(c) Except as otherwise provided herein, all notices to be furnished by the SELLER shall be sent to the LOCKHEED MARTIN Procurement Representative.

### 6. DEFINITIONS

The following terms shall have the meanings set forth below:

(a) "Contract" means the instrument of contracting, such as "PO", "Purchase Order", or other such type designation, including all referenced documents, exhibits and attachments. If these terms and conditions are incorporated into a "master" agreement that provides for releases, (in the form of a Purchase Order or other such document) the term "Contract" shall also mean the Release document for the Work to be performed.

(b) "FAR" means the Federal Acquisition Regulation, issued as Chapter 1 of Title 48, Code of Federal Regulations.

(c) "LOCKHEED MARTIN" means LOCKHEED MARTIN CORPORATION, acting through its companies or business sites as identified on the face of the Contract. If a subsidiary or affiliate of LOCKHEED MARTIN CORPORATION is identified on the face of this Contract then "LOCKHEED MARTIN" means that subsidiary or affiliate.

(d) "LOCKHEED MARTIN Procurement Representative" means the person authorized by LOCKHEED MARTIN's cognizant procurement organization to administer and/or execute this Contract.

(e) "PO" or "Purchase Order" as used in any document constituting a part of this Contract shall mean this "Contract."

(f) "SELLER" means the party identified on the face of the Contract with whom LOCKHEED MARTIN is contracting.

(g) "Work" means all required articles, materials, supplies, goods and services constituting the subject matter of this Contract.

### 7. DISPUTES

All disputes under this Contract which are not disposed of by mutual agreement may be decided by recourse to an action at law or in equity. Until final resolution of any dispute hereunder, SELLER shall diligently proceed with the performance of this Contract as directed by LOCKHEED MARTIN.

### 8. EXPORT CONTROL

(a) SELLER agrees to comply with all applicable U.S. export control laws and regulations. Without limiting the foregoing, SELLER agrees that it will not transfer any export controlled item, data or services, to include transfer to foreign persons employed by or associated with, or under contract to SELLER or SELLER's lower-tier suppliers, without the authority of an Export License or applicable license exception.

(b) SELLER agrees to notify LOCKHEED MARTIN if any deliverable under this Contract is restricted by export control laws or regulations.

(c) SELLER shall immediately notify the LOCKHEED MARTIN Procurement Representative if SELLER is listed in any Denied Parties List or if SELLER's export privileges are otherwise denied, suspended or revoked in whole or in part by any U. S. Government entity or agency.

### 9. EXTRAS

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

10. **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.

11. **GRATUITIES/KICKBACKS**

- (a) No gratuities (in the form of entertainment, gifts or otherwise) or kickbacks shall be offered or given by SELLER, to any employee of LOCKHEED MARTIN with a view toward securing favorable treatment as a 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.**

12. **INDEPENDENT CONTRACTOR RELATIONSHIP**

- (a) SELLER is an independent contractor in all its operations and activities hereunder. The employees used by SELLER to perform Work under this Contract shall be SELLER's employees exclusively without any relation whatsoever to LOCKHEED MARTIN.
- (b) SELLER shall be responsible for 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.

13. **INFORMATION OF LOCKHEED MARTIN**

Information provided by LOCKHEED MARTIN to SELLER remains the property of LOCKHEED MARTIN. SELLER agrees to comply with the terms of any Proprietary Information Agreement with LOCKHEED MARTIN and to comply with all Proprietary Information markings and Restrictive Legends applied by LOCKHEED MARTIN to anything provided hereunder to SELLER. **SELLER agrees not to use any LOCKHEED MARTIN provided information for any purpose except**

**to perform this Contract and agrees not to disclose such information to third parties without the prior written consent of LOCKHEED MARTIN.**

14. **INFORMATION OF SELLER**

SELLER shall not provide any Proprietary Information to LOCKHEED MARTIN without prior execution by LOCKHEED MARTIN of a Proprietary Information Agreement.

15. **INSURANCE/ENTRY ON LOCKHEED MARTIN PROPERTY**

In the event that SELLER, its employees, agents, or subcontractors enter the site(s) of LOCKHEED MARTIN or its customers for any reason in connection with this Contract, then SELLER and its subcontractors shall procure and maintain worker's compensation, comprehensive general liability, bodily injury and property damage insurance in reasonable amounts, and such other insurance as LOCKHEED MARTIN may require. In addition, SELLER and its subcontractors shall comply with all site requirements. SELLER shall indemnify and hold harmless LOCKHEED MARTIN, its officers, employees, and agents from any losses, costs, claims, causes of action, damages, liabilities, and expenses, including attorneys' fees, all expenses of litigation and/or settlement, and court costs, by reason of property damage or loss or personal injury to any person caused in whole or in part by the actions or omissions of SELLER, its officers, employees, agents, suppliers, or subcontractors. SELLER shall provide LOCKHEED MARTIN thirty (30) days advance written notice prior to the effective date of any cancellation or change in the term or coverage of any of SELLER's required insurance. If requested, SELLER shall send a "Certificate of Insurance" showing SELLER's compliance with these requirements. SELLER shall name LOCKHEED MARTIN as an additional insured for the duration of this Contract. Insurance maintained pursuant to this clause shall be considered primary as respects the interest of LOCKHEED MARTIN and is not contributory with any insurance which LOCKHEED MARTIN may carry. "Subcontractor" as used in this clause shall include SELLER's subcontractors at any tier.

16. **INTELLECTUAL PROPERTY INFRINGEMENT**

SELLER warrants that the Work performed and 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. 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.

17. **OFFSET CREDIT/COOPERATION**

All offset or countertrade credit value resulting from this Contract shall accrue solely to the benefit of LOCKHEED MARTIN. SELLER agrees to cooperate with LOCKHEED MARTIN in the fulfillment of any foreign offset/countertrade obligations.

18. **PACKING AND SHIPMENT**

- (a) Unless otherwise specified, all Work is to be packed in accordance with good commercial practice.
- (b) A complete packing list shall be enclosed with all shipments. SELLER shall mark containers or packages with necessary lifting, loading, and shipping information, including the LOCKHEED MARTIN Contract number, item number, dates of shipment, and the names and addresses of consignor and consignee. Bills of lading shall include this Contract number.

- (c) Unless otherwise specified, delivery shall be FOB Place of Shipment.

19. **PARTS OBSOLESCENCE**

LOCKHEED MARTIN may desire to place additional orders for items purchased hereunder. SELLER shall provide LOCKHEED MARTIN with a "Last Time Buy Notice" at least twelve (12) months prior to any action to discontinue any item purchased under this Contract.

20. **PAYMENTS, TAXES, AND DUTIES**

- (a) Unless otherwise provided, terms of payment shall be net thirty (30) days from the latest of the following: (i) LOCKHEED MARTIN's receipt of the SELLER's proper invoice; (ii) Scheduled delivery date of the Work; or (iii) Actual delivery of the Work. LOCKHEED MARTIN shall have a right of setoff against payments due or at issue under this Contract or any other contract between the Parties.
- (b) Payment shall be deemed to have been made as of the date of mailing LOCKHEED MARTIN's payment or electronic funds transfer.
- (c) Unless otherwise specified, prices include all applicable federal, state and local taxes, duties, tariffs, and similar fees imposed by any government, all of which shall be listed separately on the invoice.

21. **PRECEDENCE**

Any inconsistencies in this Contract shall be resolved in accordance with the following descending order of precedence: (1) Face of the Purchase Order, Release document or Schedule, (which shall include continuation sheets), as applicable, including any Special Provisions; (2) Any master-type agreement (such as corporate, sector or blanket agreements); (3) these General Provisions; and (4) Statement of Work.

22. **PRIORITY RATING**

If so identified, this Contract is a "rated order" certified for national defense use, and the SELLER shall follow all the requirements of the Defense Priorities and Allocation System Regulation (15 CFR Part 700).

23. **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 MARTIN and its customers.

24. **RELEASE OF INFORMATION**

Except as required by law, no public release of any information, or confirmation or denial of same, with respect to this Contract or the subject matter hereof, will be made by SELLER without the prior written approval of LOCKHEED MARTIN.

25. **SEVERABILITY**

Each paragraph and provision of this Contract is severable, and if one or more paragraphs or provisions are declared invalid, the remaining provisions of this Contract will remain in full force and effect.

26. **SURVIVABILITY**

If this Contract expires, is completed or is terminated, SELLER shall not be relieved of those obligations in the following provisions:

- (a) Applicable Laws  
Export Control  
Independent Contractor Relationship  
Information of Lockheed Martin  
Insurance/Entry or Lockheed Martin Property  
Intellectual Property Infringement  
Release of Information  
Warranty  
Year 2000 Compliance
- (b) Those U. S. Government flowdown provisions that by their nature should survive.

26. **TIMELY PERFORMANCE**

- (a) SELLER's timely performance is a critical element of this Contract.
- (b) Unless advance shipment has been authorized in writing by LOCKHEED MARTIN, LOCKHEED MARTIN may store at SELLER's expense, or return, shipping charges collect, all Work received in advance of the scheduled delivery date.
- (c) 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 delivery schedule.
- (d) In the event of a termination for convenience or change, no claim will be allowed for any manufacture or procurement in advance of SELLER's normal flow time unless there has been prior written consent by LOCKHEED MARTIN.

27. **WAIVER, APPROVAL AND REMEDIES**

- (a) Failure by LOCKHEED MARTIN to enforce any provision(s) of this Contract shall not be construed as a waiver of the requirement(s) of such provision(s), or as a waiver of the right of LOCKHEED MARTIN thereafter to enforce each and every such provision(s).
- (b) LOCKHEED MARTIN's approval of documents shall not relieve SELLER from complying with any requirements of this Contract.
- (c) The rights and remedies of LOCKHEED MARTIN in this Contract are in addition to any other rights and remedies provided by law or in equity.

28. **WARRANTY**

SELLER warrants that all Work furnished pursuant to this Contract shall strictly conform to applicable specifications, drawings, samples, and descriptions, and other requirements of this Contract and be free from defects in design, material and workmanship. The warranty shall begin upon final acceptance and extend for a period of (i) the manufacturer's warranty period or six months, whichever is longer, if SELLER is not the manufacturer and has not modified the Work or, (ii) one year or the manufacturer's warranty period, whichever is longer; if the SELLER is the manufacturer of the Work or has modified it. If any non-conformity

with Work appears within that time, SELLER shall promptly repair, replace, or reperform the Work. Transportation of replacement Work and return of non-conforming Work and repeat performance of Work shall be at SELLER's expense. If repair or replacement or reperformance of Work is not timely, LOCKHEED MARTIN may elect to return the nonconforming Work or repair or replace Work or repro cure the Work at SELLER's expense. All warranties shall run to LOCKHEED MARTIN and its customer(s). **Any implied warranty of merchantability and fitness for a particular purpose is hereby disclaimed.**

29. **YEAR 2000 COMPLIANCE**

- (a) Year 2000 compliant, as used in this clause, means that with respect to information technology, that the information technology accurately processes data/time data (including but not limited to, calculating, comparing, and sequencing) from, to, and between the twentieth and twenty-first centuries, and the years 1999 and 2000 and leap year calculations, to the extent that other information technology, used in combination with the information technology being acquired, properly exchanges date/time data with it.
- (b) Any and all Work provided hereunder will be Year 2000 compliant at the time of delivery to LOCKHEED MARTIN, including but not limited to accurately inputting, storing, manipulating, comparing, calculating, updating, displaying, outputting, and transferring such dates and data unless otherwise expressly provided herein by LOCKHEED MARTIN.
- (c) This provision takes precedence over all other provisions of this Contract with respect to being Year 2000 compliant. In the event of a discovery of any non-compliance, either before, concurrent with, or subsequent to delivery of Work under this Contract, the discovering party shall notify the other party within five (5) calendar days. If the defective Work is being presented for acceptance or has already been delivered, at LOCKHEED MARTIN's option, the defective Work shall be repaired or replaced within ten (10) days notice at no cost to LOCKHEED MARTIN.
- (d) Nothing in this provision shall be construed to limit any other rights under this Contract, at law or in equity that LOCKHEED MARTIN may have with respect to Year 2000 compliance.

**SPACE SYSTEMS – ADDITIONAL PROVISIONS**

30. **CHANGES - "NOT-TO-EXCEED" SUBMITTAL**

(Applicable if requested by the LOCKHEED MARTIN Procurement Representative.)

Prior to the issuance of a change order under this Contract, LOCKHEED MARTIN may solicit from the SELLER written agreement as to the maximum (in the case of an increase) adjustments to be made in the price and/or in the delivery schedule (or time of performance), by reason of the change. LOCKHEED MARTIN may also solicit such agreement on limitations on the adjustments to any other provisions of the Contract which may be subject to equitable adjustment by reason of the change. The SELLER shall promptly submit a "not-to-exceed" amount or maximum schedule adjustment when so requested by LOCKHEED MARTIN. Any such written agreement shall then be cited in the change order and upon its issuance shall be deemed to become part of the Contract. In no event shall the definitive equitable adjustment exceed the maximum price and/or delivery schedule (or time of performance) adjustments so established, nor otherwise be inconsistent with other adjustment limitations so established. Except with respect to such limitations, nothing contained herein shall affect the right of the Parties to an equitable adjustment by reason of the change, pursuant to this clause.

27. **FOREIGN SALES**

The supplies or services provided hereunder by SELLER may be offered for, or as a part of a foreign sale. In the event contractor receives notification that such articles or services are to be offered for, or as a part of a, foreign sale, SELLER agrees to comply with the requirements (including reporting requirements) of all laws and regulations (including the International Traffic in Arms Regulations) insofar as they apply to it relating to foreign sales by LOCKHEED MARTIN that include supplies or services provided pursuant to the Contract. SELLER further agrees to make such reports or certifications to LOCKHEED MARTIN as may be necessary for compliance with any laws and regulations pertaining to foreign sales by LOCKHEED MARTIN that include supplies or services provided by SELLER under this Contract.

28. **LASER PRODUCTS**

(Applicable if Laser Products are to be delivered under this Contract.)

In accordance with Title 21, Code of Federal Regulations (C.F.R.), Chapter 1, Subchapter J, Parts 1010.2 NS 1010.3, all manufacturers of laser products are required to certify that such products conform to all applicable radiation safety performance standards of 21 C.F.R. 1040.10 and 1040.11. Unless SELLER obtains an exemption therefrom and furnishes a written confirmation of such exemption to LOCKHEED MARTIN, SELLER agrees to comply with such applicable certification requirements and standards on all laser products (as defined in the referenced regulations) furnished to LOCKHEED MARTIN under this Contract and require similar certification and standards compliance from any of its suppliers of laser products where such products will be delivered to LOCKHEED MARTIN or its customers as an end item or component thereof under this Contract. SELLER further agrees to indemnify and hold LOCKHEED MARTIN and its customers harmless from any claim, suit, loss, cost, damage, expense (including attorneys' fees) or liability arising out of, as a result of, or in connection with SELLER's (or its suppliers') failure to so certify or comply with the applicable standards as specified above.

29. **SOURCE SURVEILLANCE**

In addition to inspections as otherwise provided in this Contract and at no increase in Contract price, LOCKHEED MARTIN may assign product assurance representatives to SELLER's facilities to conduct and maintain surveillance as necessary to ensure quality and reliability. SELLER likewise shall reserve such right to LOCKHEED MARTIN with respect to SELLER's lower-tier subcontractors. If such examination is made, SELLER shall provide, and require its subcontractors to provide, such representatives with reasonable facilities, equipment, and unescorted access (except in areas where proprietary processes or data are located in which case access shall be on an escorted basis) to all areas essential to the proper conduct of the above described activity.

30. **SUBCONTRACTS**

- (a) If this Contract is primarily for the purpose of furnishing services, no subcontract shall be made by the SELLER with any other Party for furnishing all or substantially all of the Work or services herein contracted for without the advance written approval of LOCKHEED MARTIN, but this provision shall not be construed to require the approval of contracts of employment between the SELLER and personnel assigned for services hereunder.
- (b) The SELLER shall give LOCKHEED MARTIN immediate written notice of any action or suit filed and prompt notice of any claim made against the SELLER by any subcontractor or vendor that, in the opinion of the SELLER, may result in litigation related in any way to this Contract, with respect to which the SELLER may be entitled to reimbursement from LOCKHEED MARTIN.
- (c) No subcontract place under this Contract shall provide for payment on a cost-plus-a-percentage-of-cost-basis, and any fee payable under cost-reimbursement type lower-tier subcontracts shall not exceed the fee limitations in paragraph 15.404-4(c)(4) (formerly 15.903(d) of the Federal Acquisition Regulation (FAR)).

**SECTION II: FAR FLOWDOWN PROVISIONS**

A. **INCORPORATION OF FAR CLAUSES**

The Federal Acquisition Regulation (FAR) clauses referenced below are incorporated herein by reference, with the same force and effect as if they were given in full text, and are applicable, including any notes following the clause citation, during the performance of this Contract. If the date or substance of any of the clauses listed below is different than the date or substance of the clause actually incorporated in the Prime Contract referenced by number herein, the date or substance of the clause incorporated by said Prime Contract shall apply instead.

B. **GOVERNMENT SUBCONTRACT**

This Contract is entered into by the Parties in support of a U.S. Government Contract.

As used in the clauses referenced below and otherwise in this Contract:

- 1. "Commercial Item" means a commercial item as defined in FAR 2.101.
- 2. "Contract" means this Contract.
- 3. "CONTRACTOR" means the SELLER, as defined in this CORPDOC 3, acting as the immediate (first-tier) subcontractor to LOCKHEED MARTIN.
- 4. "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.

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

C. **NOTES**

- 1. Substitute "LOCKHEED MARTIN" for "Government" or "United States" as applicable 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" or "Contracting Officer", as appropriate, 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. "Contracting Officer" shall mean the U.S. Government Contracting Officer for LOCKHEED MARTIN's government prime contract under which this Contract is entered.

D. **AMENDMENTS REQUIRED BY PRIME CONTRACT**

CONTRACTOR 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 estimated 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) to 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. **FAR FLOWDOWN CLAUSES**

**REFERENCE TITLE**

- 1. **The following FAR clauses apply to this Contract :**
  - (a) 52.211-5 MATERIAL REQUIREMENTS (OCT 1997) (See Note 2)
  - (b) 52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS (OCT 1999)
  - (c) 52.222-21 PROHIBITION OF SEGREGATED FACILITIES (FEB 1999)
  - (d) 52.222-26 EQUAL OPPORTUNITY (FEB 1999) (Only subparagraphs (b)(1)-(11) applies.)

- (e) 52.223-11 OZONE-DEPLETING SUBSTANCES (JUN 1996) (Applicable if the Work was manufactured with or contains ozone-depleting substances.)
  - (f) 52.225-11 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (AUG 1998) (In paragraph (a) see Notes 5 and 6.)
  - (g) 52.227-14 RIGHTS IN DATA - GENERAL (JUN 1987)
  - (h) 52.234-1 INDUSTRIAL RESOURCES DEVELOPED UNDER DEFENSE PRODUCTION ACT TITLE III (DEC 1994) (See Note 2.)
  - (i) 52.242-13 BANKRUPTCY (JUL 1995) (See Note 2.)
  - (j) 52.242-15 STOP-WORK ORDER (AUG 1989) (See Notes 1 and 2.)
  - (k) 52.243-1 CHANGES - FIXED PRICE (AUG 1987) (See Notes 1 and 2; delete the reference to the "Disputes" clause in subparagraph (e).)
  - (l) 52.244-6 SUBCONTRACTS FOR COMMERCIAL ITEMS AND COMMERCIAL COMPONENTS (OCT 1998)
  - (m) 52.246-2 INSPECTION OF SUPPLIES - FIXED PRICE (AUG 1996) (See Note 2. See Note 3 except in paragraphs (f), (j) and (l) where Note 1 applies.)
  - (n) 52.246-4 INSPECTION OF SERVICES - FIXED PRICE (AUG 1996) ( See Note 2. See Note 3 except in paragraphs (e) and (f) where Note 1 applies.)
  - (o) 52.249-2 TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED-PRICE) (SEP 1996) (See Notes 1 and 2. In paragraph (n) "Government" means "LOCKHEED MARTIN and the Government" and "Contracting Officer" means "LOCKHEED MARTIN or the Contracting Officer." In paragraph (c) "120 days" is changed to "60 days." In paragraph (d) "15 days" is changed to "30 days," and "45 days" is changed to "60 days." In paragraph (e) "1 year" is changed to "6 months." Paragraph (j) is deleted. In paragraph (l) "90 days" is changed to "45 days." Settlements and payments under this clause may be subject to the approval of the Contracting Officer.)
  - (p) 52.249-8 DEFAULT (FIXED PRICE SUPPLY AND SERVICE) (APR 1984) (See Notes 1 and 2 except Note 1 is not applicable to paragraph (e). Timely performance is a material element of this Contract.)
2. **The following FAR clauses apply to this Contract if the value of this Contract equals or exceeds \$10,000:**
- (a) 52.222-35 AFFIRMATIVE ACTION FOR DISABLED VETERANS AND VIETNAM ERA VETERANS (APR 1998)
  - (b) 52.222-36 AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES (JUNE 1998)
  - (c) 52.222-37 EMPLOYMENT REPORTS ON DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA (JAN 1999)
3. **The following FAR clauses apply to this Contract if the value of this Contract equals or exceeds \$100,000:**
- (a) 52.203-6 RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (JUL 1995)
  - (b) 52.203-12 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (JUN 1997) (See Note 5.)
  - (c) 52.215-2 AUDIT AND RECORDS-NEGOTIATION (JUN 1999) (Applicable if (1) CONTRACTOR is required to furnish cost or pricing data, or (2) the Contract requires CONTRACTOR to furnish cost, funding or performance reports. Insert "and the LOCKHEED MARTIN Purchasing Representative" after "the Contracting Officer or representatives of the Contracting Officer" and after "... representatives of the Contracting Officer who are employees of the Government".)
  - (d) 52.215-14 INTEGRITY OF UNIT PRICES (OCT 1997) (Delete paragraph (b) of the clause.)
  - (e) 52.222-4 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT - OVERTIME COMPENSATION (JUL 1995)
  - (f) 52.223-2 CLEAN AIR AND WATER (APR 1984)
  - (g) 52.223-14 TOXIC CHEMICAL RELEASE REPORTING (OCT 1996) (See Note 2. Delete subparagraph (e).)
  - (h) 52.227-1 AUTHORIZATION AND CONSENT (JUL 1995) (Applicable only if the Prime Contract contains this clause. In subparagraph (a)(1) see Note 4; in subparagraph (a)(2)(ii) see Note 2.)
  - (i) 52.227-2 NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (AUG 1996) (See Notes 2 and 4.)
  - (j) 52.247-64 PREFERENCE FOR PRIVATELY OWNED U.S.-FLAG COMMERCIAL VESSELS (JUN 1997) (See Note 2.)
  - (k) 52.248-1 VALUE ENGINEERING (NOV 1999) (See Note 1, except in subparagraphs (c)(5) and (m) see Note 3.)
4. **The following FAR clauses apply to this Contract if the value of this Contract equals or exceeds \$500,000:**
- (a) 52.215-12 SUBCONTRACTOR COST OR PRICING DATA (OCT 1997) (Applicable if not otherwise exempt under FAR 15.403.)
  - (b) 52.215-13 SUBCONTRACTOR COST OR PRICING DATA - MODIFICATIONS (OCT 1997) (Applicable for modifications if not otherwise exempt under FAR 15.403.)

(c) 52.219-9 SMALL BUSINESS SUBCONTRACTING PLAN (JAN 1999) (Applicable if the CONTRACTOR is not a small business; see and Note 2, applicable to subparagraph (c) only; the CONTRACTOR's subcontracting plan is incorporated herein by reference.)

5. **The following FAR clauses apply to this Contract only if the stipulation in the relevant parenthetical applies:**

(a) 52.204-2 SECURITY REQUIREMENTS (AUG 1996) (Applicable if the Work requires access to classified information. Delete paragraph (c) of the clause.)

(b) 52.215-10 PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA (OCT 1997) (Applicable if submission of cost or pricing data is required. See Notes 2 and 4. Rights and obligations under this clause shall survive completion of the Work and final payment under this Contract.)

(c) 52.215-11 PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA - MODIFICATIONS (OCT 1997) (Applicable if submission of cost or pricing data is required for modifications. See Notes 2 and 4. Rights and obligations under this clause shall survive completion of the work and final payment under this Contract.)

(d) 52.215-15 PENSION ADJUSTMENTS AND ASSET REVERSIONS (DEC 1998) (Applicable if this Contract meets the applicability requirements of FAR 15.408(g). See Note 5.)

(e) 52.215-16 FACILITIES CAPITAL COST OF MONEY (OCT 1997) (Applicable only if the Contract is subject to the Cost Principles at FAR Subpart 31.2 and the CONTRACTOR proposed facilities capital cost of money in its offer.)

(f) 52.215-17 WAIVER OF FACILITIES CAPITAL COST OF MONEY (OCT 1997) (Applicable only if the Contract is subject to the Cost Principles at FAR Subpart 31.2 and the CONTRACTOR did not propose facilities capital cost of money in its offer.)

(g) 52.215-18 REVERSION OR ADJUSTMENT OF PLANS FOR POST-RETIREMENT BENEFITS (PRB) OTHER THAN PENSIONS (OCT 1997) (Applicable if this Contract meets the applicability requirements of FAR 15.408(j). See Note 5.)

(h) 52.215-19 NOTIFICATION OF OWNERSHIP CHANGES (OCT 1997) (Applicable if this Contract meets the applicability requirements of FAR 15.408(k). See Note 2.)

(i) 52.215-20 REQUIREMENTS FOR COST OR PRICING DATA OR INFORMATION OTHER THAN COST OR PRICING DATA (OCT 1997) (See Note 2.)

(j) 52.215-21 REQUIREMENTS FOR COST OR PRICING DATA OR INFORMATION OTHER THAN COST OR PRICING DATA - MODIFICATIONS (OCT 1997) (See Note 2.)

(k) 52.223-3 HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA (JAN 1997) (Applicable if the Contract involves hazardous material. See Notes 2 and 3.)

(l) 52.223-7 NOTICE OF RADIOACTIVE MATERIALS (JAN 1997) (Applicable to Work containing covered radioactive material. In the blank insert "30. See Notes 1 and 2.)

(m) 52.225-9 BUY AMERICAN ACT-TRADE AGREEMENTS-BALANCE OF PAYMENTS PROGRAM (JAN 1996) (Applicable if the Work contains other than domestic components.)

(n) 52.225-10 DUTY FREE ENTRY (APR 1984) (Applicable if supplies will be imported into the Customs Territory of the United States. In subparagraph (b)(1) the notice provision shall be 20 days. See Notes 3, 5 and 6.)

(o) 52.227-9 REFUND OF ROYALTIES (APR 1984) (Applicable when reported royalty exceeds \$250. See Notes 1 and 2.)

(p) 52.227-10 FILING OF PATENT APPLICATIONS-CLASSIFIED SUBJECT MATTER (APR 1984) (Applicable if the Work or any patent application may cover classified subject matter.)

(q) 52.227-11 PATENT RIGHTS-RETENTION BY THE CONTRACTOR (SHORT FORM) (JUN 1997) (Applicable if this Contract is for experimental, developmental, or research Work and CONTRACTOR is a small business concern or domestic nonprofit organization. Reports required by this clause shall be filed with the agency identified in this Contract. If no agency is identified, contact the LOCKHEED MARTIN Procurement Representative identified on the face of the Contract.)

(r) 52.227-12 PATENT RIGHTS-RETENTION BY THE CONTRACTOR (LONG FORM) (JAN 1997) (Applicable if this Contract is for experimental, developmental, or research Work and CONTRACTOR is a large business concern. Reports required by this clause shall be filed with the agency identified in this Contract. If no agency is identified, contact the LOCKHEED MARTIN Procurement Representative identified on the face of the Contract.)

(s) 52.230-2 COST ACCOUNTING STANDARDS (APR 1998) (When referenced in the Contract, Full CAS Coverage applies. In subparagraph (a)(4)(ii) and (a)(5) see Note 1. Delete paragraph (b) of the clause.)

(t) 52.230-3 DISCLOSURE AND CONSISTENCY OF COST ACCOUNTING PRACTICES (APR 1998) (When referenced in the Contract, Modified CAS Coverage applies. In subparagraphs (a)(3)(ii) and (a)(4) see Note 1. Delete paragraph (b) of the clause.)

(u) 52.230-6 ADMINISTRATION OF COST ACCOUNTING STANDARDS (NOV 1999) (Applicable if FAR 52.230-2 or FAR 52.230-3 applies.)



- (v) 52.233-3 PROTEST AFTER AWARD (AUG 1996) (In the event LOCKHEED MARTIN's customer has directed LOCKHEED MARTIN to stop performance of the work under the Prime Contract under which this Contract is issued pursuant to FAR 33.1, LOCKHEED MARTIN may, by written order to CONTRACTOR, direct CONTRACTOR to stop performance of the Work called for by this Contract; "30 days" means "20 days" in paragraph (b)(2). Note 1 applies except the first time it appears in paragraph (f). In paragraph (f) add after "33.104(h)(1)" "and recovers those costs from LOCKHEED MARTIN". See Note 2.)
- (w) 52.237-2 PROTECTION OF GOVERNMENT BUILDINGS, EQUIPMENT AND VEGETATION (APR 1984) (Applicable if Work is performed on Government installation. See Note 2.)
- (x) 52.243-6 CHANGE ORDER ACCOUNTING (APR 1984) (Applicable only if Prime Contract requires Change Order Accounting. See Note 2. Delete reference to the "Disputes" clause in the last sentence.)
- (y) 52.245-2 GOVERNMENT PROPERTY (FIXED PRICE CONTRACTS) (DEC 1989) (Note 1 applies except in the phrases "Government property," "Government-furnished property," and in references to title to property. See Note 2. The following is added as paragraph (m) "Seller shall provide to LOCKHEED MARTIN immediate notice of any disapproval, withdrawal of approval, or nonacceptance by the Government of its property control system.")
- (z) 52.245-17 SPECIAL TOOLING (DEC 1989) (Applicable if the Contract involves the use of special tooling. See Note 2. DoD Contracts shall incorporate the (APR 1984) clause.)
- (aa) 52.245-18 SPECIAL TEST EQUIPMENT (FEB 1993) (Applicable if this Contract involves the acquisition or fabrication of Special Test Equipment. Notice to acquire shall be through LOCKHEED MARTIN. See Notes, 4, 5, and 6.)
- (bb) 52.247-63 PREFERENCE FOR U.S.-FLAG AIR CARRIERS (JAN 1997) (Applicable if this Contract involves international air transportation.)

**G. SPACE SYSTEMS ADDITIONAL FLOWDOWN CLAUSES**

- (a) 52.230-4 CONSISTENCY IN COST ACCOUNTING PRACTICES (AUG 1992) (Applicable only when dealing with a United Kingdom (U.K.) subcontractor and the subcontract is over \$500,000 with the work to be substantially performed in the U.K.)

**H. CERTIFICATIONS AND REPRESENTATIONS**

- (1) **This clause contains certifications and representations that are material representations of fact upon which LOCKHEED MARTIN will rely in making awards to CONTRACTOR. By submitting its written offer, or providing oral offers/quotations at the request of LOCKHEED MARTIN, or accepting any Contract, CONTRACTOR certifies to the representations and certifications as set forth below in this clause. These certifications shall apply whenever these terms and conditions are incorporated by reference in any Contract, agreement, other contractual document or any quotation, request for quotation (oral or written), request for**

**proposal or solicitation (oral or written), issued by LOCKHEED MARTIN. CONTRACTOR shall immediately notify LOCKHEED MARTIN of any change of status with regard to these certifications and representations.**

- (2) The following clauses of the Federal Acquisition Regulation (FAR) are incorporated herein by reference, with the same force and effect as if they were given in full text, and are applicable to any order, agreement, or subcontract. In each clause incorporated below, substitute "LOCKHEED MARTIN" for "Government" and "Contracting Agency" and "LOCKHEED MARTIN Procurement Representative" for "Contracting Officer" throughout.

- (a) **FAR 52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions** (Applicable to solicitations and contracts exceeding \$100,000)

- (1) The definitions and prohibitions contained in the clause, at FAR 52.203-12, Limitation on Payments to Influence Certain Federal Transactions are hereby incorporated by reference in paragraph (b) of this certification.

- (2) CONTRACTOR certifies that to the best of its knowledge and belief that on and after December 23, 1989--

- (a) No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement;

- (b) If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with a solicitation or order, the offeror shall complete and submit, with its offer, OMB standard form LLL, Disclosure of Lobbying Activities, in accordance with its instructions, and

- (c) CONTRACTOR will include the language of this certification in all subcontracts at any tier and require that all recipients of subcontract awards in excess of \$100,000 shall certify and disclose accordingly.

- (3) Submission of this certification and disclosure is a prerequisite for making or entering into a contract as imposed by section 1352, title 31, United States Code. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

(b) **FAR 52.209-5 Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters.**

- (1) CONTRACTOR certifies that, to the best of its knowledge and belief, that CONTRACTOR and/or any of its Principals, (as defined in FAR 52.209-5,) are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency.
- (2) CONTRACTOR shall provide immediate written notice to LOCKHEED MARTIN if, any time prior to award of any contract, it learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(c) **FAR 52.222-22 Previous Contracts and Compliance Reports.**

CONTRACTOR represents that if CONTRACTOR has participated in a previous contract or subcontract subject to the Equal Opportunity clause (FAR 52.222-26) (i) CONTRACTOR has filed all required compliance reports and (ii) that representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards.

(d) **FAR 52.222-25 Affirmative Action Compliance.**

CONTRACTOR represents (1) that CONTRACTOR has developed and has on file at each establishment, affirmative action programs required by the rules and regulations of the Secretary of Labor (41 CFR 60-1 and 60-2), or (2) that in the event such a program does not presently exist, CONTRACTOR will develop and place in operation such a written Affirmative Action Compliance Program within 120 days from the award of this Contract.

(e) **FAR 52.223-1 Clean Air and Water Certification** (Applicable to solicitations and Contracts exceeding \$100,000).

- (1) CONTRACTOR certifies that any facility to be used in the performance of a contract is not listed on the Environmental Protection Agency List of Violating Facilities.
- (2) CONTRACTOR shall immediately notify the LOCKHEED MARTIN Procurement Representative, before any contract award, or the receipt of any communication from the Administrator, or a designee, of the Environmental Protection Agency, indicating that any facility that the Offeror proposes to use for the performance of any contract is under consideration to be listed on the EPA list of Violating Facilities.
- (3) CONTRACTOR will include a certification substantially the same as this certification, including this paragraph (3), in every non-exempt subcontract.

(f) **FAR 52.223-13 Certification Of Toxic Chemical Release Reporting** (Applicable to competitive solicitations/contracts which exceed \$100,000)

- (1) Submission of this certification is a prerequisite for making or entering into this contract imposed by Executive Order 12969, August 8, 1995.
- (2) CONTRACTOR certifies that—

(a) As the owner or operator of facilities that will be used in the performance of this Contract that are subject to the filing and reporting requirements described in section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11023) and section 6607 of the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13106), CONTRACTOR 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

(b) 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 under section 313(c) of EPCRA, 42 U.S.C. 11023(c);
- (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 Standard Industrial Classification Code (SIC) designations 20 through 39 as set forth in FAR section 19.102 of the Federal Acquisition Regulation; or
- (v) The facility is not located within any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Northern Mariana Islands, or any other territory or possession over which the United States has jurisdiction.