

SECTION 3

COST REIMBURSEMENT SUBCONTRACTS

Section 3 clauses are applicable to all cost reimbursement type subcontracts unless specifically deleted in the subcontract.

3-1 ALLOWABLE COST, FIXED FEE, AND PAYMENT (replaces clause 1-29)

(a) (1) For the performance of this subcontract, Lockheed Martin shall pay to the Subcontractor (i) the cost thereof determined by Lockheed Martin or the Government to be allowable (hereinafter referred to as "allowable cost") in accordance with FAR, Subpart 31.2 and NFS Part 1831 or DFARS 231.2, (FAR, Subpart 31.3 if contracting with an Educational Institution or DFARS 231.7 if contracting with a Non-Profit Institution), whichever is applicable, as in effect on the date of this subcontract; and (ii) such fixed fee, if any, as may be provided for in this subcontract.

(2) The premium portion of costs incurred for the performance of overtime work shall be determined in accordance with the provisions of the Payment of Overtime Premiums Clause.

(3) Costs incurred by Subcontractor by reason of its use and occupancy of facilities furnished pursuant to facilities contracts authorized for use in connection with this subcontract insofar as they are allocable to the performance of this subcontract shall be allowable costs except to the extent that Subcontractor is reimbursed for such costs under other contracts or to the extent that provision is made apart from this subcontract or other contracts for the payment of such costs by the Government or otherwise than by Subcontractor, and except to the extent that such costs are included in Subcontractor's overhead.

(4) Appropriate credit shall be given to Lockheed Martin for disposal of scrap and salvage and any surplus parts or material. Such credit may be applied to Subcontractor's overhead, to the extent Subcontractor's recoverable scrap program is approved by the Contracting Officer. Lockheed Martin shall not be charged for excessive procurement of material and parts.

(5) Final annual indirect cost rates and the appropriate bases shall be established in accordance with Subpart 42.7 of the Federal Acquisition Regulation (FAR) in effect for the period covered by the indirect cost rate proposal. Such rates and bases shall not change any monetary ceiling, contract obligation, or specific cost allowance or disallowance provided for in this subcontract. The rates and bases shall be deemed incorporated into this subcontract upon execution.

(6) There shall be included as allowable indirect costs such overhead rates as may be established by Subcontractor and the cognizant Government Agency in accordance with the principles of the Federal Acquisition Regulation and applicable FAR Supplement. Pending establishment of final overhead rates for any period, Subcontractor shall be reimbursed at billing rates approved by the cognizant Government Agency, which billing rates may be revised from time to time subject to such approval and subject to appropriate adjustment when the final rates for that period are established.

(7) Cost incurred by Subcontractor in connection with third party claims based on personal injury or death or property damage shall not be considered as allowable costs under this subcontract.

(8) Any cost incurred by the Subcontractor under the terms of this subcontract which would constitute allowable cost under the provisions of this clause shall be included in determination of the amount payable under this subcontract, notwithstanding any provisions contained in the specifications or other documents incorporated in this subcontract by reference, designating services to be performed or materials to be furnished by the Subcontractor at its expense or without cost to Lockheed Martin.

(b) (1) Once each month (or at more frequent intervals, if approved by Lockheed Martin) the Subcontractor may submit to Lockheed Martin, in such form and reasonable detail as Lockheed Martin may require, an invoice or voucher supported by a statement of cost incurred by the Subcontractor in the performance of this subcontract and claimed to constitute allowable costs.

For this purpose, except as provided herein with respect to pension, deferred profit sharing and employee stock ownership plan contributions, the term "costs" shall include only those recorded costs which result, at the time of the request for reimbursement, from payment by cash, check, or other form of actual payment for items or services purchased directly for the subcontract, together with (when the Subcontractor is not delinquent in payment of costs of subcontract performance in the ordinary course of business) cost incurred, but not necessarily paid, for materials which have been issued from the Subcontractor's stores inventory and placed in the production process for use on the subcontract, for direct labor, for direct travel, for other direct in-house costs, and for properly allocated and allowable indirect costs, as are shown by records maintained by the Subcontractor for purposes of obtaining reimbursement under Government contracts, plus the amount of progress payments which have been paid to Subcontractor's lower-tier subcontractors under similar cost standards. In addition, when the aforementioned contributions are paid by the Subcontractor to the pension, profit sharing or employee stock ownership plan funds less frequently than quarterly, accrued costs therefor shall be excluded from indirect costs for payment purposes until such costs are paid. If such contributions are paid on a quarterly or more frequent basis, accruals therefore may be included in indirect costs for payment purposes provided that they are paid to the fund within thirty (30) days after the close of the period covered. If payments are not made to the fund within such thirty (30) day period, these contributions shall be excluded from indirect cost for payment purposes until payment has been made. The requirement of prior payment for items or services purchased directly for the subcontract shall not apply where the Subcontractor is a small business or small disadvantaged business concern.

The originals and two (2) copies of such invoices covering allowable costs (and fee), certified by an officer or other responsible official of Subcontractor authorized by it to certify such statements, shall be submitted to:

Accounts Payable - LMMS
P.O. Box 3645
Sunnyvale, CA 94086-3645

At the same time, additional copies shall be submitted to Lockheed Martin's subcontract administrator and to Subcontractor's cognizant Government auditing agency. All invoices submitted by Subcontractor hereunder shall bear the following certification:

"I certify that the payment herein requested is just and correct, and that payment of the sum herein specified has not been received. This certification is made with the understanding that any sum paid hereunder will become the basis for reimbursement to Lockheed Martin by the United States Government. I further certify that any goods covered by this invoice were produced in compliance with all applicable requirements of the Fair Labor Standards Act (29 USC 206, 207 and 212), as amended, and of regulations and orders of the United States Department of Labor issued under such act."

(2) Payment of the fixed fee shall be based upon the percentage of completion of the effort required hereunder as determined from estimates made by Subcontractor and approved by Lockheed Martin. After payment of eighty-five percent (85%) of the fixed fee, further payment on account of the fee shall be withheld until a reserve of either (i) fifteen percent (15%) of the total fixed fee or (ii) \$100,000, whichever amount is less, shall have been set aside.

(3) Within 30 days after receipt and approval of each invoice or voucher and statement of cost, Lockheed Martin shall, except as otherwise provided in this subcontract, subject to the provisions of paragraphs (b)(4) and (c)(1), (2), and (3) below, make payment thereon.

(4) Within nine (9) months after the completion of work under this subcontract, unless one or more extensions are granted in writing by Lockheed Martin upon request of Subcontractor made in writing within such nine (9) month period or authorized extension thereof, Subcontractor shall submit to Lockheed Martin (i) a final invoice clearly marked as such; (ii) a Cumulative Claim and Reconciliation; (iii) the release and assignment called for in the Release Provisions and Closure Requirements Clause; and (iv) any other certificate, report, or document called for in this subcontract and not previously submitted. Upon receipt by Lockheed Martin of the final audit report the unpaid balance of the fee, as the same may have been adjusted from time to time, together with unpaid allowable costs shall be paid to Subcontractor. All payments of allowable cost made pursuant hereto shall be subject to adjustment from time to time as a result of audit by the cognizant United States Government audit agency, which adjustment shall be recognized and accepted by Subcontractor to the extent that such adjustments are approved by Lockheed Martin.

(c) (1) At any time or times prior to final payment under this subcontract the Contracting Officer or Lockheed Martin may have invoices or vouchers and statements of costs audited. Any payment may be (1) reduced by amounts found by Lockheed Martin or the Government not to constitute allowable costs or (2) adjusted for prior overpayments or underpayments.

(2) Notwithstanding final payment under this subcontract, if any amount actually paid by Lockheed Martin to Subcontractor is disallowed to Lockheed Martin by the Contracting Officer, or by the General Accounting Office, as an item of cost under the prime contract, or if Lockheed Martin is required because of any action of the Government to refund or credit to the Government any amount with respect to an item of cost for which it has reimbursed Subcontractor, including any amounts offset pursuant to FAR 52.203-7 or the Anti-Kickback Act (41 USC 51-58), Subcontractor shall, on demand made by Lockheed Martin after such disallowance or after Lockheed Martin shall have made such refund or given such credit, promptly repay to Lockheed Martin the amount which Lockheed Martin has paid to Subcontractor with respect to any such item or items, provided, however, that to the extent such disallowance or such refund or credit is the result of the performance by Subcontractor of work authorized by Lockheed Martin but not authorized by the prime contract, Subcontractor shall not be required to repay to Lockheed Martin the amount which Lockheed Martin has paid to Subcontractor with respect to the performance of such work. In the event Lockheed Martin shall recover any amount so disallowed or so refunded or credited by it to the Government with respect to any such item or items, Lockheed Martin shall pay the amount of such recovery to Subcontractor if the same shall not theretofore have been repaid to Subcontractor.

(3) In the event that any department, agency or representative of the Government disallows any cost granted under this subcontract and in Lockheed Martin's opinion it appears that such disallowance is inequitable and that such cost should be considered allowable, then Lockheed Martin agrees to negotiate with such department, agency or representative of the Government to obtain the reinstatement of such costs as allowable under the terms of this subcontract.

3-2 RELEASE PROVISIONS AND CLOSURE REQUIREMENTS

(a) Subcontractor and each assignee under an assignment entered into under this subcontract and in effect at the time of final payment under this subcontract shall execute and deliver at the time of and as a condition precedent to final payment under this subcontract (i) an assignment to Lockheed Martin, in form and substance satisfactory to Lockheed Martin, of rebates, refunds, credits or other amounts (including interest thereon) properly allocable to costs for which Subcontractor has been reimbursed under this subcontract, and (ii) a release discharging the Government and Lockheed Martin together with their respective officers, agents, and employees from all liabilities, obligations, and claims arising out of or under this subcontract, subject only to the following exceptions:

(1) Specified claims in stated amounts or in estimated amounts where the amounts are not susceptible of exact statement by Subcontractor.

(2) Claims, together with reasonable expenses incidental thereto, based upon the liabilities of Subcontractor to third parties arising out of the performance of this subcontract (but not including claims based on personal injury or death or property damage) which are not known to Subcontractor on the date of the execution of the release, and of which Subcontractor gives notice in writing to Lockheed Martin not more than five (5) years after the date of the release or the date of any notice to Subcontractor that Lockheed Martin is prepared to make final payment, whichever is earlier.

(3) Claims for reimbursement of costs (other than expenses of Subcontractor by reason of its indemnification of Lockheed Martin and the Government against patent liability), including reasonable expenses incidental thereto, incurred by Subcontractor under the provisions of this subcontract relating to patents.

(b) Subcontractor agrees that any refunds, rebates or credits (including any interest thereon) accruing to or received by Subcontractor or any assignments which arise out of the performance of this subcontract and on account of which Subcontractor has received reimbursement shall be paid by Subcontractor to Lockheed Martin.

(c) In addition to the release and the assignment required by paragraph (a) above, Subcontractor shall, prior to final payment, (i) comply with the provisions of the Patent Rights Clause, if said clause is included in this subcontract, and (ii) submit the following:

(1) An invoice which complies with paragraphs (b)(1) and (b)(4) of the Allowable Cost, Fixed (or Incentive) Fee and Payment Clause and is clearly labeled "Final Invoice" or "Completion Voucher";

(2) A Cumulative Claim and Reconciliation;

(3) A letter setting forth the manner in which it complied with paragraph (h) of the Security Requirements Clause; and

(4) Inventory schedules required by paragraph (i) of the Government Property Clause, and an inventory of Lockheed Martin property in such form as Lockheed Martin may direct.

(d) All items required to be sent to Lockheed Martin by paragraphs (a) and (c) of this clause shall be addressed to the subcontract administrator named in this subcontract or to the closure activity representative designated in writing by Lockheed Martin.

(e) When the Subcontractor and Lockheed Martin agree, the quick closeout procedures of Subpart 42.7 of the FAR may be used.

3-3 FURNISHING OF ADDITIONAL REPAIR OR SPARE PARTS

With respect to such spare or repair parts list(s), as may be specified in this subcontract, Lockheed Martin may, at any time, prior to the completion date specified for the delivery of such articles, if any, by written order revise the type and quantity of such spare or repair parts. If any such order issued pursuant to this clause causes any increase or decrease in the (i) estimated cost and fee, or (ii) the time required for the delivery of such repair or spare parts, or (iii) otherwise affects any other provision of this subcontract, an equitable adjustment shall be made therein pursuant to the procedures contained in the Changes Clause.

3-4 GOVERNMENT PROPERTY (COST REIMBURSEMENT) (FAR 52.245-5 altered to identify the parties. This clause replaces Clause 1-32.)

(a) Government-furnished property.

(1) The term "Subcontractor's managerial personnel," as used in alternate paragraph (g) of this clause, means the Subcontractor's directors, officers, managers, superintendents, or equivalent representatives who have supervision or direction of -

(i) All or substantially all of the Subcontractor's business;
(ii) All or substantially all of the Subcontractor's operation at any one plant or separate location at which the subcontract is being performed; or
(iii) A separate and complete major industrial operation connected with performing this subcontract.

(2) If Government property is to be furnished for Subcontractor's use in performance under this subcontract, then by or on behalf of Lockheed Martin there shall be delivered to the Subcontractor, for use in connection with and under the terms of this subcontract, the Government-furnished property described in this subcontract or specifications together with such related data and information that the Subcontractor may request and as may be reasonably required for the intended use of the property (hereinafter referred to as "Government-furnished property").

(3) The delivery or performance dates for this subcontract are based upon the expectations that Government-furnished property suitable for use (except for property furnished "as-is") will be delivered to the Subcontractor at the times stated in this subcontract or, if not so stated, in sufficient time to enable the Subcontractor to meet the subcontract's delivery or performance dates.

(4) If the Government-furnished property is received by the Subcontractor in a condition not suitable for the intended use, the Subcontractor shall, upon receipt of it, notify Lockheed Martin, detailing the facts, and, as directed by Lockheed Martin and at Lockheed Martin expense, either effect repairs or modifications, or return, or otherwise dispose of the property. After completing the directed action and upon written request of the Subcontractor, Lockheed Martin shall make an equitable adjustment as provided in paragraph (h) of this clause.

(5) If Government-furnished property is not delivered to the Subcontractor by the required time, Lockheed Martin shall, upon the Subcontractor's timely written request, make a determination of the delay, if any, caused the Subcontractor and shall make an equitable adjustment, in accordance with paragraph (h) of this clause.

(b) Changes in Government-furnished property. (1) Lockheed Martin may, by written notice, (i) decrease the Government-furnished property provided or to be provided under this subcontract, or (ii) substitute other Government-furnished property for the property to be provided by or on the behalf of Lockheed Martin, or to be acquired by the Subcontractor for Lockheed Martin or the Government, under this subcontract. The Subcontractor shall promptly take such action as Lockheed Martin may direct regarding the removal, shipment, or disposal of the property covered by such notice.

(2) Upon the Subcontractor's written request, Lockheed Martin shall make an equitable adjustment to the subcontract in accordance with paragraph (h) of this clause, if Lockheed Martin has agreed in this subcontract to make the property available for performing this subcontract and there is any:

(i) Decrease or substitution in this property pursuant to subparagraph (b)(1) above; or
(ii) Withdrawal of authority to use this property, if provided under any other contract or lease.

(c) Title in Government property.

(1) The Government shall retain title to all Government-furnished property.

(2) Title to all property purchased by the Subcontractor for which the Subcontractor is entitled to be reimbursed as a direct item of cost under this subcontract shall pass to and vest in the Government upon the vendor's delivery of such property.

(3) Title to all other property, the cost of which is reimbursable to the Subcontractor, shall pass to and vest in the Government upon:

(i) Issuance of the property for use in subcontract performance;
(ii) Commencement of processing of the property or use in subcontract performance; or
(iii) Reimbursement of the cost of the property by Lockheed Martin or the Government, whichever occurs first.

(4) All Government-furnished property and all property acquired by the Subcontractor, title to which vests in the Government under this paragraph (collectively referred to as "Government property"), are subject to the provisions of this clause. Title to Government property shall not be affected by its incorporation into or attachment to any property not owned by the Government, nor shall Government property become a fixture or lose its identity as personal property by being attached to any real property.

(d) Use of Government property. The Government property shall be used only for performing this subcontract, unless otherwise provided in this subcontract or approved by Lockheed Martin or the Government.

(e) Property administration.

(1) The Subcontractor shall be responsible and accountable for all Government property provided under this subcontract and shall comply with Federal Acquisition Regulation (FAR) Subpart 45.5, and DFARS Subpart 245.5 if this is a DoD Subcontract and NFS Subpart 1845.5 if this is a NASA Subcontract, as in effect on the date of this subcontract.

(2) The Subcontractor shall establish and maintain a program for the use, maintenance, repair, protection, and preservation of Government property in accordance with sound industrial practice and the applicable provisions of Subpart 45.5 of the FAR and, for subcontracts under NASA prime contracts, NFS 1845.5.

(3) If damage occurs to Government property, the risk of which has been assumed by the Government or Lockheed Martin under this subcontract, the Government or Lockheed Martin shall replace the items or the Subcontractor shall make such repairs as Lockheed Martin directs. However, if the Subcontractor cannot effect such repairs within the time required, the Subcontractor shall dispose of the property as directed by the Contracting Officer or Lockheed Martin. When any property for which the Government or Lockheed Martin is responsible is replaced or repaired, Lockheed Martin shall make an equitable adjustment in accordance with paragraph (h) of this clause.

(f) Access. The Government or Lockheed Martin and all their designees shall have access at all reasonable times to the premises in which any Government property is located for the purpose of inspecting the Government property.

(g) Risk of loss. Unless otherwise provided in this subcontract, the Subcontractor, upon acquisition of any Government property, assumes the risk of, and shall be responsible for, any loss thereof, or damage thereto, except for reasonable wear and tear, and except to the extent that such property is consumed in the performance of this subcontract.

(h) Equitable adjustment. When this clause specifies an equitable adjustment, it shall be made to any affected subcontract provision in accordance with the procedures of the Changes clause. When appropriate, Lockheed Martin may initiate an equitable adjustment in favor of Lockheed Martin. The right to an equitable adjustment shall be the Subcontractor's exclusive remedy. Lockheed Martin shall not be liable to suit for breach of contract for -

- (1) Any delay in delivery of Government-furnished property;
- (2) Delivery of Government-furnished property in a condition not suitable for its intended use;
- (3) A decrease in or substitution of Government-furnished property; or
- (4) Failure to repair or replace Government property for which the Government or Lockheed Martin is responsible.

(i) Final accounting and disposition of Government property. Upon completing this subcontract, or at such earlier dates as may be fixed by Lockheed Martin, the Subcontractor shall submit, in a form acceptable to Lockheed Martin, inventory schedules covering all items of Government property not consumed in performing this subcontract or delivered to Lockheed Martin or the Government. The Subcontractor shall prepare for shipment, deliver f.o.b. origin, or dispose of the Government property as may be directed or authorized by Lockheed Martin. The net proceeds of any such disposal shall be credited to the cost of work covered by this subcontract or shall be paid to Lockheed Martin as directed by Lockheed Martin. The foregoing provisions shall apply to scrap from Government property; provided, however, that Lockheed Martin may authorize or direct the Subcontractor to omit from such inventory schedules any scrap consisting of faulty castings or forgings or of cutting and processing waste, such as chips, cuttings, borings, turnings, short ends, circles, trimmings, clippings, and remnants, and to dispose of such scrap in accordance with the Subcontractor's normal practice and account for it as part of general overhead or other reimbursable costs in accordance with the Subcontractor's established accounting procedures.

(j) Abandonment and restoration of Subcontractor's premises. Unless otherwise provided herein, the Government or Lockheed Martin, on behalf of the Government -

(1) May abandon any Government property in place, at which time all obligations of the Government or Lockheed Martin regarding such abandoned property shall cease; and

(2) Have no obligation to restore or rehabilitate the Subcontractor's premises under any circumstances (e.g., abandonment, disposition upon completion of need, or subcontract completion). However, if the Government-furnished property (listed in the schedule of this subcontract or specifications) is withdrawn or is unsuitable for the intended use, or if other Government property is substituted, then the equitable adjustment under paragraph (h) of this clause may properly include restoration or rehabilitation costs.

(k) Communications. All communications under this clause shall be in writing.

(l) Overseas contracts. If this subcontract is to be performed outside of the United States of America, its territories, or possessions, the words "Government" and "Government-furnished" (wherever they appear in this clause) shall be construed as "United States Government" and "United States Government-furnished," respectively.

(If the cognizant Contracting Officer has authorized its use and this subcontract specifically provides for inclusion of alternate paragraph (g), Limited Risk of Loss, paragraph (g) above is hereby deleted and the alternate paragraph (g) below is incorporated in lieu thereof.)

(g) Limited Risk of Loss.(Alternate)

(1) The Subcontractor shall not be liable for loss or destruction of, or damage to, the Government property provided under this subcontract or for expenses incidental to such loss, destruction, or damage), except as provided in subparagraphs (2) and (3) below.

(2) The Subcontractor shall be responsible for loss or destruction of, or damage to, the Government property provided under this subcontract (including expenses incidental to such loss, destruction, or damage) -

(i) That results from a risk expressly required to be insured under this subcontract, but only to the extent of the insurance required to be purchased and maintained, or to the extent of insurance actually purchased and maintained, whichever is greater;

(ii) That results from a risk that is in fact covered by insurance or for which the Subcontractor is otherwise reimbursed, but only to the extent of such insurance or reimbursement;

(iii) For which the Subcontractor is otherwise responsible under the express terms of this subcontract;

(iv) That results from willful misconduct or lack of good faith on the part of the Subcontractor's managerial personnel; or

(v) That results from a failure on the part of the Subcontractor, due to willful misconduct or lack of good faith on the part of the Subcontractor's managerial personnel, to establish and administer a program or system for the control, use, protection, preservation, maintenance, and repair of Government property as required by paragraph (e) of this clause.

(3)(i) If the Subcontractor fails to act as provided in subdivision (g)(2)(v) above, after being notified (by certified mail addressed to one of the Subcontractor's managerial personnel) of the Government's disapproval, withdrawal of approval, or nonacceptance of the system or program, it shall be conclusively presumed that such failure was due to willful misconduct or lack of good faith on the part of the Subcontractor's managerial personnel.

(ii) In such event, any loss or destruction of, or damage to, the Government property shall be presumed to have resulted from such failure unless the Subcontractor can establish by clear and convincing evidence that such loss, destruction, or damage -

(A) Did not result from the Subcontractor's failure to maintain an approved program or system; or

(B) Occurred while an approved program or system was maintained by the Subcontractor.

(4) If the Subcontractor transfers Government property to the possession and control of a lower-tier subcontractor, the transfer shall not affect the liability of the Subcontractor for loss or destruction of, or damage to, the property as set forth above. However, the Subcontractor shall require the lower-tier subcontractor to assume the risk of, and be responsible for, any loss or destruction of, or damage to, the property while in the lower-tier subcontractor's possession or control, except to the extent that the lower-tier subcontract, with the advance approval of the Contracting Officer and Lockheed Martin, relieves the lower-tier subcontractor from such

liability. In the absence of such approval, the lower-tier subcontract shall contain appropriate provisions requiring the return of all Government property in as good condition as when received, except for reasonable wear and tear or for its use in accordance with the provisions of this subcontract.

(5) Upon loss or destruction of, or damage to, Government property provided under this subcontract (with the exception of low value property for which loss, damage or destruction is reported at subcontract termination, completion or when needed for continued subcontract performance), the Subcontractor shall so notify Lockheed Martin and shall communicate with the loss and salvage organization, if any, designated by Lockheed Martin. With the assistance of any such organization, the Subcontractor shall take all reasonable action to protect the Government property from further damage, separate the damaged and undamaged Government property, put all the affected Government property in the best possible order, and furnish to Lockheed Martin a statement of -

- (i) The lost, destroyed, or damaged Government property;
- (ii) The time and origin of the loss, destruction, or damage;
- (iii) All known interest in commingled property of which the Government property is a

part; and

- (iv) The insurance, if any, covering any part of or interest in such commingled property.

(6) The Subcontractor shall repair, renovate, and take such other action with respect to damaged Government property as Lockheed Martin directs. If the Government property is destroyed or damaged beyond practical repair, or is damaged and so commingled or combined with property of others (including the Subcontractor's) that separation is impractical, the Subcontractor may, with the approval of and subject to any conditions imposed by Lockheed Martin and the Contracting Officer, sell such property for the account of Lockheed Martin. Such sales may be made in order to minimize the loss to Lockheed Martin and the Government, to permit the resumption of business, or to accomplish a similar purpose. The Subcontractor shall be entitled to an equitable adjustment in the subcontract price for the expenditures made in performing the obligations under this subparagraph (g)(6) in accordance with paragraph (h) of this clause. However, Lockheed Martin may directly reimburse the loss and salvage organization for any of their charges. Lockheed Martin shall give due regard to the Subcontractor's liability under this paragraph (g) when making any such equitable adjustment.

(7) The Subcontractor shall not be reimbursed for and shall not include as an item of overhead, the cost of insurance or any reserve covering risk of loss or destruction of, or damage to, Government property, except to the extent that Lockheed Martin may have expressly required the Subcontractor to carry such insurance under another provision of this subcontract.

(8) In the event the Subcontractor is reimbursed or otherwise compensated for any loss or destruction of, or damage to, Government property, the Subcontractor shall use the proceeds to repair, renovate, or replace the lost, destroyed, or damaged Government property or shall otherwise credit the proceeds to or equitably reimburse Lockheed Martin, as directed by Lockheed Martin.

(9) The Subcontractor shall do nothing to prejudice the Government's or Lockheed Martin's rights to recover against third parties for any loss or destruction of, or damage to, Government property. Upon the request of the Contracting Officer or Lockheed Martin, the Subcontractor shall, at Lockheed Martin's or the Government's expense, furnish to the Government or Lockheed Martin all reasonable assistance and cooperation (including the prosecution of suit and the execution of instruments of assignment in favor of the Government and Lockheed Martin) in obtaining recovery. In addition, where a lower-tier subcontractor has not been relieved from liability for any loss or destruction of, or damage to, Government property, the Subcontractor shall enforce for the benefit of the Government and Lockheed Martin the liability of the lower-tier subcontractor for such loss, destruction, or damage.

3-5 INSPECTION AND CORRECTION OF DEFECTS

(a) Insert as applicable and as specified in paragraph "b" below:

- (i) 52.246-5 INSPECTION OF SERVICES-COST REIMBURSEMENT (APR 1984) Substitute "LOCKHEED MARTIN" for "Government" or "United States" as applicable throughout this clause.

(b) In the above clause, the Government also may exercise any of LOCKHEED MARTIN's rights under that clause.

(c) If the Schedule of this Subcontract contains a warranty clause or clauses pursuant to the Defense Procurement Reform Act (Public Law 98-525) (see also DOD FAR Supp 246.770) with respect to the production of a "weapon system" as defined by regulation and/or the Schedule, the warranty clause(s) shall apply to the "weapon system" in lieu of the foregoing "Inspection and Correction of Defects" clause, but the foregoing clause shall apply to work under this Subcontract which is not part of the "weapon system."