

SECTION 6

ALTERNATE CLAUSES

The following clauses are applicable when called out in the subcontract which incorporates these terms and conditions. FAR/DFARS/NFS incorporated by reference in the subcontract are subject to the definitions in Clause 1-1, unless otherwise indicated.

6-1 VALUE ENGINEERING INCENTIVE

(a) This clause applies to cost reduction proposals initiated and developed by the Subcontractor for changing the drawings, designs, specifications, or other requirements of this subcontract. This clause does not, however, apply to any such proposal unless it is identified by the Subcontractor, at the time of its submission to Lockheed Martin, as a proposal submitted pursuant to this clause. The cost reduction proposals contemplated are those that (i) would require, in order to be applied to this subcontract, a change to this subcontract; and (ii) would result in savings to Lockheed Martin or the Government by providing either of the following:

(1) Less costly items than those specified herein without impairing any of their essential functions and characteristics such as service life, reliability, economy of operation, ease of maintenance, and necessary standardized features.

(2) Items, regardless of the acquisition cost, which produce collateral savings in Lockheed Martin or Government-furnished property, operations, maintenance, or other areas which exceed any increased acquisition cost, without impairing any of the items' essential functions and characteristics.

(b) Cost reduction proposals, as defined herein, shall be processed expeditiously and in the same manner as prescribed for any proposal which would necessitate issuance of a subcontract change order. As a minimum, the following information shall be submitted by the Subcontractor with each proposal:

(1) A description of the difference between the existing subcontract requirement and the proposed change, and the comparative advantages and disadvantages of each.

(2) An itemization of the requirements of the subcontract which must be changed if the proposal is adopted and a recommendation as how to make each such change (e.g., suggested revision).

(3) An estimate of the reduction in performance costs, if any, that will result from adoption of the proposal, taking into account the costs of implementation by the Subcontractor, and the basis for the estimate.

(4) A prediction of any effects the proposed change would have on other costs to Lockheed Martin or the Government; such as Lockheed Martin or Government furnished property costs, costs of related items, and costs of maintenance and operation.

(5) A statement of the time by which a change order adopting the proposal must be issued so as to obtain the maximum cost reduction during the remainder of this subcontract, noting any effect on the subcontract delivery schedule.

(6) The dates of any previous submissions of the proposal to Lockheed Martin or the Government, the numbers of any subcontracts under which submitted, and the previous actions by Lockheed Martin or the Government, if known.

(c) Lockheed Martin shall not be liable for any delay in acting upon any proposals submitted pursuant to this clause. The decision of Lockheed Martin as to the acceptance of any such proposal under this subcontract shall be final. Lockheed Martin may accept, in whole or in part, any cost reduction proposal submitted pursuant to this clause by issuing a change order to this subcontract which will identify the cost reduction proposal on which it is based.

(d) If a cost reduction proposal submitted pursuant to this clause is accepted and applied to this subcontract, an equitable adjustment in the subcontract price and in any other affected provisions of this subcontract shall be made in accordance with this clause and the Changes clause of this subcontract. The equitable adjustment shall be established by determining the effect on the Subcontractor's cost of performance, taking into account the Subcontractor's cost of implementing the change. When the cost of performance of this subcontract is reduced as a result of the change, the subcontract price shall be reduced by fifty percent (50%)\* of the total estimated decrease in the Subcontractor's cost of performance. When the cost of implementing the change precludes a reduction in the cost of performing this subcontract, any equitable adjustment which increases the subcontract price shall be in accordance with the Changes clause rather than under this clause.

(e) Cost reduction proposals submitted under the provisions of any other subcontract may also be submitted for consideration pursuant to the terms of this clause.

(f) The Subcontractor may restrict Lockheed Martin's or the Government's right to use of the data provided on any sheet of a value engineering proposal or of supporting data submitted pursuant to this clause, in accordance with the terms of the following legend if it is marked on such sheet:

"This data is furnished pursuant to the Value Engineering Incentive clause of Subcontract Number \*\*\* and shall not be disclosed outside Lockheed Martin or the Government, or be duplicated, used, or disclosed, in whole or in part, for any purpose other than to evaluate a Value Engineering proposal submitted under said clause. This restriction does not limit Lockheed Martin's or the Government's right to use information contained in this data if it is or has been obtained from another source, or is otherwise available, without limitations." If such a proposal is accepted by Lockheed Martin by issuance of a change to this subcontract under said clause and the Changes clause of this subcontract after the use of this data in such evaluation, Lockheed Martin or the Government shall have the right to duplicate, use, and disclose any data reasonably necessary to the full utilization of such proposal as accepted, in any manner and for any purpose whatsoever, and have others so do.

\*(Unless otherwise stated in this subcontract)

\*\*\*(Insert Subcontract number)

## 6-2 VALUE ENGINEERING INCENTIVE (FPI)

If this subcontract provides for inclusion of this clause then clause 6-1, entitled Value Engineering Incentive, shall apply except that paragraph (d) thereof shall be deleted and the following paragraph (d) shall be inserted in lieu thereof:

(d) If a cost reduction proposal submitted pursuant to this clause and affecting any of the items described in paragraph (b) of the Incentive Price Revision clause of this subcontract is accepted and applied to this subcontract, an equitable adjustment in the total target price of such items and in any other affected provisions of this subcontract shall be made in accordance with this clause and the Changes clause of this subcontract. The equitable adjustment in such total target price shall be established by (i) determining the amount of the total estimated decrease in the Subcontractor's cost of performance resulting from adoption of the cost reduction proposal, taking into account the cost of implementing the change by the Subcontractor (including any amount attributable to lower-tier subcontracts) and (ii) deducting the full amount of this estimated decrease from the total

target cost and adding fifty percent (50%)\* of such amount to the total target profit relating to such items. The maximum dollar limit on the total final price of such items shall be decreased by fifty percent (50%)\* of this decrease. If the equitable adjustment involves an increase in the subcontract price, such increase shall be established under the Changes clause rather than under this paragraph (d). The resulting subcontract modification will state that it is made pursuant to this clause.

\*(Unless otherwise stated in this subcontract)

6-3 USE OF GOVERNMENT OWNED FACILITIES, SPECIAL TOOLING, AND SPECIAL TEST EQUIPMENT

(a) The price, or target cost and profit, and delivery schedule of this subcontract are based on the rent-free usage of Government-owned facilities, special tooling or special test equipment provided under contracts and subcontracts specified in this subcontract and Subcontractor and its lower-tier subcontractors may use, rent-free, in the performance of this subcontract, such Government-owned facilities, special tooling and special test equipment, provided that such use is authorized by and in accordance with the conditions imposed by the Government activity cognizant of the facilities, special tooling and special test equipment.

(b) The above authorization to use Government-owned facilities, special tooling, and special test equipment is limited to those items available on the effective date of this subcontract and to those items which the Government contemplated making available to the Subcontractor and its lower-tier subcontractors for use under this subcontract, including, but not limited to, those items specified in proposals for the acquisition of facilities, submitted by the Subcontractor and its lower-tier subcontractors prior to the effective date of this subcontract or such lower-tier subcontracts and related to the performance of this subcontract.

(c) Upon receipt by Lockheed Martin from the Administrative Contracting Officer of his approval to use and his agreement as to the amount of the adjustment hereinafter described, Subcontractor is authorized to use other (after-acquired) Government-owned facilities, special tooling and special test equipment; provided, however, that (i) under a firm fixed price subcontract, Lockheed Martin on behalf of the Government shall receive the benefit of any reduction in the cost of performing this subcontract; or (ii) under a fixed price incentive subcontract, there shall be deducted from the target cost of this subcontract, for purposes of computing the incentive profit, an amount equal to the estimated cost savings resulting from the use of the other (after-acquired) facilities, tooling and test equipment. The resultant adjustment specified in this paragraph with respect to the authorization to use after-acquired facilities, special tooling and special test equipment, shall not apply to replacement of Government-owned facilities, special tooling and special test equipment when required (i) by normal replacement or repair practices, or (ii) by any generally applied facilities modernization program; the use of such facilities and equipment shall be on a rent-free basis. The foregoing principles shall be utilized in the adjustment of the price of those lower-tier subcontracts the performance of which involves the use of other (after-acquired) Government-owned facilities, special tooling and special test equipment.

(d) In the event that during the performance of this subcontract the authority to use facilities, special tooling or special test equipment (use of which is authorized in accordance with this provision) is limited or terminated by the Government and such facilities, special tooling or special test equipment at or after the time of such limitation or termination are or will be required to perform this subcontract in accordance with the delivery schedule set forth herein, an equitable adjustment in the subcontract price or delivery schedule, or both, shall be made in accordance with the provisions of the Changes clause.

6-4 LIMITATION OF FUNDS

(a) Lockheed Martin shall not be obligated to reimburse Subcontractor for costs incurred (including amounts payable with respect to lower-tier subcontracts and termination settlement costs) nor to pay any profit to which Subcontractor may be entitled in excess of the total funds from time to time allotted to this subcontract. However, when, and to the extent that, the total funds allotted to this subcontract have been increased, any costs incurred by Subcontractor and any profit to which Subcontractor may be entitled prior to the increase which were

in excess of the funds previously allotted, shall be allowable to the same extent as if such costs had been incurred and profit earned after such increase in funds allotted.

(b) Subcontractor agrees to perform or have performed work on this subcontract up to the point at which, in the event of termination of this subcontract in accordance with the Termination Clause, the total amount paid and payable by Lockheed Martin pursuant to any settlement including cost and profit under such Termination Clause would, in the exercise of reasonable judgment by Subcontractor, approximate the total funds at the time allotted to this subcontract. Subcontractor shall not be obligated to continue performance of work beyond such point.

(c) Subcontractor shall notify Lockheed Martin in writing when within the next thirty (30) days the work will reach a point at which, in the event of termination of this subcontract pursuant to the provisions of the Termination Clause, the total amount paid and payable by Lockheed Martin pursuant to a settlement, including cost and profit under such Termination Clause, will approximate eighty-five percent (85%) of the total funds then allotted to this subcontract. The notice shall state the estimated date when such point will be reached, the estimated date the funds then allotted to this subcontract will be totally exhausted, and the estimated amount of additional funds (in monthly increments) which will be required to continue the performance of the work under this subcontract for such further period as may be specified in the Completion and Delivery Clause of this subcontract, or otherwise agreed to by the parties. If, after such notification, additional funds are not allotted by the date estimated for the exhaustion of funds in such notification, Lockheed Martin will, upon written request of Subcontractor and pursuant to the Termination Clause, terminate this subcontract on such date, or on a date to be specified in such request, on which Subcontractor, in the exercise of its reasonable judgment, estimates that it will have discharged its obligation to perform hereunder in accordance with paragraph (b) hereof.

(d) Lockheed Martin may, at any time prior to termination, allot additional funds to this subcontract, and, with the consent of Subcontractor, after notice of termination, may rescind such termination in whole or in part and allot additional funds to this subcontract. For the purposes of this Limitation of Funds Clause, the allotment or allotments specified in the Funding and Limitation of Obligation Clause of this subcontract shall not be decreased without the consent of Subcontractor.

(e) Subcontract Change Notices issued pursuant to the Changes Clause, or by mutual agreement of the parties, and revisions to the effort required to be performed under this subcontract shall not be considered authorization to Subcontractor to exceed the funds allotted to this subcontract in the absence of a statement in the Subcontract Change Notice, or other contractual modification, increasing the amount of funds allotted.

(f) Nothing in this Limitation of Funds Clause shall affect the right of Lockheed Martin to terminate this subcontract pursuant to the Termination Clause.

(g) At the time that the total funds allotted under this subcontract equal the Total Fixed Price or Total Target Price, this clause shall have no force or effect and shall cease to apply.

6-5 INSURANCE

In accordance with the "Indemnification" clause of this subcontract, paragraph (a), (b) or (c) of this clause shall be applicable as specified in this subcontract.

(a) By acceptance of this subcontract, Subcontractor agrees to carry insurance in the following minimum amounts:

Property Damage	\$250,000
Bodily Injury or Death (Each Person)	\$250,000
Bodily Injury or Death (Each Occurrence)	\$500,000

Subcontractor further agrees that Lockheed Martin will be named as an additional insured on insurance policies maintained to comply with the foregoing.

(b) By acceptance of this subcontract, subcontractor agrees to carry insurance in the following minimum amounts:

Property Damage	\$ 500,000
Bodily Injury or Death (Each Person)	\$ 500,000
Bodily Injury or Death (Each Occurrence)	\$1,000,000

Subcontractor further agrees that Lockheed Martin will be named as an additional insured on insurance policies maintained to comply with the foregoing.

(c) By acceptance of this subcontract, Subcontractor agrees to carry insurance in the following minimum amounts:

Property Damage	\$1,000,000
Bodily Injury or Death (Each Person)	\$1,000,000
Bodily Injury or Death (Each Occurrence)	\$2,000,000

Subcontractor further agrees that Lockheed Martin will be named as an additional insured on insurance policies maintained to comply with the foregoing.

6-6 WARRANTY

(a) The Subcontractor warrants that it has good title to articles delivered under the Subcontract. In addition, for a period of one (1) year from the date of final acceptance, Subcontractor warrants that all articles and services furnished hereunder shall be free from defects in workmanship and material, shall strictly comply with the requirements of this Subcontract and any drawings or specifications incorporated herein, regardless of any prior course of performance or of dealing between Lockheed Martin and the Subcontractor, and where design is Subcontractor's responsibility, be free from defects in design. The foregoing warranties are in addition to all other warranties, whether expressed or implied, and shall survive any delivery to, or inspection, acceptance, or payment by Lockheed Martin, of or for the articles and services furnished hereunder.

(b) If any article delivered hereunder does not meet the warranties specified herein or that are otherwise applicable, Lockheed Martin may, at its election:

- (1) Require the Subcontractor to correct at no cost to Lockheed Martin, any defective or nonconforming article by repair or replacement; or
- (2) Return such defective or nonconforming articles to the Subcontractor and recover from the Subcontractor the Subcontract price thereof, plus transportation charges.

(c) If any of the services delivered under this Subcontract do not meet the warranties specified herein or that are otherwise applicable, Lockheed Martin may require the Subcontractor to correct or reperform any defective or nonconforming services.

(d) If the Subcontractor is required to correct or re-perform, it shall be at no cost to Lockheed Martin and any articles or services corrected or re-performed by the Subcontractor pursuant to this clause shall be subject to all provisions of this clause to the same extent as work initially performed. Time devoted to the correction or re-performance of such work shall not be included in the computation of the warranty period. If the Subcontractor fails or refuses to correct or reperform, Lockheed Martin may, by Subcontract or otherwise, correct or replace with similar articles or services and charge to the Subcontractor the cost occasioned to Lockheed Martin thereby or obtain an equitable adjustment in the Subcontract price. If Lockheed Martin does not require correction or re-performance, the Lockheed Martin Purchasing Representative shall make an equitable adjustment in the Subcontract price.

(e) The foregoing remedies are in addition to all other remedies at law or under this Subcontract and shall not be deemed to be exclusive. All warranties shall run to Lockheed Martin and its customers. This clause shall not limit any rights of Lockheed Martin under the Inspection Clause, including, but not limited to, the right

thereunder to require correction or replacement of supplies, at any time, on account of latent defects, fraud, or gross mistakes as amount to fraud.

6-7 UNIT SERIALIZATION - CONTROLLED CONFIGURATION ARTICLES

Units delivered under this subcontract shall be serialized with numbers as shown on the Delivery Schedule, and referenced as CCA serial numbers, or otherwise provided by Lockheed Martin. Controls shall be provided to assure that no serial number is used on more than one unit and that no unit has more than one serial number applied. In the event that a unit with a serial number applied is scrapped, and is to be replaced by a new unit, Subcontractor shall contact Lockheed Martin for an additional serial number assignment. Serial numbers shall be applied to each unit prior to shipment in accordance with the Design Control Drawing. Such unit serial numbers shall appear on all copies of covering shipping documents and invoices.

6-8 SUBCONTRACTOR'S EMPLOYEES AT UK INSTALLATIONS

(a) The Subcontractor shall be responsible for assuring that its employees and the employees of any of its lower-tier subcontractors shall learn and comply with the rules, regulations, and requirements in force at those establishments in the United Kingdom where the work is performed. In addition, with respect to work performed within the United Kingdom, the Subcontractor and any of its lower-tier subcontractors shall comply with the security regulations and requirements of the Ministry of Defense of the United Kingdom.

(b) If any of the employees of Subcontractor or its lower-tier subcontractors are found to be either not qualified to perform the work required or otherwise unsuitable, Lockheed Martin may direct that those employees be replaced with qualified and suitable employees. In the event that any such employees are replaced for the reason that they are unsuitable and such replacement results in an increase in the cost of performance of this subcontract, an equitable adjustment, if warranted, shall be made in the subcontract price.

6-9 CALIFORNIA WITHHOLDING TAX/OUT OF STATE SUBCONTRACTORS

(a) In the absence of one of the exemptions stated below or upon receipt of a Notice to Withhold, Lockheed Martin shall withhold and transmit to the California State Franchise Tax Board an amount equal to 7%, or such other rate as may be authorized in writing by the Franchise Tax Board, of Subcontractor's submitted invoice for services provided in the State of California.

(b) Exempt from the withholding provisions of this clause are:

- (1) Individuals who are California residents and claim a waiver of the withholding requirement by submitting California State Franchise Tax Board Form 1405;
- (2) Corporations who are qualified to do business in California.

(c) If a Subcontractor claims to be a California resident the Subcontractor shall submit to Lockheed Martin, upon execution of this subcontract or no later than the first invoice, an executed California Franchise Tax Board Form 1405. Subcontractor shall continue to submit a new form 1405 for each calendar year, no later than October 31 of the preceding year, for the duration of this contract. Failure of the subcontractor to provide a current Form 1405 for any year will result in withholding as indicated in (a) above.

6-10 LIMITATION OF LIABILITY - HIGH VALUE AND OTHER END ITEMS

This clause is only applicable if the cognizant Contracting Officer has authorized its use and this subcontract specifically provides for inclusion of this clause.

This subcontract involves the procurement of both high value items (for which Clause 6-38, Limitation of Liability - High Value Items is appropriate), and other end items (for which FAR Clauses 52.246-23, Limitation of Liability and 52.246-25, Limitation of Liability-Services are appropriate) and all clauses, 6-38 and

FAR 52.246-23 and 52.246-25 are applicable to this subcontract with the following preamble added to the beginning of Clause 6-38, Limitation of Liability - High Value items:

"(The provisions of this Clause, Limitation of Liability - High Value Items, shall apply only to those items identified in this subcontract as being subject to this clause.)"

6-11 STATUTORY PROHIBITION ON COMPENSATION TO FORMER GOVERNMENT EMPLOYEES

(a) The definitions of clause 1-1(b)(1) shall not apply.

(b) If Subcontractor or any employee of Subcontractor is a former official of a Federal agency and has left Government service within one year after such former official—

- (1) Served, at the time of selection of the Subcontractor or the award of a contract to Subcontractor, as the procuring officer, the source selection authority, a member of a source selection evaluation board, or the chief of a financial or technical evaluation team in a procurement in which Subcontractor was selected for award of a contract in excess of \$10,000,000;
- (2) Served as the program manager, deputy program manager, or administrative contracting officer for a contract in excess of \$10,000,000 awarded to Subcontractor; or
- (3) Personally made for the Federal agency—
  - (A) A decision to award a contract, subcontract, modification of a contract or subcontract, or a task order or delivery order in excess of \$10,000,000 to Subcontractor;
  - (B) A decision to establish overhead or other rates applicable to a contract or contracts for Subcontractor that are valued in excess of \$10,000,000;
  - (C) A decision to approve issuance of a contract payment or payments in excess of \$10,000,000 to Subcontractor; or
  - (D) A decision to pay or settle a claim in excess of \$10,000,000 with Subcontractor.

(c) If such an individual meets the above criteria of a former official of a Federal Agency then that individual shall not provide service and/or receive compensation, either directly or indirectly, from this subcontract.

6-12 PROGRESS PAYMENTS FOR SMALL BUSINESS CONCERNS

FAR 52.232-16 and Alternate I and, for undefinitized subcontracts, Alternate II, modified to identify the contracting parties as required by FAR. The applicable rates shall be included in the subcontract.

Progress payments shall be made to the Subcontractor when requested as work progresses, but not more frequently than monthly in amounts approved by Lockheed Martin, under the following conditions:

(a) Computation of amounts.

(1) Unless the Subcontractor requests a smaller amount, each progress payment shall be computed as (i) \_\_\_\_percent of the Subcontractor's total costs incurred under this subcontract whether or not actually paid, plus (ii) progress payments to lower-tier subcontractors (see paragraph (j)below),all less the sum of all previous progress payments made by Lockheed Martin under this subcontract. Cost of money that would be allowable under 31.205-10 of the Federal Acquisition Regulation shall be deemed an incurred cost for progress payment purposes.

(2) Accrued costs of Subcontractor contributions under employee pension plans shall be excluded until actually paid unless:

(i) The Subcontractor's practice is to make contributions to the retirement fund quarterly or more frequently; and

(ii) The contribution does not remain unpaid 30 days after the end of the applicable quarter of shorter payment period (any contribution remaining unpaid shall be excluded from the Subcontractor's total costs for progress payments until paid).

(3) The Subcontractor shall not include the following in total costs for progress payment purposes in subparagraph (a)(1)(i) above:

(i) Costs that are not reasonable, allocable to this subcontract, and consistent with sound and generally accepted accounting principles and practices.

(ii) Costs incurred by lower-tier subcontractors or suppliers.

(iii) Costs ordinarily capitalized and subject to depreciation or amortization except for the properly depreciated or amortized portion of such costs.

(iv) Payments made or amounts payable to lower-tier subcontractors or suppliers, except for:

(A) Completed work, including partial deliveries, to which the Subcontractor has acquired title; and

(B) Work under cost-reimbursement or time and material lower-tier subcontracts to which the Subcontractor has acquired title.

(4) The amount of unliquidated progress payments may exceed neither (i) the progress payments made against incomplete work (including allowable unliquidated progress payments to lower-tier subcontractors) nor (ii) the value, for progress payment purposes, of the incomplete work. Incomplete work shall be considered to be the supplies and services required by this subcontract, for which delivery and invoicing by the Subcontractor and acceptance by Lockheed Martin are incomplete.

(5) The total amount of progress payments shall not exceed \_\_\_\_percent of the total subcontract price.

(6) If a progress payment or the unliquidated progress payments exceed the amounts permitted by subparagraphs (a)(4) or (a)(5) above, the Subcontractor shall repay the amount of such excess to Lockheed Martin on demand.

(b) Liquidation. Except as provided in the Termination Clause herein, all progress payments shall be liquidated by deducting from any payment under this subcontract, other than advance or progress payments, the unliquidated progress payments, or \_\_\_\_percent of the amount invoiced, whichever is less. The Subcontractor shall repay to Lockheed Martin any amounts required by a retroactive price reduction, after computing liquidations and payments on past invoices at the reduced prices and adjusting the unliquidated progress payments accordingly. Lockheed Martin reserves the right to unilaterally change from the ordinary liquidation rate to an alternate rate when deemed appropriate for proper subcontract financing.

(c) Reduction or suspension. Lockheed Martin may reduce or suspend progress payments, increase the rate of liquidation, or take a combination of these actions, after finding on substantial evidence any of the following conditions:

(1) The Subcontractor failed to comply with any material requirement of this subcontract (which includes paragraphs (f) and (g) below).

(2) Performance of this subcontract is endangered by the Subcontractor's (i) failure to make progress or (ii) unsatisfactory financial condition.

(3) Inventory allocated to this subcontract substantially exceeds reasonable requirements.

(4) The Subcontractor is delinquent in payment of the costs of performing this subcontract in the ordinary course of business.

(5) The unliquidated progress payments exceed the fair value of the work accomplished on the undelivered portion of this subcontract.

(6) The subcontractor is realizing less profit than that reflected in the establishment of any alternate liquidation rate in paragraph (b) above, and that rate is less than the progress payment rate stated in subparagraph (a)(1) above.

(d) Title.

(1) Title to the property described in this paragraph (d) shall vest in the Government. Vestiture shall be immediately upon the date of this subcontract, for property acquired or produced before that date. Otherwise, vestiture shall occur when the property is or should have been allocable or properly chargeable to this subcontract.

(2) "Property," as used in this clause includes all of the below-described items acquired or produced by the Subcontractor that are or should be allocable or properly chargeable to this subcontract under sound and generally accepted accounting principles and practices.

(i) Parts, materials, inventories, and work in process.

(ii) Special tooling and special test equipment to which the Government is to acquire title under any other clause of this subcontract;

(iii) Nondurable (i.e., noncapital) tools, jigs, dies, fixtures, molds, patterns, taps, gauges, test equipment, and other similar manufacturing aids, title to which would not be obtained as special tooling under subparagraph (d)(2)(ii) above; and

(iv) Drawings and technical data, to the extent the Subcontractor or lower-tier subcontractors are required to deliver them to Lockheed Martin or the Government by other clauses of this subcontract.

(3) Although title to property is in the Government under this clause, other applicable clauses of this subcontract, e.g., the termination or special tooling clauses, shall determine the handling and disposition of the property.

(4) The Subcontractor may sell any scrap resulting from production under this subcontract without requesting Lockheed Martin's approval, but the proceeds shall be credited against the costs of performance.

(5) To acquire for its own use or dispose of property to which title is vested in the Government under this clause, the Subcontractor must obtain Lockheed Martin's advance approval of the action and the terms. The Subcontractor shall (i) exclude the allocable costs of the property from the costs of contract performance and (ii) repay to Lockheed Martin any amount of unliquidated progress payments allocable to the property. Repayment may be by cash or credit memorandum.

(6) When the Subcontractor completes all of the obligations under this subcontract, including liquidation of all progress payments, title shall vest in the Subcontractor for all property (or the proceeds thereof) not:

(i) Delivered to, and accepted by, Lockheed Martin under this subcontract; or

(ii) Incorporated in supplies delivered to, and accepted by, Lockheed Martin under this subcontract and to which title is vested in the Government under this clause.

(7) The terms of this subcontract concerning liability for Government-furnished property shall not apply to property to which the Government acquired title solely under this clause.

(e) Risk of loss. Before delivery to and acceptance by Lockheed Martin, the Subcontractor shall bear the risk of loss for property, the title to which vests in the Government under this clause, except to the extent the Government or Lockheed Martin expressly assumes the risk. The Subcontractor shall repay Lockheed Martin an amount equal to the unliquidated progress payments that are based on costs allocable to property that is damaged, lost, stolen, or destroyed.

(f) Control of costs and property. The Subcontractor shall maintain an accounting system and controls adequate for the proper administration of this clause.

(g) Reports and access to records. The Subcontractor shall promptly furnish reports, certificates, financial statements and other pertinent information reasonably requested by the Contracting Officer or Lockheed Martin for the administration of this clause. Also, the Subcontractor shall give the Government or Lockheed Martin reasonable opportunity to examine and verify the Subcontractor's books, records, and accounts.

(h) Special terms regarding default. If this subcontract is terminated under the Default Clause, (i) the Subcontractor shall, on demand, repay to Lockheed Martin the amount of unliquidated progress payments and (ii) title shall vest in the Subcontractor, on full liquidation of progress payments, for all property for which

Lockheed Martin elects not to require delivery under the Default Clause. Lockheed Martin shall be liable for no payment except as provided by the Default Clause.

(i) Reservations of rights.

(1) No payment or vesting of title under this clause shall (i) excuse the Subcontractor from performance of obligations under this subcontract or (ii) constitute a waiver of any of the rights or remedies of the parties under the subcontract.

(2) Lockheed Martin rights and remedies under this clause (i) shall not be exclusive but rather shall be in addition to any other rights and remedies provided by law or this subcontract and (ii) shall not be affected by delayed, partial, or omitted exercise of any right, remedy, power, or privilege, nor shall such exercise or any single exercise preclude or impair any further exercise under this clause or the exercise of any other right, power, or privilege of the Government or Lockheed Martin.

(j) Progress payments to lower-tier subcontractors. The amounts mentioned in (a)(1)(ii) above shall be all progress payments to lower-tier subcontractors or division, if the following conditions are met:

(1) The amounts included are limited to (i) the unliquidated remainder of progress payments made plus (ii) for small business concerns any unpaid lower-tier subcontractor requests for progress payment that the Subcontractor has approved for current payment in the ordinary course of business.

(2) The lower-tier subcontract or interdivisional order is expected to involve a minimum of approximately 6 months between the beginning of work and the first delivery, or, if the lower-tier subcontractor is a small business concern, 4 months.

(3) The terms of the lower-tier subcontract or interdivisional order concerning progress payments:

(i) Are substantially similar to the terms of the clause at DFARS 252.232-7004, or FAR 52.232-16, and Alt I, as appropriate, Progress Payments, for any subcontractor that is a small business concern;

(ii) Are at least as favorable to Lockheed Martin as the terms of this clause;

(iii) Are not more favorable to the lower-tier Subcontractor or division than the terms of this clause are to the Subcontractor;

(iv) Are in conformance with the requirements of paragraph 32.504(e) of the Federal Acquisition Regulation; and

(v) Subordinate all lower-tier subcontractor rights concerning property to which the Government has title under the subcontract to the Government's or Lockheed Martin's right to require delivery of the property to the Government or Lockheed Martin if (A) the Subcontractor defaults or (B) the lower-tier subcontractor becomes bankrupt or insolvent.

(4) The progress payment rate in the lower-tier subcontract is the customary rate used by the Contracting Agency, depending on whether the lower-tier subcontractor is or is not a small business concern.

(5) The parties agree concerning any proceeds received by Lockheed Martin for property to which title has vested in the Government under the subcontract terms. that the proceeds shall be applied to reducing any unliquidated progress payments by Lockheed Martin to the Subcontractor under this subcontract.

(6) If no unliquidated progress payments to the Subcontractor remain, but there are unliquidated progress payments that the subcontractor has made to any lower-tier subcontractor, the Subcontractor shall be subrogated to all the rights the Government and Lockheed Martin obtained through the terms required by this clause to be in any lower-tier subcontract as if all such rights had been assigned and transferred to the Subcontractor.

(7) The Subcontractor shall pay the lower-tier subcontractor's progress payment request under subdivision (j)(1)(ii) above, within a reasonable time after receiving Lockheed Martin's progress payment covering those amounts.

(8) To facilitate small business participation in lower-tier subcontracting under this subcontract, the Subcontractor agrees to provide progress payments to small business concerns, in conformity

with the standards for customary progress payments stated in Subpart 32.5 of the Federal Acquisition Regulation. The Subcontractor further agrees that the need for such progress payments shall not be considered as a handicap or adverse factor in the award of lower-tier subcontracts.

(k) Limitations on Undefined Subcontract Actions. Notwithstanding any other progress payment provision in this subcontract progress payments may not exceed \_\_\_\_\_ percent (\_\_\_\_%) of costs incurred on work accomplished under undefinitized subcontract actions. A "subcontract action" is any action resulting in a contractual action as defined in FAR Subpart 2.1 including subcontract modifications for additional supplies or services, but not including subcontract modifications that are within the scope and under the terms of the subcontract, such as subcontract modifications issued pursuant to the Changes clause, or funding and other administrative changes. This limitation shall apply to the costs incurred, as computed in accordance with paragraph (a), and shall remain in effect until the subcontract action is definitized. Costs incurred which are subject to this limitation shall be segregated on subcontractor progress payment requests and invoices from those costs eligible for higher progress payment rates. For purposes of progress payment liquidation, as described in paragraph (b), progress payments for undefinitized subcontract actions shall be liquidated at \_\_\_\_\_ percent (\_\_\_\_%) of the amount invoiced for work performed under the undefinitized subcontract action as long as the subcontract action remains undefinitized. The amount of unliquidated progress payments for undefinitized subcontract actions shall not exceed \_\_\_\_\_ percent (\_\_\_\_%) of the maximum liability of Lockheed Martin under the undefinitized subcontract action or such lower limit specified elsewhere in the subcontract. Separate limits may be specified for separate actions.

(If this subcontract is a letter subcontract, paragraphs (1) and (m) below apply.)

(l) Progress payments made under this letter subcontract shall, unless previously liquidated under paragraph (b), be liquidated under the following procedures:

- (1) If this letter subcontract is superseded by a definitive subcontract, unliquidated progress payments made under this letter subcontract shall be liquidated by deducting the amount from the first progress payment(s) made under the definitive subcontract.
- (2) If this letter subcontract is not superseded by a definitive subcontract calling for the furnishing of all or part of the articles or services covered under the letter subcontract, unliquidated progress payments made under the letter subcontract shall be liquidated by deduction from the amount payable under the Termination clause.
- (3) If this letter subcontract is partly terminated and partly superseded by a subcontract, Lockheed Martin shall allocate the unliquidated progress payments to the terminated and unexpired portions as Lockheed Martin deems equitable and shall liquidate each portion under the relevant procedure in (1)(1) and (1)(2) above.
- (4) If the method of liquidating progress payments provided above does not result in full liquidation, the Subcontractor shall immediately pay the unliquidated-balance to Lockheed Martin on demand.

(m) The amount of unliquidated progress payments shall not exceed \_\_\_\_\_ percent (\_\_\_\_%), applied to the maximum liability of Lockheed Martin under this Letter subcontract.

6-13 PROGRESS PAYMENTS FOR OTHER THAN SMALL BUSINESS CONCERNS

FAR 52.232-16 and, for undefinitized subcontracts, Alternate II, modified to identify the contracting parties as required by FAR. The applicable rates shall be included in the subcontract.

Progress payments shall be made to the Subcontractor when requested as work progresses, but not more frequently than monthly in amounts approved by Lockheed Martin, under the following conditions:

- (a) Computation of amounts.
  - (1) Unless the Subcontractor requests a smaller amount, each progress payment shall be computed as (i) \_\_\_\_ percent of the Subcontractor's cumulative total costs under this

subcontract, as shown by records maintained by the Subcontractor for the purpose of obtaining payment under Lockheed Martin subcontracts, plus (ii) progress payments to lower-tier subcontractors (see paragraph (j) below), all less the sum of all previous progress payments made by Lockheed Martin under this subcontract. Cost of money that would be allowable under 31.205-10 of the Federal Acquisition Regulation shall be deemed an incurred cost for progress payment purposes.

(2) The following conditions apply to the timing of including costs in progress payment requests:

- (i) The costs of supplies and services purchased by the Subcontractor directly for this subcontract may be included only after payment by cash, check, or other form of actual payment.
  - (ii) Costs for the following may be included when incurred, even if before payment, when the Subcontractor is not delinquent in payment of the costs of contract performance in the ordinary course of business:
    - (A) Materials issued from the Subcontractor's stores inventory and placed in the production process for use on this subcontract.
    - (B) Direct labor, direct travel, and other direct in-house costs.
    - (C) Properly allocable and allowable indirect costs.
  - (iii) Accrued costs of Subcontractor contributions under employee pension, profit sharing, and stock ownership plans shall be excluded until actually paid unless: A) The Subcontractor's practice is to contribute to the plans quarterly or more frequently; and (B) The contribution does not remain unpaid 30 days after the end of the applicable quarter or shorter payment period (any contributions remaining unpaid shall be excluded from the Subcontractor's total cost for progress payments until paid).
  - (iv) If the subcontract is subject to the special transition method authorized in Cost Accounting Standard (CAS) 410, Allocation of Business Unit General and Administrative Expense to Final Cost Objective, General and Administrative expenses (G&A) shall not be included in progress payment requests until the suspense account prescribed in CAS 410 is less than:
    - (A) Five million dollars; or
    - (B) The value of the work-in-process inventories under contracts entered into after the suspense account was established (only a pro rata share of the G&A allocable to the excess of the inventory over the suspense account value is includable in progress payment requests under this subcontract).
- (3) The Subcontractor shall not include the following in total costs for progress payment purposes in subparagraph (a)(1)(i) above:
- (i) Costs that are not reasonable, allocable to this subcontract, and consistent with sound and generally accepted accounting principles and practices.
  - (ii) Costs incurred by lower-tier subcontractors or suppliers.
  - (iii) Costs ordinarily capitalized and subject to depreciation or amortization except for the properly depreciated or amortized portion of such costs.
  - (iv) Payments made or amounts payable to lower-tier subcontractors or suppliers, except for:
    - (A) Completed work, including partial deliveries to which the Subcontractor has acquired title; and
    - (B) Work under cost-reimbursement or time-and-material lower-tier subcontracts to which the Subcontractor has acquired title.
- (4) The amount of unliquidated progress payments may exceed neither (i) the progress payments made against incomplete work (including allowable unliquidated progress payments to lower-tier Subcontractors) nor (ii) the value, for progress payment purposes, of the incomplete work. Incomplete work shall be considered to be the supplies and services required by this subcontract for which delivery and invoicing by the subcontractor and acceptance by Lockheed Martin are incomplete.

(5) The total amount of progress payments shall not exceed \_\_\_\_ percent of the total subcontract price.

(6) If a progress payment or the unliquidated progress payments exceed the amounts permitted by subparagraphs (a)(4) or (a)(5) above, the Subcontractor shall repay the amount of such excess to Lockheed Martin on demand.

(b) Liquidation. Except as provided in the Termination Clause herein, all progress payments shall be liquidated by deducting from any payment under this subcontract, other than advance or progress payments, the unliquidated progress payments, or \_\_\_\_ percent of the amount invoiced, whichever is less. The Subcontractor shall repay to Lockheed Martin any amounts required by a retroactive price reduction after computing liquidations and payments on past invoices at the reduced prices and adjusting the unliquidated progress payments accordingly. Lockheed Martin reserves the right to unilaterally change from the ordinary liquidation rate to an alternate rate when deemed appropriate for proper subcontract financing.

(c) Reduction or suspension. Lockheed Martin may reduce or suspend progress payments, increase the rate of liquidation, or take a combination of these actions, after finding on substantial evidence any of the following conditions:

(1) The Subcontractor failed to comply with any material requirement of this subcontract (which includes paragraphs (f) and (g) below).

(2) Performance of this subcontract is endangered by the Subcontractor's (i) failure to make progress or (ii) unsatisfactory financial condition.

(3) Inventory allocated to this subcontract substantially exceeds reasonable requirements.

(4) The Subcontractor is delinquent in payment of the costs of performing this subcontract in the ordinary course of business.

(5) The unliquidated progress payments exceed the fair value of the work accomplished on the undelivered portion of this subcontract.

(6) The Subcontractor is realizing less profit than that reflected in the establishment of any alternate liquidation rate in paragraph (b) above, and that rate is less than the progress payment rate stated in subparagraph (a)(1) above.

(d) Title.

(1) Title to the property described in this paragraph (d) shall vest in the Government. Vestiture shall be immediately upon the date of this subcontract, for property acquired or produced before that date. Otherwise, vestiture shall occur when the property is or should have been allocable or properly chargeable to this subcontract.

(2) "Property," as used in this clause, includes all of the below-described items acquired or produced by the Subcontractor that are or should be allocable or properly chargeable to this subcontract under sound and generally accepted accounting principles and practices.

(i) Parts, materials, inventories, and work in process;

(ii) Special tooling and special test equipment to which the Government is to acquire title under any other clause of this subcontract;

(iii) Nondurable (i.e., noncapital) tools, jigs, dies, fixtures, molds, patterns, taps, gauges, test equipment, and other similar manufacturing aids, title to which would not be obtained as special tooling under subparagraph (d)(2)(ii) above; and

(iv) Drawings and technical data to the extent the Subcontractor or lower-tier subcontractors are required to deliver them to Lockheed Martin or the Government by other clauses of this subcontract.

(3) Although title to property is in the Government under this clause, other applicable clauses of this subcontract, e.g., the termination or special tooling clauses, shall determine the handling and disposition of the property.

(4) The Subcontractor may sell any scrap resulting from production under this subcontract without requesting Lockheed Martin's approval, but the proceeds shall be credited against the costs of performance.

- (5) To acquire for its own use or dispose of property to which title is vested in the Government under this clause, the Subcontractor must obtain Lockheed Martin's advance approval of the action and the terms. The Subcontractor shall (i) exclude the allocable costs of the property from the costs of contract performance, and (ii) repay to Lockheed Martin any amount of unliquidated progress payments allocable to the property. Repayment may be by cash or credit memorandum.
- (6) When the Subcontractor completes all of the obligations under this subcontract, including liquidation of all progress payments, title shall vest in the Subcontractor for all property (or the proceeds thereof) not:
- (i) Delivered to, and accepted by, Lockheed Martin under this subcontract; or
  - (ii) Incorporated in supplies delivered to, and accepted by, Lockheed Martin under this subcontract and to which title is vested in the government under this clause.
- (7) The terms of this subcontract concerning liability for Government-furnished property shall not apply to property to which the Government acquired title solely under this clause.
- (e) Risk of loss. Before delivery to and acceptance by Lockheed Martin the Subcontractor shall bear the risk of loss for property, the title to which vests in the Government under this clause, except to the extent the Government or Lockheed Martin expressly assumes the risk. The Subcontractor shall repay Lockheed Martin an amount equal to the unliquidated progress payments that are based on costs allocable to property that is damaged, lost, stolen or destroyed.
- (f) Control of costs and property. The Subcontractor shall maintain an accounting system and controls adequate for the proper administration of this clause.
- (g) Reports and access to records. The Subcontractor shall promptly furnish reports, certificates, financial statements, and other pertinent information reasonably requested by the Contracting officer or Lockheed Martin for the administration of this clause. Also, the Subcontractor shall give the Government or Lockheed Martin reasonable opportunity to examine and verify the Subcontractors books, records, and accounts.
- (h) Special terms-regarding default. If this subcontract is terminated under the Default Clause, (i) the Subcontractor shall, on demand, repay to Lockheed Martin the amount of unliquidated progress payments and (ii) title shall vest in the Subcontractor, on full liquidation of progress payments, for all property for which Lockheed Martin elects not to require delivery under the Default Clause. Lockheed Martin shall be liable for no payment except as provide by the Default Clause.
- (i) Reservations of rights.
- (1) No payment or vesting of title under this clause shall (i) excuse the Subcontractor from performance of obligations under this subcontract or (ii) constitute a waiver of any of the rights or remedies of the parties under the subcontract.
  - (2) Lockheed Martin's rights and remedies under this clause (i) shall not be exclusive but rather shall be in addition to any other rights and remedies provided by law or this subcontract and (ii) shall not be affected by delayed, partial, or omitted exercise of any right, remedy, power, or privilege, nor shall such exercise or any single exercise preclude or impair any further exercise under this clause or the exercise of any other right, power, or privilege of the Government or Lockheed Martin.
- (j) Progress payments to lower-tier subcontractors. The amounts mentioned in (a)(1)(ii) above shall be all progress payments to lower-tier subcontractors or divisions, if the following conditions are met:
- (1) The amounts included are limited to (i) the unliquidated remainder of progress payments made plus (ii) for small business concerns any unpaid lower-tier subcontractor requests for progress payments that the Subcontractor has approved for current payment in the ordinary course of business.

- (2) The lower-tier subcontract or interdivisional order is expected to involve a minimum of approximately 6 months between the beginning of work and the first delivery, or, if the lower-tier subcontractor is a small business concern, 4 months.
  - (3) The terms of the lower-tier subcontract or interdivisional order concerning progress payments:
    - (i) Are substantially similar to the terms of the clause at DFARS 252.232-7004, or FAR 52.232-16, as is appropriate, Progress Payments, for any subcontractor that is a large business concern;
    - (ii) Are at least as favorable to Lockheed Martin as the terms of this clause;
    - (iii) Are not more favorable to the lower-tier subcontractor or division than the terms of this clause are to the Subcontractor;
    - (iv) Are in conformance with the requirements of paragraph 32.504(e) of the Federal Acquisition Regulation; and
    - (v) Subordinate all lower-tier subcontractor rights concerning property to which the Government has title under the subcontract to the Government's or Lockheed Martin's right to require delivery of the property to the Government or Lockheed Martin if (A) the Subcontractor defaults or (B) the lower-tier subcontractor becomes bankrupt or insolvent.
  - (4) The progress payment rate in the lower-tier subcontract is the customary rate used by the Contracting Agency, depending on whether the lower-tier subcontractor is or is not a small business concern.
  - (5) The parties agree concerning any proceeds received by Lockheed Martin for property to which title has vested in the Government under the subcontract terms, that the proceeds shall be applied to reducing any unliquidated progress payments by Lockheed Martin to the Subcontractor under this subcontract.
  - (6) If no unliquidated progress payments to the Subcontractor remain, but there are unliquidated progress payments that the Subcontractor has made to any lower-tier subcontractor, the Subcontractor shall be subrogated to all the rights the Government and Lockheed Martin obtained through the terms required by this clause to be in any lower-tier subcontract, as if all such rights had been assigned and transferred to the Subcontractor.
  - (7) The Subcontractor shall pay the lower-tier Subcontractor's progress payment request under subdivision (j)(1)(ii) above, within a reasonable time after receiving Lockheed Martin progress payment covering those amounts.
  - (8) To facilitate small business participation in lower-tier subcontracting under this subcontract, the Subcontractor agrees to provide progress payments to small business concerns, in conformity with the standards for customary progress payments stated in Subpart 32.5 of the Federal Acquisition Regulation. The Subcontractor further agrees that the need for such progress payments shall not be considered as a handicap or adverse factor in the award of lower-tier subcontracts.
- (k) Limitations on Undefined Subcontract Actions. Notwithstanding any other progress payment provision in this subcontract, progress payments may not exceed \_\_\_\_\_ percent (\_\_\_\_%) of costs incurred on work accomplished under undefined subcontract actions. A "subcontract action" is any action resulting in a contractual action as defined in FAR Subpart 2.1, including subcontract modifications for additional supplies or services, but not including subcontract modifications that are within the scope and under the terms of the subcontract, such as subcontract modifications issued pursuant to the Changes clause, or funding and other administrative changes. This limitation shall apply to the costs incurred, as computed in accordance with paragraph (a), and shall remain in effect until the subcontract action is defined. Costs incurred which are subject to this limitation shall be segregated on subcontractor progress payment requests and invoices from those costs eligible for higher progress payment rates. For purposes of progress payment liquidation, as described in paragraph (b), progress payments for undefined subcontract actions shall be liquidated at \_\_\_\_\_ percent (\_\_\_\_%) of the amount invoiced for work performed under the undefined subcontract action as long as the subcontract action remains undefined. The amount

of unliquidated progress payments for undefinitized subcontract actions shall not exceed \_\_\_\_\_ percent (\_\_\_\_%) of the maximum liability of Lockheed Martin under the undefinitized subcontract action or such lower limit specified elsewhere in the subcontract. Separate limits may be specified for separate actions.

(If this subcontract is a letter subcontract, paragraphs (1) and (m) below apply.)

(1) Progress payments made under this letter subcontract shall, unless previously liquidated under paragraph (b), be liquidated under the following procedures:

(1) If this letter subcontract is superseded by a definitive subcontract, unliquidated progress payments made under this letter subcontract shall be liquidated by deducting the amount from the first progress payment(s) made under the definitive subcontract.

(2) If this letter subcontract is not superseded by a definitive subcontract calling for the furnishing of all or part of the articles or services covered under the letter subcontract, unliquidated progress payments made under the letter subcontract shall be liquidated by deduction from the amount payable under the Termination clause.

(3) If this letter subcontract is partly terminated and partly superseded by a subcontract, Lockheed Martin shall allocate the unliquidated progress payments to the terminated and unliquidated portions Lockheed Martin deems equitable, and shall liquidate each portion under the relevant procedure in (1)(1) and (1)(2) above.

(4) If the method of liquidating progress payments provided above does not result in full liquidation, the Subcontractor shall immediately pay the unliquidated balance to Lockheed Martin on demand.

(m) The amount of unliquidated progress payments shall not exceed \_\_\_\_\_ percent (\_\_\_\_%), applied to the maximum liability of Lockheed Martin under this Letter subcontract.

6-14 INSPECTION (FPI)

Paragraph (g), (h) and (l) of the clause at FAR 52.246-2, ("Inspection" - Clause 2-49) are hereby deleted and paragraphs (g), (h) and (l) as set forth in FAR 52.246-2, Alternate I, are substituted in lieu thereof and are incorporated herein by reference except that the term "Government" shall mean "Government and Lockheed Martin" and the definition of the term "Government" as previously set forth in paragraph (b)(1) of Clause 1-1 herein shall not apply to this clause.

Clause Number	Citation	Title	Notes
6-15	FAR 52.215-17	Waiver Of Facilities Capital Cost Of Money	Applicable only if the subcontract is subject to the cost principles at FAR Subpart 31.2 and the Subcontractor did not propose facilities cost of money in its offer.

6-16	FAR 52.216-16	Incentive Price Revision – Firm Target (FPI-Firm Target) (And Alternate I)	Subject to the alterations set out below and proper designation of the parties as indicated in Clause 1-1(b) of these terms and conditions except that "Government" shall not change as indicated in Clause 1-1(b). (1) In paragraph (a), the items and dollars are indicated in the subcontract. (2) In paragraph (b) the following is inserted between "(FAR)" and "in effect":...the DFARS or NASA FAR Supplement, as is applicable...(3) In paragraph (c) the number of days shall be "45". (4) In paragraph (d)(2)(ii) and (iii) the percent is indicated in the subcontract. (5) In paragraph (g)(2) delete the words "...by the amount of any applicable tax credits due the contractor under 26 USC 1481." (6) Delete paragraph (i) Disagreements.
6-17	FAR 52.227-6	Royalty Information	
6-18	FAR 52.227-9	Refund Of Royalties	Applicable when reported royalty exceeds \$250.
6-19	FAR 52.227-11	Patent Rights - Retention By The Subcontractor (Short Form)	The definitions in paragraph (b)(1) of Clause 1-1 herein shall not apply. Applicable if Subcontractor is a small business or non-profit organization performing experimental or research and development work.
6-20	FAR 52.227-11, (and NFS 18.52.227-11 if for use with NASA subcontracts)	Patent Rights - Retention By The Contractor (Short Form)	The definitions in paragraph (b)(1) of clause 1-1 herein shall not apply. Clauses 5-16, NEW TECHNOLOGY, and 5-17, REQUESTS FOR WAIVER OF RIGHTS TO INVENTIONS, are hereby deleted.
6-21	FAR 52.227-12	Patent Rights - Retention By The Contractor (Long Form)	The definitions in paragraph (b)(1) of Clause 1-1 herein shall not apply. Applicable to other than a small business or non-profit organization performing experimental or research and development work.
6-22	FAR 52.227-13	Patent Rights - Acquisition By The Government	The definitions in paragraph (b)(1) of Clause 1-1 herein shall not apply.
6-23	FAR 52.227-14	Rights In Data - Limited Rights Data - Alternate I	The definitions in paragraph (b)(1) of clause 1-1 herein shall not apply.
6-24	FAR 52.227-14	Rights In Data - Limited Rights Notice - Alternate II	The definition in paragraph (b)(1) of clause 1-1 herein shall not apply.

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6-25	FAR 52.227-14	Rights In Data - Restricted Rights Notice - Alternate III	The definition in paragraph (b)(1) of clause 1-1 herein shall not apply.
6-26	FAR 52.227-14	Rights In Data - Copyright - Alternate IV	The definition in paragraph (b)(1) of clause 1-1 herein shall not apply.
6-27	FAR 52.227-14	Rights In Data - Inspection - Alternate V	The definitions in paragraph (b)(1) of clause 1-1 herein shall not apply.
6-28	FAR 52.228-3	Worker's Compensation Insurance (Defense Base Act)	
6-29	FAR 52.228-5	Insurance - Work On A Government Installation	The definition of the term "Government" in paragraph (b)(1) of Clause 1-1 herein shall not apply. The phrase "Government's interest" in paragraph (b) shall mean "Lockheed Martin's or the Government's interest".
6-30	FAR 52.229-3	Federal, State And Local Taxes	
6-31	FAR 52.229-5	Taxes - Contracts Performed In U.S. Possessions Or Puerto Rico	
6-32	FAR 52.233-3	Protest After Award (And Alternate I, If Appropriate)	
6-33	FAR 52.242-2	Production Progress Reports	
6-34	FAR 52.243-6	Change Order Accounting	Delete reference to "Disputes" clause in the last sentence.
6-35	FAR 52.243-7	Notification Of Changes	Notice required by paragraph (b) shall be given within 14 calendar days. Notice required by paragraph (d) shall be given within 35 calendar days.
6-36	FAR 52.244-1	Subcontracts (Fixed-Price Contracts)	
6-37	FAR 52.244-1	Subcontracts (Fixed-Price Contracts (As Modified By Alternate I)	

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6-38	FAR 52.246-24	Limitation Of Liability - High Value Items	This clause is only applicable if the cognizant Contracting Officer has authorized its use and this subcontract specifically provides for inclusion of this clause. Unless Clause 6-10 is specifically made applicable to this subcontract, FAR clauses 52.246-23 and 52.246-25 are hereby deleted. "Acceptance" shall mean "acceptance by the Government"; the meaning of the phrases "Government" and "Government property" shall not change.
6-39	FAR 52.247-64	Preference For Privately Owned U. S.-Flag Commercial Vessels	And Alternate I (if required by the Prime Contract under which this subcontract is issued). The numbers "20" and "30" in paragraph (c)(2) are changed to "10" and "15", respectively.
6-40	DFARS 252.227-7026	Deferred Delivery Of Technical Data or Computer Software	The definitions in paragraph (b)(1) of Clause 1-1 herein shall not apply.
6-41	DFARS 252.227-7027	Deferred Ordering Of Technical Data Or Computer Software	The definitions in paragraph (b)(1) of Clause 1-1 herein shall not apply.
6-42	DFARS 252.227-7029	Identification Of Technical Data	Removed 6/30/95. Applicable only in support of prime contracts issued before 6/30/95 which call out this clause.
6-43	DFARS 252.234-7001	Earned Value Management System	
6-44	DFARS 252.243-7000	Engineering Change Proposals	
6-45	NFS 18-52.204-71	NASA Contractor Financial Management Reporting	Deleted 5/9/94. Applicable only in support of prime contracts issued before 5/9/94 which call out this clause.
6-46	NFS 18-52.211-74 (Removed 3/25/97), (formerly 18-52.212-70, changed 9/6/96)	Notice Of Delay	Deleted 3/25/97. Applicable only in support of Prime Contracts issued before 3/25/97 which call out this clause.
6-47	NFS 18-52.227-85	Inventions Reporting And Rights - Foreign	The meaning of the term "Government" in paragraph (c) shall not change.
6-48	NFS 18-52.235-71	Key Personnel And Facilities	
6-49	NFS 18-52.243-70	Engineering Change Proposals (And Alt II)	
6-50	<u>NASA - RIGHTS IN TECHNICAL DATA: PRE 1987 PRIME CONTRACTS</u>		

(a) If this clause is referenced in the Alterations and Special Provisions of this subcontract, the following NFS clauses in effect prior to December 1987 are incorporated herein. The definitions in paragraph (b)(1) of clause 1-1 shall not apply; provided, however, Lockheed Martin shall have the right to reproduce and use for the performance of its Prime Contract any data delivered by Subcontractor under this Subcontract.

(1) 18-52.227-74 General (and Alt I, II, or III if included in the prime contract between Lockheed Martin and the Government.)

(2) 18-52.227-75 Notification of Limited Rights Data and Restricted Computer Software

(3) 18-52.227-76 Additional Data Requirements

(a) (1), (2) and (3) are only applicable if called out in the prime contract.

(b) Clauses 5-2, 52.227-14, Rights in Data - General; 5-4, 52.227-19, Commercial Computer Software - Restricted Rights; 5-12, 18-52.227-14, Rights in Data - General; and 5-13, 18-52.227-19 Commercial Computer Software - Restricted Rights are hereby deleted. If (a) (1), (2) and (3) are not part of the prime contract then disregard this subclause (b).

6-51 EXPERIMENTAL, DEVELOPMENTAL OR RESEARCH WORK

For purposes of defining the nature of the work and the scope of rights in technical data granted to the Government pursuant to the "Rights in Technical Data and Computer Software" clause of this subcontract, it is understood and agreed that this subcontract requires the performance of experimental, developmental, or research work. This clause does not constitute a determination as to whether or not any data required to be delivered under this subcontract falls within the definition of limited rights data.

6-52 ALLOWABLE COST, INCENTIVE FEE AND PAYMENT

If this is an Incentive Fee type subcontract, the provisions of Clause 3-1 shall be included in this subcontract as modified by the following additions:

(a) add the following after paragraph (a)(8):

(9) The target cost and target fee of this subcontract shall be subject to adjustment in accordance with subparagraphs (d) and (e). As used throughout this subcontract the term (i) "target cost" means the estimated cost of this subcontract initially negotiated, adjusted in accordance with subparagraph (d) below; and (ii) "target fee" means the fee which was initially negotiated on the assumption that this subcontract would be performed at the cost, delivery schedule and quality performance level set forth in this subcontract as adjusted in accordance with paragraph (d).

(b) add the following after paragraph (c):

(d) When the work under the incentive portion of this subcontract (including any supplies or services which are ordered separately under, or otherwise added to, this subcontract) is increased or decreased by subcontract modification or when any equitable adjustment in the target cost is authorized under any other clause of this subcontract, equitable adjustments in the target cost, target fee, minimum fee, maximum fee, or any or all of them, as appropriate, shall be set forth in an amendment to this subcontract.

(e) The fee payable for the incentive portion of this subcontract shall be the target fee increased or decreased in accordance with the formula set forth in this subcontract. This fee shall be no greater than the maximum, nor less than the minimum fee, as specified in this subcontract; and within these limits such fee shall be subject to adjustment, by reason of increase or decrease of total allowable cost, on account of refunds, rebates, or credits under the assignment required by the Release Provision and Closure Requirements clause contained herein, and payment of claims excepted from the release required by such clause. Notwithstanding that stated above, normally, Lockheed Martin shall pay the fee to the Subcontractor as specified in accordance with the formula set forth in this subcontract. However, when Lockheed Martin considers that performance or cost

indicates that the Subcontractor will not achieve target, Lockheed Martin shall pay on the basis of an appropriate lesser fee. When the Subcontractor demonstrates that performance or cost clearly indicates that the Subcontractor will earn a fee significantly above the target fee, Lockheed Martin may, at its sole discretion, pay on the basis of an appropriate higher fee.

(f) Unless otherwise determined by Lockheed Martin or the Government, for the purpose of the adjustment of the fee in accordance with the cost incentive provisions of this subcontract, the terms "total allowable cost" or "total final cost" shall not include allowable costs arising out of (i) any of the causes covered by the clause hereof entitled "Excusable Delays" to the extent they are beyond the control and without the fault or negligence of the Subcontractor or any lower-tier subcontractor; (ii) the taking effect, after the negotiation of the target cost of this subcontract, of a statute, court decision, written ruling or regulation which results in the subcontractor's being required to pay or bear the burden of any tax or duty, or increase in the rate thereof; (iii) any direct cost attributed to the Subcontractor's assistance or participation in litigation as required by Lockheed Martin or the Government pursuant to a provision of this subcontract, including the furnishing of evidence and information requested pursuant to the clause entitled "Notice and Assistance Regarding Patent and Copyright Infringement"; (iv) the procurement and maintenance of additional insurance not included in the target cost and required by Lockheed Martin or the Government or claims for reimbursement for liabilities to third persons pursuant to the clause hereof entitled "Insurance - Liability to Third Persons"; or (v) any claim, loss or damage resulting from a risk for which the Subcontractor has been relieved of liability pursuant to the clause hereof entitled "Government Property".

Except as otherwise specifically provided in this subcontract, all other allowable costs shall be included in the terms "total allowable cost" and "total final cost" for the purpose of the adjustment of the fee in accordance with this subcontract.

(g) The total allowable cost and the adjusted fee determined as provided in this clause shall be evidenced by a modification and the adjusted fee determined as provided in this clause shall be evidenced by a modification to this subcontract signed by the Subcontractor and Lockheed Martin.

6-53 INSURANCE - LIABILITY TO THIRD PERSONS

The clause at FAR 52.228-7 is incorporated herein by reference except that the definitions in paragraph (b)(1) of Clause 1-1 herein shall not apply and "The Government" shall mean "Lockheed Martin or the Government" and the term "Contracting Officer" shall mean "Lockheed Martin or the Contracting Officer". Additionally, paragraph (a)(7) of Clause 3-1, Allowable Cost, Fixed Fee, and Payment, and the words "(but not including claims based on personal injury or death or property damage)" of paragraph (a)(2) of Clause 3-2, Release Provisions and Closure Requirements, are hereby deleted. The obligation of Lockheed Martin to reimburse the subcontractor for liabilities to third persons as set forth in Paragraph (c)(ii) of the clause entitled "Insurance - Liability to Third Persons" shall be limited to the amount made available by the Government to Lockheed Martin for the payment for the loss at the time of the loss. Nothing contained in this clause may be construed to imply that Congress will appropriate funds sufficient to cover the differences between available appropriations and the Subcontractor's liabilities.

6-54 VALUE ENGINEERING INCENTIVE (CPFF, CPIF, CPAF)

This clause is applicable to CPIF type subcontracts as it appears below.

If this subcontract is a CPFF type subcontract, paragraph (d) shall be modified as follows:

the words "target cost and fee" in the first and second sentences shall mean "estimated cost and fixed fee"; the words "minimum, target, and maximum fees" in the second sentence shall mean "fixed fee".

If this subcontract is a CPAF type subcontract, paragraph (d) shall be modified as follows:

the words "target cost and fee" in the first and second sentences shall mean "estimated cost and award fee"; the words "minimum, target, and maximum fees" in the second sentence shall mean "base, award and maximum fees".

(a) this clause applies to those cost reduction proposals initiated and developed by the Subcontractor for changing the drawings, designs, specifications, or other requirements of the instant subcontract. This clause does not, however, apply to any such proposal unless it is identified by the Subcontractor at the time of its submission to Lockheed Martin as a proposal submitted pursuant to this clause. The cost reduction proposals contemplated are those that (i) would require, in order to be implemented, a change to the instant subcontract; and (ii) would result in a reduction in overall costs to Lockheed Martin or the Government without impairing any of the essential functions and characteristics such as service life, reliability, economy of operation, ease of maintenance, and necessary standardized features.

(b) As a minimum, the following information shall be submitted by the subcontractor with each proposal:

(1) A description of the difference between the existing subcontract requirement and the proposed change, and the comparative advantages and disadvantages of each;

(2) An itemization of the requirements of the subcontract which must be changed if the proposal is adopted, and a recommendation as to how to make each such change (e.g., a suggested revision);

(3) An estimate of the reduction in performance costs, if any, that will result from adoption of the proposal, taking into account the costs of development and implementation by the Subcontractor (including any amount attributable to lower-tier subcontracts in accordance with paragraph (e) below) and the basis for the estimate;

(4) A prediction of any effects the proposed change would have on other costs to Lockheed Martin or the Government such as Lockheed Martin or Government-furnished property costs, costs of related items, and costs of maintenance and operation;

(5) A statement of the time by which a change order adopting the proposal must be issued so as to obtain the maximum cost reduction during the remainder of the instant subcontract. noting any effect on the subcontract completion time or delivery schedule; and

(6) Identification of any previous submissions of the proposal to Lockheed Martin or the Government, if known.

(c) Lockheed Martin shall not be liable for any delay in acting upon, or for any failure to act upon, any proposal submitted pursuant to this clause. The decision of Lockheed Martin as to the acceptance of any such proposal under the instant subcontract shall be final. Lockheed Martin may accept, in whole or in part, either before or within a reasonable time after performance has been completed under the instant subcontract, any cost reduction proposal submitted pursuant to this clause by giving the subcontractor written notice thereof. Where performance under this subcontract has not yet been completed, this written notice may be given by issuance of a change order to the instant subcontract. Unless and until a change order applies a value engineering change proposal to the instant subcontract, the Subcontractor shall remain obligated to perform in accordance with the terms of the existing subcontract. If a proposal is accepted after performance under the instant subcontract has been completed, the adjustment required shall be effected by subcontract modification in accordance with this clause.

(d) If a cost reduction proposal submitted pursuant to this clause is accepted under the instant subcontract, an equitable adjustment in target cost and fee and in any other affected provisions of the instant subcontract shall be made in accordance with this clause and the Changes Clause of the instant subcontract. The equitable adjustment in target cost and fee shall be established by (i) determining the amount of the total estimated decrease in the Subcontractor's cost of performance of the instant subcontract resulting from adoption of the cost reduction proposal taking into account the cost of implementing the change by the Subcontractor (including any amount attributable to lower-tier subcontracts in accordance with paragraph (e) below); and (ii) deducting the full amount of the estimated decrease from the terms and conditions and adding 50% of each amount to the minimum, target and maximum fees. If the equitable adjustment involves an increase in the cost of performance of the subcontract, such increase shall be established under the Changes Clause rather than under this paragraph (d). Subcontract modifications made pursuant to this clause will so state.

(e) The Subcontractor will use its best efforts to include appropriate value engineering arrangements in any lower-tier subcontract which, in the judgment of the Subcontractor, is of such a size

and nature as to offer reasonable likelihood of value engineering cost reductions. For the purpose of computing any equitable adjustment in the subcontract price under paragraph (d) above, the Subcontractor's cost of development and implementation of a cost reduction proposal which is accepted under the instant subcontract shall be deemed to include any development and implementation costs of a lower-tier subcontractor and any value engineering incentive payments to a lower-tier subcontract, or cost reduction shares accruing to a lower-tier subcontractor, which clearly pertain to such proposal and which are incurred, paid, or accrued in the performance of a lower-tier subcontract under the instant subcontract.

(f) A cost reduction proposal submitted under the provisions of any other subcontract may also be submitted for consideration under the instant subcontract. Notwithstanding any other provision of this clause, where a cost reduction proposal has been accepted by Lockheed Martin or the Government, prior to its acceptance under the instant subcontract, under any other contract with the Subcontractor for substantially the same items as called for by the instant subcontract, the total amount of the equitable adjustment under the instant subcontract shall be limited to that provided for in paragraph (d) of this clause.

(g) The Subcontractor may restrict Lockheed Martin or the Government's right to the use of data provided on any sheet of a value engineering proposal or of the supporting data, submitted pursuant to this clause, in accordance with the terms of the following legend if it is marked on such sheet:

This data furnished pursuant to the Value Engineering Clause of subcontract \_\_\_\_\_ shall not be disclosed outside Lockheed Martin or the Government, or duplicated, used or disclosed in whole or in part, for any purpose other than to evaluate a value engineering proposal submitted under said clause. This restriction does not limit Lockheed Martin or the Government's right to use information contained in this data if it is or has been obtained, or is otherwise available, from the Subcontractor or from another source, without limitations. If such a proposal is accepted by Lockheed Martin or the Government under said subcontract after the use of this data in such an evaluation, Lockheed Martin or the Government shall have the right to duplicate, use, and disclose any data reasonably necessary to the full utilization of such proposal as accepted, in any manner and for any purpose whatsoever, and have others so do.

#### 6-55 COST ACCOUNTING STANDARDS

The Clause at FAR 52.230-2 is incorporated herein by reference as if fully set forth herein, except for paragraph (b). The definitions contained in Section 1 of these terms and conditions shall apply except as indicated below.

- (a)(1) The term "Government" shall not change.
- (a)(4)(ii) The term "Contracting Officer" shall mean "Lockheed Martin or the Contracting Officer"; the term "United States" shall mean "Lockheed Martin or the United States".
- (a)(5) The term "United States" shall mean "Lockheed Martin or the United States".
- (c) The term "Government" shall not change.

#### 6-56 DISCLOSURE AND CONSISTENCY OF COST ACCOUNTING PRACTICES

The Clause at FAR 52.230-3 is incorporated herein by reference as if fully set forth herein, except for paragraph (b). The definitions contained in Section 1 of these terms and conditions shall apply except as indicated below. This clause shall not be effective if incorporated into the subcontract with clauses 6-55.

- (a)(2) The term "Government" shall not change.
- (a)(3)(ii) The term "Contracting Officer" shall not change; the term "United States" shall mean "Lockheed Martin or the United States".
- (a)(4) The term "United States" shall mean "Lockheed Martin or the United States".
- (c) The term "Government" shall not change.

6-57 CONSISTENCY IN COST ACCOUNTING PRACTICES (UNITED KINGDOM)

The Clause at FAR 52.230-4 is incorporated herein by reference as if fully set forth herein. The definitions contained in Section 1 of these terms and conditions shall apply except as indicated below. This clause is applicable only if this subcontract is with a United Kingdom subcontractor and will be substantially performed in the United Kingdom.

The term "U.S. Government" shall mean "Lockheed Martin or the United States Government". The last reference to "United States Government" shall not change.

6-58 ADMINISTRATION OF COST ACCOUNTING STANDARDS

The Clause at FAR 52.230-6 is incorporated herein by reference as if fully set forth herein. The definitions contained in Section 1 of these terms and conditions shall apply except as indicated below.

In paragraphs (a)-(e), inclusive, the term "Contracting Officer" shall not change. This clause is applicable only when 6-55 (52.230-2) or 6-56 (52.230-3) is also incorporated.