

SECTION 8

CONSULTANT AND OPERATING SUPPORT SERVICES

(Section 8 clauses are applicable to all Consultant or Operating Support Services subcontracts unless specifically deleted in the subcontract.)

8-1 LIMITATION OF OBLIGATION

Lockheed Martin shall not be obligated to make payment to Subcontractor/Consultant in excess of the funding limitation set forth in the Subcontract and Subcontractor/Consultant shall not be obligated to continue performance under this Subcontract in excess of the funding limitation set forth in the Subcontract, unless and until Lockheed Martin shall have notified Subcontractor/Consultant in writing that such funding limitation has been increased and shall have specified in such notice a revised funding limitation which shall thereupon constitute the funding limitation for performance of this Subcontract. If, at any time, Subcontractor/Consultant expects 85% of the funding limitation to be reached within the next succeeding sixty (60) days, Subcontractor/Consultant shall notify Lockheed Martin in writing to that effect. In the event of termination, Lockheed Martin's sole obligation hereunder shall be limited to the payment by Lockheed Martin to Subcontractor/Consultant of charges incurred hereunder prior to the date of expiration or termination, but in any event, not in excess of the funding limitation specified in the Subcontract.

8-2 LABOR RATES

(a) The rates specified in the Subcontract under the part entitled "PAYMENT, FUNDING AND INVOICING" cover labor, indirect costs, and all elements of overhead, general and administrative expense and profit. The rates specified in the Subcontract are the rates at which Lockheed Martin shall be invoiced for services under this Subcontract. Travel, per diem and other expenses, when authorized, will be as stipulated in the Subcontract.

(b) Unless specifically authorized in the Subcontract, time spent in travel and other nonproductive time not directly in performance of services hereunder shall not be billable to Lockheed Martin.

8-3 RECORDS AND AUDIT

(a) The Subcontractor/Consultant's accounting procedures and practices shall be subject to the approval of Lockheed Martin, provided, however, that no significant change will be required to be made in Subcontractor/Consultant's accounting procedures and practices if they conform to generally acceptable accounting practices and if the charges properly applicable to this Subcontract are readily ascertainable therefrom.

(b) The Subcontractor/Consultant agrees to retain for a period of three (3) years from final payment hereunder, books, records, documents and other evidence pertaining to the costs and expenses of this Subcontract (hereinafter collectively called the "records") to the extent and in such detail as will properly reflect all net costs, direct and indirect, of labor, materials, equipment, supplies and services, and other costs and expenses of whatever nature for which reimbursement is claimed under the provisions of this Subcontract. The Subcontractor/Consultant agrees to make available at the office of the Subcontractor/Consultant at all reasonable times during such retention period any of the records for inspection, audit or reproduction by any representative authorized by Lockheed Martin. The term "records" shall also include work product, trip reports (indicating persons visited and subjects discussed), minutes of meetings, collateral memoranda, and related documents.

(c) When the use of Lockheed Martin-furnished time sheets is required by the Subcontract, all charges for labor hereunder shall be supported by either Form LMMS 1656, "Consultant Weekly Personnel Roll" or Form LMMS 8851G, "Weekly Time Sheet, Supplier Personnel" or other Lockheed Martin-furnished standard form.

(1) Subcontractor/Consultant shall ensure that each time sheet is accurately filled out and identified to the applicable Subcontract or task number, and shall sign each time sheet certifying to its correctness.

(2) Lockheed Martin's cognizant Technical Representative supervisor or manager will complete the form by entering the organization, date and by signature in the space so provided and furnish at least one signed copy to the Subcontractor/Consultant.

(d) The requirements in this clause are in addition to, not in place of, any requirements included in any FAR/DFARS/NFS clause incorporated into this Subcontract.

8-4 PAYMENT AND INVOICES(Consultant and Operating Support Services)

In addition to the requirements of Clause 1-29:

(a) Subcontractor/Consultant shall submit an original invoice plus two copies to request payment from Lockheed Martin. Lockheed Martin may specify that certain Operating Support Services subcontracts will be subject to an automatic payment process and in those subcontracts invoices will not be required. When invoices are required for Operating Support Services each invoice will include the original supporting documentation plus two copies. For all Consultant agreements, each invoice will include the original supporting documentation plus two copies. Each invoice shall carry an individual invoice date and a reference to the task number contained in the PAYMENT, FUNDING AND INVOICING Part of the Subcontract. A separate invoice shall be submitted for each task number in the event more than one number is included in the Subcontract. In the event Consultant's services are applied to different tasks above as directed by Lockheed Martin's Technical Representative separate invoices shall be submitted by Consultant for each task identifying the allowable costs incurred in performance of each task. Each such invoice shall carry the appropriate task number.

(b) Each invoice shall list all charges in sufficient detail, as required herein, including references to each time sheet being billed, so that the correctness of all charges may be determined by Lockheed Martin. Each invoice shall be accompanied by original supporting documentation and receipts for any expenses over \$25.00.

(c) When automatic payment is not authorized, the Operating Support Services Subcontractor shall provide with each invoice a breakdown of labor charges showing direct labor, overhead, general and administrative (G&A) expense, and profit in a format similar to that as provided by Lockheed Martin's Authorized Procurement Representative.

(d) For Consultants, all time worked must be documented on approved time sheets and submitted with all invoices. Time worked at Lockheed Martin Facilities shall be recorded on a Lockheed Martin provided Time Sheet which will be submitted with each invoice, completed in accordance with the instructions and containing the signatures of the Consultant or the Authorized Lockheed Martin Technical Representative and the applicable task number set forth in the Subcontract. Work performed away from Lockheed Martin premises must also be reported on time sheets documented in accordance with the Consultant's internal accounting procedures. A statement relating the work performed to the scope of work and in sufficient detail to allow Lockheed Martin to determine the amount and quality of work performed, and summarizing the location and type of work performed must be included with the invoice submitted for payment thereof. Invoices not meeting this requirement will be rejected. Work will be subject to approval by the Lockheed Martin Technical representative.

(e) Lockheed Martin shall pay Subcontractor/Consultant in accordance with the time period specified in the Subcontract following the receipt and approval of properly identified and supported invoices.

(f) Payment for services rendered shall be made by check or wire transfer to the order of Subcontractor/Consultant. Payment shall not be made in cash or any other bearer instrument.

(g) All invoices submitted by Subcontractor/Consultant hereunder shall bear the following certification: "I certify that all amounts billed herein are correct, and are in accordance with the Subcontract referenced herein, and that payment therefore has not been received."

(h) (Consultant services only) Concurrent with the final invoice, Subcontractor/Consultant shall submit copies of documentation supporting Subcontractor/Consultant's time charged to this Subcontract. Such documentation, in addition to work product, shall include, but not be limited to, trip reports (indicating persons visited and subjects discussed), minutes of meetings, collateral memoranda, logs of time expended which support Subcontractor/Consultant's time sheets, and related documents. Submission of such documentation does not relieve Subcontractor/Consultant from the requirement of retaining original copies of such documentation pursuant to Clause 8-3 of these Terms and Conditions.

(i) (Consultant services only) In addition to the certification required above, the final invoice shall include the following certification: "I certify that all reports/work product to be delivered to Lockheed Martin pursuant to this Subcontract have been delivered and accepted by the Lockheed Martin Technical Representative."

(j) (Domestic Business Development Consultant services only) In addition to the certification required above, each invoice shall include the following statement: "Submission of this invoice certifies compliance with the terms and conditions of the consulting agreement under which this invoice is submitted, and certifies compliance with all laws, regulations and Lockheed Martin policies and procedures referenced therein." The invoice is to be accompanied by a completed Consultant Activity Report, form no. C-703-2.

(k) Invoices not in compliance with the requirements of this section shall be returned to the Subcontractor/Consultant for correction and resubmittal.

(l) Payment for costs and/or expenses authorized under this subcontract shall be made in accordance with FAR Subpart 31.2, NFS Part 18-31.2 or DFARS 231.2, (FAR Subpart 31.3 Educational Institutions, DFARS 231.7 Non-Profit Institution), whichever is applicable, as in effect on the date of this subcontract.

8-5 PATENTS AND DATA

(a) Title to Inventions and Materials Produced: It is understood and agreed that title to any and all information, inventions (whether or not patentable) designs, drawings, photographs, physical property, reports and other subject matter which is prepared, procured, generated or produced by Subcontractor/Consultant in the course of, in connection with, or as may be related to his performance under this Subcontract, shall be and hereby is vested in Lockheed Martin. Subcontractor/Consultant agrees to execute any and all documents, including patent applications, prepared by Lockheed Martin, and do all other lawful acts as may be required by Lockheed Martin to establish, document, and protect such rights.

(b) Protection of Information: Subcontractor/Consultant agrees that he will hold in confidence, and will not reproduce or disclose to third parties any of the information defined in (a) above, or any other information or data relating to Lockheed Martin business which is acquired as a result of his relationship to Lockheed Martin under this Subcontract without Lockheed Martin's prior written consent. This obligation of confidence shall not apply with respect to data which is, or through action of persons other than Subcontractor/Consultant, later falls within the public domain.

(c) Return of Materials: Subcontractor/Consultant agrees upon termination (or sooner if requested by Lockheed Martin) of his relationship with Lockheed Martin, to return to Lockheed Martin any of the Materials or data mentioned in (a) and (b) above.

(d) Legends: The appearance of any legend or notice, on or in connection with any data submitted by Subcontractor/Consultant to Lockheed Martin, or any information verbally indicated as being "proprietary" which is furnished by Subcontractor/Consultant to Lockheed Martin, will not establish a confidential relationship or other obligation on the part of Lockheed Martin with respect to such information unless a written agreement specifying the obligations to be incurred and signed by both parties is entered into.

(e) Intellectual Property Infringement: To the extent that the information and/or data delivered hereunder are developed or generated to designs not originated or furnished by Lockheed Martin, or to a process or method, the use of which is not specifically directed by Lockheed Martin, Lockheed Martin shall have no responsibility to Subcontractor/Consultant and Subcontractor/Consultant guarantees that the sale or use of such information and/or data or the use of any such process or method will not infringe any United States or foreign patents, copyrights, or trade secrets, and Subcontractor/Consultant shall indemnify and save Lockheed Martin and its customers harmless from any expense, loss, cost, damage, or liability, including attorney's fees, which may be incurred on account of the infringement or alleged infringement of such rights and to defend at his own expense any action or claim in which such infringement is alleged, provided Subcontractor/Consultant is notified of such action or claims against Lockheed Martin. Indemnification shall not apply to infringement arising solely from use in combination with other items or infringement which would have not occurred from the normal use for which the supplied information and/or data alone was designated.

8-6 INDEPENDENT CONTRACTOR INNOVATION AGREEMENT WITH LOCKHEED MARTIN CORPORATION

Subcontractor/Consultant in consideration of and as part of the terms of the subcontract covering its continued efforts for and association with Lockheed Martin and the remuneration paid to Subcontractor/Consultant by Lockheed Martin during such association, hereby agrees to the following:

Lockheed Martin has developed and uses technical and non-technical information vital to the success of Lockheed Martin's business. Generally, a Lockheed Martin Engineering Services Independent Contractor becomes acquainted with this information and, depending on job assignments and responsibilities, may contribute to it either through inventions, discoveries, improvements, computer programs, mask works, works of authorship (collectively called "Innovations") or through studies, analyses, proposals, business plans (collectively called "Work for Hire") or otherwise. Therefore, it is necessary for Lockheed Martin to protect certain of this technical and non-technical information generated by its Engineering Services Independent Contractors by holding it as proprietary and confidential, or by obtaining statutory protection (comprising patents, trademarks, mask works, copyrights) or common law protection (such as trade secrets) or both.

(a) Proprietary Information: Subcontractor/Consultant shall not, except as authorized by Lockheed Martin, at any time during or after its association directly or indirectly disclose to any other person or entity any proprietary or sensitive information of Lockheed Martin or of others (collectively called "Proprietary Information"), which has come into Lockheed Martin's or Subcontractor/Consultant's possession, custody or knowledge during Subcontractor/Consultant's association with Lockheed Martin, nor shall Subcontractor/Consultant use any such Proprietary Information for Subcontractor/Consultant's personal use or advantage or make such Proprietary Information available to others. Neither shall Subcontractor/Consultant disclose or use, directly or indirectly, any Proprietary Information, or make such Information available to others for use in competition with Lockheed Martin for work being performed or opportunities being pursued by Lockheed Martin. Proprietary Information includes existing and contemplated technical information such as, for example, compositions, formulas, products, processes, methods, systems, designs, specifications, mask works, testing or evaluation procedures, machines, manufacturing procedures, production techniques, research and development activities, inventions, discoveries and improvements and

also existing and contemplated business, marketing and financial information such as, for example, business plans and methods, marketing information, cost estimates, forecasts, financial data, bid and proposal information, customer identification, and sources of supply.

(1) All information, both technical and non-technical, pertaining to Lockheed Martin's businesses in whatever form, including but not limited to text, drawings, mask works or computer software programs, is presumed to be proprietary and confidential until it becomes readily available to the general public lawfully and without breach of confidential obligation.

(b) Innovations: Subcontractor/Consultant agrees to fully disclose to Lockheed Martin within ten (10) days of the first triggering event (e.g., creation, conception, or reduction to practice) all Innovations and/or Work for Hire, whether or not patentable, copyrightable or registerable, including but not limited to products, processes, methods, systems, designs, techniques, mask works, computer programs, facilities, equipment, and devices that have been or may be conceived, made or authored by Subcontractor/Consultant solely or jointly with others in the performance of efforts owed under Agreements with Lockheed Martin: (1) which are along the lines of or relate to the business, work, or investigations of Lockheed Martin or of any company with which it is affiliated; (2) which result from or arise out of any work that it may do for or on behalf of Lockheed Martin; (3) which result from or arise out of any Proprietary Information that may have been disclosed or otherwise made available to it as a result of duties assigned it by Lockheed Martin or (4) that are otherwise made through use of Lockheed Martin's time, facilities or materials. All such Innovations and Works for Hire shall be the sole and exclusive property of Lockheed Martin, and Subcontractor/Consultant agrees to assign and hereby assign to Lockheed Martin all of Subcontractor/Consultant's right, title and interest therein.

(c) Execution of Documents: Subcontractor/Consultant also agrees, during and after the period of its performance under Agreements with Lockheed Martin, to execute all documents and perform all reasonable acts requested by Lockheed Martin relating to the perfection and exercise of Lockheed Martin's rights in all Innovations described in Paragraph (b) above, including but not limited to the assignment and exploitation of, and application for, issuance, and maintenance of U.S. and foreign statutory protection for such innovations.

(d) Records and Documents; Prior Inventions: All records, documents, and other writings including text, drawings, computer software programs, mask works or works of authorship relating to or containing Proprietary Information as defined above, which are prepared or created by Subcontractor/Consultant or which may come into its possession in the performance of efforts owed under Agreements with Lockheed Martin, are deemed to be the property of Lockheed Martin. Upon termination of the Agreements with Lockheed Martin under which its performance is owed, Subcontractor/Consultant agrees to leave all such records, documents, and writings and all copies thereof with Lockheed Martin. Subcontractor/Consultant also agrees that it will not disclose to or use on behalf of Lockheed Martin any proprietary or confidential information of any third party without authorization therefrom.

(e) Miscellaneous: No provision in this subcontract is intended to require assignment to Lockheed Martin of any of Subcontractor/Consultant's rights in an invention for which no equipment, supplies, facilities or trade secret information of Lockheed Martin was used, and which was developed entirely on Subcontractor/Consultant's own time, unless such invention (1) relates to the business of Lockheed Martin or to the actual or demonstrably anticipated research or development of Lockheed Martin; or results from any work performed by Subcontractor/Consultant for Lockheed Martin. This clause shall be binding upon Subcontractor/Consultant, its heirs, administrators, assigns, executors or other legal representatives and shall be binding upon and inure to the benefit of Lockheed Martin, its assigns, nominees or successors; however, neither this subcontract nor any provision thereof shall be construed to be an employment agreement. Subcontractor/Consultant agrees that either during or after the period of its performance under Agreements with Lockheed Martin, Lockheed Martin may advise others of the existence of this clause and the provisions of all or any part thereof.

Note: The term "Confidential" as used herein does not refer to official security classification of the United States Government.

8-7 CALIFORNIA ADDENDUM TO INDEPENDENT CONTRACTOR INNOVATION AGREEMENT WITH LOCKHEED MARTIN CORPORATION (This clause is applicable only when the performance of the contract will occur in California)

(a) The terms of Clause 8-6 do not apply to an invention which qualifies fully under California Labor Code Article 3.5, Section 2870, as amended.

(b) Nothing in Section 2870 shall be construed to forbid or restrict the right of Lockheed Martin to provide for full title to certain patents and inventions to be in the United States, as required by contracts between Lockheed Martin and the United States or any of its agencies.

(c) All inventions, including those qualifying under Section 2870, which are made by Subcontractor/Consultant solely or jointly with others during the period of Subcontractor/Consultant's performance under Agreements with Lockheed Martin shall be disclosed to Lockheed Martin for review to consider such issues as may arise under the California Labor Code and the terms of Clause 8-6.

8-8 NONDISCLOSURE AGREEMENT WITH LOCKHEED MARTIN CORPORATION

Subcontractor/Consultant agrees that the sole purpose of this clause is to allow the Subcontractor/Consultant to receive certain documentation/information relating to Lockheed Martin proprietary information in connection with this subcontract.

(a) During the course of this subcontract, Lockheed Martin may exchange or disclose to the Subcontractor/Consultant, information and data which the Lockheed Martin considers to be proprietary. Subcontractor/Consultant agrees that all information received from Lockheed Martin under this subcontract shall be deemed Lockheed Martin Proprietary Information. Unless otherwise authorized in writing by Lockheed Martin, Subcontractor/Consultant shall place a legend stating "Lockheed Martin Proprietary Information" on all information received under this subcontract, unless the information already has such a legend. The Subcontractor/Consultant agrees that it will use all such information submitted in written or other tangible form only in connection with the activity contemplated by this subcontract. Any proprietary information which is disclosed to the Subcontractor/Consultant orally or visually, in order to be subject to this subcontract, shall be identified to Subcontractor/Consultant orally at the time of disclosure as proprietary and a summary of said information shall be transmitted to Subcontractor/Consultant in writing within thirty (30) business days after such initial oral or visual disclosure. The Subcontractor/Consultant agrees to disclose such proprietary information only to its employees having a need to know, and not to any third parties or consultants and agrees to use such information only for the purposes contemplated by this subcontract as set forth above. The parties agree that Subcontractor/Consultant will use the same reasonable efforts to protect Lockheed Martin's information as it uses to protect its own information, but will at least use reasonable care. All proprietary information, data and equipment shall remain the property of Lockheed Martin and shall be returned, together with all copies thereof, upon termination of this subcontract or upon the written request of Lockheed Martin, except for one copy of information and data which may be retained for record purposes.

(b) Information and data shall not be subject to protection pursuant to this clause if such information:

- (1) is, by dated documentation, established by Subcontractor/Consultant to have been known by Subcontractor/Consultant at the time of receipt;
- (2) is or becomes a part of the Public Domain through no wrongful act of Subcontractor/Consultant;
- (3) is approved for release by proper written authorization of Lockheed Martin;
- (4) is disclosed seven (7) years or more after the effective date of this subcontract.

If any portion of a Lockheed Martin's proprietary information falls within any of the above exceptions, the remainder shall continue to be subject to the foregoing prohibitions and restrictions.

(c) The primary points of contact for the transmission and control of proprietary information subject to the protection of this clause are designated in the body of this subcontract.

(d) The effective date of this clause shall be the date the last party signs the subcontract. This clause shall expire seven (7) years after the effective date. If this subcontract is terminated early per its Termination clause, such early termination shall not, however, effect the rights and obligations contained herein with respect to proprietary information disclosed prior to termination.

(e) Except as expressly provided herein, neither the execution and delivery of this subcontract, nor the furnishing of any proprietary information under it, shall be construed as granting, either expressly or by implication, estoppel or otherwise, any license or ownership right under any invention, improvement, discovery, patent or application for patent, copyright, trademark, or trade secret now or hereafter owned or controlled by Lockheed Martin.

(f) Such information as may be transmitted by Lockheed Martin under this clause is provided "as-is" and shall not constitute any representation, warranty, assurance, guarantee or inducement by Lockheed Martin to Subcontractor/Consultant with respect to the infringement of any patent or other proprietary right owned or controlled by any third party. No warranty of merchantability nor warranty of fitness for a particular purpose is provided hereunder for any of the disclosed Proprietary Information. Nothing in this clause shall be construed as a warranty, representation, assurance, guarantee or inducement by Lockheed Martin to Subcontractor/Consultant with respect to the content, completeness or accuracy of documents and information transmitted by Lockheed Martin under this clause. Subcontractor/Consultant shall use and rely upon Proprietary Information received from Lockheed Martin at its sole risk and expense.

(g) Except as may be required by Federal, State or local laws and regulations or courts of competent jurisdiction, or as required to meet credit and financing arrangements or as required or appropriate in the reasonable judgment of either party to satisfy the disclosure requirements of any Federal or security laws or regulations, no publicity or advertising shall be released by either party in connection with this subcontract without the prior written approval of the other.

(h) This clause shall not be construed as creating a teaming, joint venture, or other business arrangement; rather, the parties expressly agree that this clause is for the purpose of protecting proprietary information only.

(i) This clause contains the entire understanding between the parties relative to the protection of proprietary information and supersedes all prior and collateral communication, reports and understandings, if any, between the parties relating the subject matter hereof. No changes, modifications, alterations, or additions to any provision hereof shall be binding unless reduced to writing and signed by the parties hereto. This clause shall apply in lieu of, and notwithstanding any specific legend or

statements associated with any proprietary information, and the duties of the parties shall be determined exclusively by the terms and conditions of this subcontract.

(j) Subcontractor/Consultant shall adhere to the U.S. Export Administration Laws and Regulations and shall not export or re-export any technical data or products received from Lockheed Martin or the direct product of such technical data to any proscribed country listed in the U.S. Export Administration Regulations, unless properly authorized by the U.S. Government.

(k) This clause shall be construed, interpreted and applied in accordance with the laws of the State of California, excluding California's body of law controlling conflicts of law.

8-9 UTILIZATION AND PERFORMANCE OF PERSONNEL

(a) Lockheed Martin may at any time and for any reason request that Subcontractor/Consultant remove from Lockheed Martin's premises any of Subcontractor/Consultant's personnel. Subcontractor/Consultant agrees to promptly comply with such requests.

(b) All work under this order shall be performed in a skillful and workmanlike manner by experienced, responsible and capable personnel. Buyer may, in writing, require that Subcontractor/Consultant remove from performance of work under this order any employee of Subcontractor/Consultant or Subcontractor/Consultant's lower-tier Subcontractors. Subcontractor/Consultant agrees to promptly comply with such requests.

8-10 ABSTRACTS OF NEW TECHNOLOGY

The Subcontractor/Consultant agrees to submit, in a form acceptable to Lockheed Martin, an Abstract of New Technology describing each item reportable as a subject invention under the Patent Rights Clause. The abstract shall be considered a part of the technical disclosure of each reportable item and may be prepared by the originator (inventor).

8-11 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/Consultant'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; and (2) Corporations who are qualified to do business in California.

(c) If a Subcontractor/Consultant claims to be a California resident the Subcontractor/Consultant 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/Consultant 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/Consultant to provide a current Form 1405 for any year will result in withholding as indicated in (a) above.

8-12 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.

THE FOLLOWING CLAUSES ARE APPLICABLE ONLY WHEN THE SUBCONTRACT IS FOR CONSULTANT SERVICES

8-13 ADDITIONAL GRATUITIES PROVISIONS

Consultant, in performance of this Subcontract, shall not provide any gifts, gratuities and/or favors to any employee of any U.S. Government agency doing or expected to do business with Lockheed Martin which would be in contravention of that employee's agency regulations.

8-14 ADDITIONAL INDEPENDENT CONTRACTOR/INSURANCE PROVISIONS

(a) In performance of services under this Subcontract, as described in Clause 1-2, Independent Contractor, Consultant shall act solely as an independent contractor, not as an employee or agent of Lockheed Martin and is not authorized to create obligations of Lockheed Martin to third parties.

(b) In conjunction with the clause entitled Indemnification, Lockheed Martin reserves the right to request evidence of third party liability insurance.

8-15 PAYMENTS FOR POLITICAL PURPOSES

Consultant shall not, in performance of this Subcontract, make any payments for political purposes.

8-16 ETHICS POLICIES (U.S. Government proposal consultants only)

Consultant shall, in performance of this Subcontract, act in conformity with the ethics policies expressed in "Setting the Standard". Consultant acknowledges receipt of a copy of "Setting the Standard".

8-17 RECEIPT AND PROTECTION OF INFORMATION (U.S. Government proposal and Domestic Business Development consultants only)

(a) Consultant, in performance under this Subcontract, shall not solicit or receive any information, classified or unclassified, directly or indirectly, from the U.S. Government or any other source, except in strict accordance with all laws and regulations and Lockheed Martin policies, specifically including Lockheed Martin CPS-707, "Government and Competitive Information," a copy of which has been provided the Consultant, pertaining to the protection, possession, acquisition, and use of (i) U.S. Government information or documents or (ii) Proprietary, competitive information of any competitor.

(b) When requested to do so by Lockheed Martin, Consultant agrees to provide supporting information and to execute certifications as may be required to permit Lockheed Martin to fully comply with:

(1) Section 27, "Procurement Integrity," of the Office of Federal Procurement Policy (OFPP) Act, 41 U. S. Code, Section 423 and implementing regulations contained in the Federal Acquisition Regulation (FAR);

(2) Office of Federal Procurement Policy Letter 89-1, and FAR Subpart 9.5, related to consultant's conflict of interest; and

(3) Other applicable government regulations which may become effective during the term of this Subcontract.

(c) Failure to timely furnish any required certificate or disclosure upon request from either Lockheed Martin or a U.S. Government procurement authority, or when required by a FAR clause or other regulation, shall be the basis for immediate termination of this consulting Subcontract.

(d) Consultant agrees that it will indemnify and hold harmless Lockheed Martin, its officers and employees from and against any claim, loss, cost (including attorney's fees), liability or damage of any kind or nature whatsoever, including reduction in price or fee of the Prime Contract, arising out of, caused by, or resulting from Consultant's violation of or failure to comply with the Procurement Integrity Act, 41 U.S.C. Section 423, et seq. (the "Act") as implemented by FAR 3.104 whether by act or omission of Consultant, Consultant's agents, employees, or subcontractors, including but not limited to, the failure to report or disclose potential violations of the Act.

8-18 CONFLICT OF INTEREST - FULL DISCLOSURE

Consultant represents that it has and will make full disclosure during the term of this Subcontract of each instance where Consultant or any employee of Consultant is currently providing to a supplier, customer, or competitor of Lockheed Martin, services similar to those provided for hereunder or has provided such services during a period of twelve (12) months prior to the date of any certification provided pursuant to paragraph 8-17 above. Consultant further agrees to make disclosure to Lockheed Martin prior to entering into such arrangements in the future and to provide current certifications as may be requested by Lockheed Martin in order to facilitate its compliance with applicable laws and regulations.

8-19 PROHIBITION AGAINST CERTAIN PAYMENTS

(a) Notwithstanding any other provision of this Subcontract, no payments shall be made to Consultant which are in violation of applicable U.S. law or which would not be deductible under Sections 162 and 274(d) of the Internal Revenue Code and applicable Internal Revenue Service regulations.

(b) Consultant shall not, in performance of this Subcontract, make any payment to third parties if such payments would not be deductible by Lockheed Martin under Sections 162 and 274(d) of the Internal Revenue Code and implementing IRS regulations, or would be in violation of applicable law.

8-20 COMPLIANCE WITH LOBBYING PROHIBITIONS (U.S. Government proposal consultants only)

Consultant shall comply with 31 U.S. Code 1352 and implementing regulations contained in the Federal Acquisition Regulation (FAR) which prohibits use of federal appropriated funds to influence or attempt to

influence any federal actions. Consultant shall promptly inform Lockheed Martin of any instance which may involve efforts to influence or attempt to influence agency or congressional personnel with respect to federal action (as these terms are defined by Section 1352 and its implementing regulations) and Consultant's invoices shall separately identify any time spent under this Subcontract for such efforts.

8-21 CONTACT WITH LOCKHEED MARTIN CUSTOMERS

(a) Consultant shall not, in performance under this subcontract, have any contact with any U.S. government official, foreign Lockheed Martin customer, or any foreign government official for the purpose of making a sales presentation, collecting marketing intelligence, or providing any other marketing related services. This clause does not preclude contacts with Lockheed Martin customers solely for the purpose of discussing or explaining technical, engineering, financial, or other information related to the Consultant's proposal preparation responsibilities or performance not of a marketing nature.

(b) If any such foreign contacts are anticipated, the Procurement Representative shall be notified in writing. Such notification shall set forth all pertinent data including but not limited to (a)The purpose of the contact, (b)The name of the foreign country if any, (c)The name of the anticipated contact, and (d)The frequency and places of such anticipated contacts. Such notification in no way constitutes approval by Lockheed Martin of such contacts and no such contacts shall be made by Consultant until and unless a written modification to this Subcontract is furnished to Consultant.

8-22 ADDITIONAL SECURITY REQUIREMENTS

(a) Lockheed Martin may, from time to time, furnish Consultant with literature, data, or technical information which Lockheed Martin considers necessary to the Consultant for the performance of services pursuant to the Subcontract. In the event any of the furnished material is classified or restricted, Lockheed Martin shall so inform Consultant and Consultant agrees to comply with United States government security regulations applicable to such classified materials or information. In the event any information furnished to Consultant is Lockheed Martin Private Data, Lockheed Martin Proprietary Data, or data that is competition sensitive, Lockheed Martin shall so inform Consultant and Consultant agrees to disclose this information only to individuals or organizations approved by Lockheed Martin. Consultant also agrees to return all classified or restricted materials and such other unclassified materials as Lockheed Martin may request at any time and upon the expiration or termination of the Consultant's security clearance or this Subcontract, whichever shall occur first.

(b) Consultant employees who will be working on Lockheed Martin premises will be required to comply with Lockheed Martin security requirements and to obtain and display Non-Employee or Visitor badges and must be citizens of the U.S. or have been lawfully admitted for permanent residence in the U.S. under the Immigration and Naturalization Act (8 USC, 1101, Section 101 (a) 20, 60 Stat. 163) (i.e. individuals referred to as "immigrant aliens" under previous laws and regulations).

(c) The Consultant shall comply with the "Security Requirements" clause of the Terms and Conditions and any security requirement identified elsewhere in this Subcontract.

8-23 PERSONAL PERFORMANCE REQUIREMENT

Consultant shall personally perform the consulting services described and shall not assign to any third party the performance obligation or any rights to compensation or benefits accruing to Consultant under this Subcontract without the written consent of Lockheed Martin.

8-24 POSSESSION OF COMPETITIVE DOCUMENTS

a) Consultant shall not, in the performance of this Subcontract, solicit, accept, use or possess.

1) Documents containing a legend indicating that it originates with or belongs to another company and that its contents are of a competitive nature.

2) Information or documents (whether or not containing legends) which constitute part of, or contain information relating to, contents of another company's proposal at any state of competition.

3) Government documents or information of a procurement planning nature whose release has not been approved by an official with release authority (the Government Contracting Officer or the Agency Head).

4) Government documents containing procurement planning information not available to other potential competitors and whose possession would give the company an unfair competitive advantage.

5) Documents containing markings indicating that the information is considered government property whose release was not permitted.

8-25 CONFLICT OF INTEREST CERTIFICATION REQUIREMENTS (All Consulting Subcontracts other than U.S. Government Proposal Consultants)

(a) When requested to do so by Lockheed Martin, Consultant agrees to provide supporting information and to execute certifications as may be required to permit Lockheed Martin to fully comply with:

(1) Office of Federal Procurement Policy Letter 89-1, and FAR Subpart 9.5, related to consultant's conflict of interest; and

(2) Other applicable government regulations which may become effective during the term of this Subcontract.

(b) Failure to timely furnish any required certificate or disclosure upon request from either Lockheed Martin or a U.S. Government procurement authority, or when required by a FAR clause or other regulation, shall be the basis for immediate termination of this consulting Subcontract.

8-26 ORGANIZATIONAL CONFLICT OF INTEREST (U.S. Government proposal and Domestic Business Development consultants only)

Consultant is required to complete and furnish to LMMS an Organizational Conflict of Interest Marketing Consultant Certificate, form no. C-703-4, within 10 days of the consultant being notified of the requirement for such certificate. This certificate is required when the consultant is called upon to provide services in the preparation of a U.S. government prime or subcontract bid or proposal which is expected to exceed \$200,000. Potential conflict of interest situations other than those involved in the government contracting process must be disclosed using Conflict of Interest Disclosure Statement, form no. C-703-3.

8-27 SPECIAL PROHIBITION ON EMPLOYMENT

In addition to the requirements contained in Section 4, clause 4-1 of these terms and conditions, the following shall apply:

(a) By acceptance of this Subcontract, Consultant certifies that he is not a person who has been convicted of fraud or any other felony arising out of a contract with the Department of Defense as defined in DFARS 252.203-7001.

(b) If Consultant is convicted of fraud or any other felony as defined in DFARS 252.203-7001, he shall notify Lockheed Martin immediately and Lockheed Martin shall have the option, together with any other remedy available under this Subcontract, to cancel or terminate this Subcontract as described in section (d) of the above referenced clause. In the event of such cancellation or termination Consultant shall not be entitled to payment for any services performed hereunder.

8-28 FORMER GOVERNMENT EMPLOYEE (Domestic Business Development Consultants Only)

If the Consultant is a former government employee, or employs former government employees who will be used in the performance of duties under the subcontract, then the proposed use of Consultant must comply with applicable laws and regulations relating to the employment or use of former military personnel and federal government employees.