



GOVERNMENT SUBCONTRACTS (ALL AGENCIES) COST REIMBURSEMENT PROVISIONS

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A. FULL TEXT PROVISIONS.

1. ALLOWABLE COST AND PAYMENT.

- (a) **Invoicing.** LOCKHEED MARTIN shall make payments to the CONTRACTOR when requested as work progresses, but not more often than once every 2 weeks, in amounts determined to be allowable by LOCKHEED MARTIN in accordance with the terms of this Contract and Subpart 31.2 of the FAR; Part 231.2 of the DFARS; and Part 18-31 of the NASA FAR Supp. as applicable, in effect on the date of this Contract. If the Contract is with an educational institution, FAR Subpart 31.3 shall apply; and if with a non-profit organization other than an educational institution, FAR Subpart 31.7 shall apply. The CONTRACTOR may submit to the LOCKHEED MARTIN Purchasing Representative, in such form and reasonable detail as the representative may require, an invoice or voucher supported by a statement of the claimed allowable cost for performing this Contract.
- (b) **Reimbursing costs.**
 - (1) For the purpose of reimbursing allowable costs (except as provided in subparagraph (2) below, with respect to pension, deferred profit sharing, and employee stock ownership plan contributions), the term "costs" includes only:
 - (i) Those recorded costs that, at the time of the request for reimbursement, the CONTRACTOR has paid by cash, check, or other form of actual payment for items or services purchased directly for the Contract.
 - (ii) When the CONTRACTOR is not delinquent in paying costs of contract performance in the ordinary course of business, costs incurred, but not necessarily paid, for:
 - (A) Materials issued from the CONTRACTOR's inventory and placed in the production process for use on the Contract;
 - (B) Direct labor;
 - (C) Direct travel;
 - (D) Other direct in-house costs; and
 - (E) Properly allocable and allowable indirect costs, as shown in the records maintained by the

CONTRACTOR for purposes of obtaining reimbursement under Government contracts.

- (iii) The amount of progress payments that have been paid to the CONTRACTOR's subcontractors under similar cost standards.

- (2) CONTRACTOR contributions to any pension, profit sharing, or employee stock ownership plan funds that are paid quarterly or more often may be included in indirect costs for payment purposes; provided, that the CONTRACTOR pays the contribution to the fund within 30 days after the close of the period covered. Payments made 30 days or more after the close of a period shall not be included until the CONTRACTOR actually makes the payment. Accrued costs for such contributions that are paid less often than quarterly shall be excluded from indirect costs for payment purposes until the CONTRACTOR actually makes the payment.

- (3) Notwithstanding the audit and adjustment of invoices or vouchers under paragraph (g) below, allowable indirect costs under this Contract shall be obtained by applying indirect cost rates established in accordance with paragraph (d) below.

- (4) Except as otherwise expressly provided to the contrary in these Provisions or in the Schedule of this Contract, any statements in specifications or other documents incorporated in this Contract by reference designating performance of services or furnishing of materials at the CONTRACTOR's expense or at no cost to LOCKHEED MARTIN shall be disregarded for purposes of cost reimbursement under this clause.

- (c) **Small business concerns.** A small business concern may be paid as often as every 2 weeks and may invoice and be paid for recorded costs for items or services purchased directly for the Contract, even though the concern has not yet paid for those items or services.

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

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

- (f) **Quick closeout procedures.** When the CONTRACTOR and LOCKHEED MARTIN agree, the quick closeout procedures of Subpart 42.7 of the FAR may be used.
- (g) **Audit.** At any time or times before final payment, LOCKHEED MARTIN or the Government may audit the CONTRACTOR's invoices or vouchers and statements of cost. Any payment may be (1) reduced by amounts found by LOCKHEED MARTIN or the Government not to constitute allowable costs or (2) adjusted for prior overpayments or underpayments.
- (h) **Final payment.**
 - (1) The CONTRACTOR shall submit a completion invoice or voucher, designated as such, promptly upon completion of the work, but no later than one year (or longer, as LOCKHEED MARTIN may approve in writing) from the completion date. Upon approval of that invoice or voucher, and upon the CONTRACTOR's compliance with all terms of this Contract, LOCKHEED MARTIN shall promptly pay any balance of allowable costs and that part of the fee (if any) not previously paid.
 - (2) The CONTRACTOR shall pay to LOCKHEED MARTIN any refunds, rebates, credits, or other amounts (including interest, if any) accruing to or received by the CONTRACTOR or any assignee under this Contract, to the extent that those amounts are properly allocable to costs for which the CONTRACTOR has been reimbursed by LOCKHEED MARTIN. Reasonable expenses incurred by the CONTRACTOR for securing refunds, rebates, credits, or other amounts shall be allowable costs if approved by LOCKHEED MARTIN. Before final payment under this Contract, the CONTRACTOR and each assignee whose assignment is in effect at the time of final payment shall execute and deliver:
 - (i) An assignment to LOCKHEED MARTIN, in form and substance satisfactory to LOCKHEED MARTIN, of refunds, rebates, credits, or other amounts (including interest, if any) properly allocable to costs for which the CONTRACTOR has been reimbursed by LOCKHEED MARTIN under this Contract; and
 - (ii) A release discharging LOCKHEED MARTIN, its officers, agents, and employees from all liabilities, obligations, and claims arising out of or under this Contract, except for specified claims stated in exact amounts, or in estimated amounts when the exact amounts are not known.

2. CHANGES-COST REIMBURSEMENT.

Delete, from the "Changes" Clause of Sector Document #1, subparagraphs (b) and (c) and insert in lieu thereof the following:

- “(b) If any such change causes an increase or decrease in the estimated cost of, or the time required for, the performance of any part of the work under this Contract, whether or not changed by the order, or otherwise affects any other terms and conditions of this Contract, an equitable adjustment shall be made in the (1) estimated cost, delivery or completion schedule, or both; (2) amount of any fee to be paid to the CONTRACTOR; and (3) other affected terms, and the Contract shall be modified accordingly.
- (e) Notwithstanding the terms and conditions of paragraphs (a) and (b) above, the estimated cost of this Contract and, if this Contract is incrementally funded, the funds allotted for the performance of this Contract, shall not be increased or considered to be increased except by specific written modification of the Contract indicating the new Contract estimated cost and, if this Contract is incrementally funded,

the new amount allotted to the Contract. Until this modification is made, the CONTRACTOR shall not be obligated to continue performance or incur costs beyond the point established in the "Limitation of Funds" clause of this Contract.”

3.A. FIXED FEE. (Applicable only if this Contract includes a fixed fee.)

- (a) LOCKHEED MARTIN shall pay the CONTRACTOR for performing this Contract the fixed fee specified in the Schedule.
- (b) Unless otherwise expressly provided in the Schedule, provisional payment of the fixed fee shall be made in the same proportion that allowable incurred costs bear to the estimated cost; provided, that after payment of 85 percent of the fixed fee, LOCKHEED MARTIN may withhold further payment of fee until a reserve is set aside in an amount that LOCKHEED MARTIN considers necessary in its sole discretion to protect LOCKHEED MARTIN's interest. This reserve shall not exceed 15 percent of the total fixed fee or \$100,000, whichever is less.

3.B. INCENTIVE FEE. (Applicable only if this Contract includes an incentive fee.)

- (a) **General.** LOCKHEED MARTIN shall pay the CONTRACTOR for performing this Contract a fee determined as provided in the Schedule of this Contract.
- (b) **Target cost and target fee.** The target cost and target fee specified in the Schedule are subject to adjustment if the Contract is modified in accordance with paragraph (d) below.
 - (1) "Target cost," as used in this Contract, means the estimated cost of this Contract as initially negotiated, adjusted in accordance with paragraph (d) below.
 - (2) "Target fee," as used in this Contract, means the fee initially negotiated on the assumption that this Contract would be performed for the cost equal to the estimated cost initially negotiated, adjusted in accordance with paragraph (d) below.
- (c) **Withholding of payment.** Unless otherwise expressly provided in the Schedule, LOCKHEED MARTIN shall normally make provisional payment of the fee to the CONTRACTOR in the same percentage of allowable incurred cost as target fee bears to target cost. However, when LOCKHEED MARTIN considers that performance or cost indicates that the CONTRACTOR will not achieve target, LOCKHEED MARTIN shall pay on the basis of an appropriate lesser fee. When the CONTRACTOR demonstrates that performance or cost clearly indicates that the CONTRACTOR will earn a fee significantly above the target fee, LOCKHEED MARTIN, at its sole discretion, may pay on the basis of an appropriate higher fee. After payment of 85 percent of the applicable fee, LOCKHEED MARTIN may withhold further payment of fee until a reserve is set aside in an amount that LOCKHEED MARTIN considers necessary, in its sole discretion, to protect LOCKHEED MARTIN's interest. This reserve shall not exceed 15 percent of the applicable fee or \$100,000, whichever is less.
- (d) **Equitable adjustments.** When the work under this Contract is increased or decreased by a modification to this Contract or when any equitable adjustment in the target cost is authorized under any other clause, equitable adjustments in the target cost, target fee, minimum fee, and maximum fee, as appropriate, shall be stated in a supplemental agreement to this Contract.
- (e) **Fee payable.**
 - (1) Unless otherwise expressly provided in the Schedule, the fee payable under this Contract shall be the target fee increased by (see Schedule) percent of every dollar that the total allowable cost is less than the target cost or decreased by (see Schedule)

percent of every dollar that the total allowable cost exceeds the target cost. In no event shall the fee be greater than the maximum percentage or less than the minimum percentage of the target cost set forth in the Schedule.

- (2) The fee shall be subject to adjustment, to the extent provided in paragraph (d) above, and within the minimum and maximum fee limitations in subparagraph (1) above, when the total allowable cost is increased or decreased as a consequence of (i) payments made under assignments or (ii) claims excepted from the release as required by paragraph (h)(2) of the "Allowable Cost and Payment clause" of this Contract.
 - (3) If this Contract is terminated in its entirety, the portion of the target fee payable shall not be subject to an increase or decrease as provided in this paragraph. The termination shall be accomplished in accordance with other applicable clauses of this Contract.
 - (4) For the purpose of fee adjustment, "total allowable cost" shall not include allowable costs arising out of:
 - (i) Any of the causes covered by the "Excusable Delays" clause to the extent that they are beyond the control and without the fault or negligence of the CONTRACTOR or any subcontractor;
 - (ii) The taking effect, after negotiating the target cost, of a statute, court decision, written ruling, or regulation that results in the CONTRACTOR's being required to pay or bear the burden of any tax or duty or rate increase in a tax or duty;
 - (iii) Any direct cost attributed to the CONTRACTOR's involvement in litigation as expressly required by LOCKHEED MARTIN pursuant to a clause of this Contract, including furnishing evidence and information requested pursuant to the "Notice and Assistance Regarding Patent and Copyright Infringement" clause, but excluding litigation arising under the clause entitled "Insurance-Third Party Liability;"
 - (iv) The purchase and maintenance of additional insurance not in the target cost which is required and approved in writing in advance by LOCKHEED MARTIN;
 - (v) Any claim, loss, or damage resulting from a risk for which the CONTRACTOR has been relieved of liability, if at all, by the "Government and Lockheed Martin Property" clause; or
 - (vi) Any claim, loss, or damage resulting from a risk defined in the Contract as unusually hazardous or as a nuclear risk and against which, after written application, the Government has expressly agreed to indemnify the CONTRACTOR.
 - (5) All other allowable costs are included in "total allowable cost" for fee adjustment in accordance with this paragraph (e), unless otherwise specifically provided in this Contract.
- (f) **Contract modification.** The total allowable cost and the adjusted fee determined as provided in this clause shall be evidenced by an amendment to this Contract signed by the CONTRACTOR and LOCKHEED MARTIN.
- (g) **Inconsistencies.** In the event of any language inconsistencies between this clause and provisioning documents or LOCKHEED MARTIN options under this Contract, compensation for spare parts or other supplies and services ordered under such documents shall be determined in accordance with this clause.

4. GOVERNMENT AND LOCKHEED MARTIN PROPERTY.

Delete from Sector Document #1 the "LOCKHEED MARTIN OR GOVERNMENT PROPERTY" clause, and insert in lieu thereof the following:

- “(a) **Government furnished property.**
- (1) The term "CONTRACTOR's managerial personnel," as used in paragraph (g) of this clause, means any of the CONTRACTOR's directors, officers, managers, superintendents, or equivalent representatives who have supervision or direction of:
 - (i) All or substantially all of the CONTRACTOR's business;
 - (ii) All or substantially all of the CONTRACTOR's operation at any one plant, or separate location at which the Contract is being performed; or
 - (iii) A separate and complete major industrial operation connected with performing this Contract.
 - (2) LOCKHEED MARTIN or the Government shall deliver to the CONTRACTOR, for use in connection with and under the terms of this Contract, the Government furnished property described in the Schedule or specifications, together with such related data and information as the CONTRACTOR may request and as may be reasonably required for the intended use of the property (hereinafter referred to as "Government furnished property").
 - (3) The delivery or performance dates for this Contract are based upon the expectation that Government furnished property suitable for use will be delivered to the CONTRACTOR at the times stated in the Schedule or, if not so stated, in sufficient time to enable the CONTRACTOR to meet the Contract's delivery or performance dates.
 - (4) If Government furnished property is received by the CONTRACTOR in a condition not suitable for the intended use, the CONTRACTOR shall, upon receipt, notify LOCKHEED MARTIN, detailing the facts, and, as directed by the LOCKHEED MARTIN Purchasing Representative and at LOCKHEED MARTIN's expense, either effect repairs or modification or return or otherwise dispose of the property. After completing the directed action and upon written request of the CONTRACTOR, LOCKHEED MARTIN shall make an equitable adjustment as provided in paragraph (h) of this clause.
 - (5) If Government furnished property is not delivered to the CONTRACTOR by the required time or times, LOCKHEED MARTIN shall, upon the CONTRACTOR's timely written request, make a determination of the delay, if any, caused the CONTRACTOR and shall make an equitable adjustment in accordance with paragraph (h) of this clause.
- (b) **Changes in Government furnished property.**
- (1) The LOCKHEED MARTIN Purchasing Representative may, by written notice, (i) decrease the Government furnished property provided or to be provided under this Contract or (ii) substitute other Government furnished property for the property to be provided by the Government or to be acquired by the CONTRACTOR for the Government under this Contract. The CONTRACTOR shall promptly take such action as LOCKHEED MARTIN may direct regarding the removal, shipment, or disposal of the property covered by this notice.
 - (2) Upon the CONTRACTOR's written request, LOCKHEED MARTIN shall make an equitable adjustment to this Contract in accordance with paragraph (h) of this clause, if LOCKHEED MARTIN has agreed in the Schedule to make such property available for performing this Contract and there is any:
 - (i) Decrease or substitution in this property pursuant to subparagraph (b)(1) above; or

- (ii) Withdrawal of authority to use property, if provided under any other contract or lease.
- (c) **Title.**
- (1) The Government shall retain title to all Government furnished property.
 - (2) Title to all property purchased by the CONTRACTOR for which the CONTRACTOR is entitled to be reimbursed as a direct item of cost under this Contract shall pass to and vest in the Government upon the vendor's delivery of such property.
 - (3) Title to all other property, the cost of which is reimbursable to the CONTRACTOR, shall pass to and vest in the Government upon:
 - (i) Issuance of the property for use in Contract performance;
 - (ii) Commencement of processing of the property for use in Contract performance; or
 - (iii) Reimbursement of the cost of the property by LOCKHEED MARTIN, whichever occurs first.
 - (4) All Government furnished property and all property acquired by the CONTRACTOR, title to which vests in the Government under this paragraph (collectively referred to as "Government property"), are subject to the provisions of this clause. Title to Government property shall not be affected by its incorporation into or attachment to any property not owned by the Government, nor shall Government property become a fixture or lose its identity as personal property by being attached to any real property.
- (d) **Use of Government property.** The Government property shall be used only for performing this Contract, unless otherwise provided in this Contract or approved by LOCKHEED MARTIN.
- (e) **Property administration.**
- (1) The CONTRACTOR shall be responsible and accountable for all Government property provided under this Contract and shall comply with applicable provisions of the FAR, DEAR, DFARS, or NASA FAR Supp.
 - (2) The CONTRACTOR shall establish and maintain a program for the use, maintenance, repair, protection, and preservation of Government property in accordance with sound business practice and the applicable provisions of said regulations.
- (f) **Access.** LOCKHEED MARTIN and the Government and all their designees shall have access at all reasonable times to the premises in which any Government property is located for the purpose of inspecting the Government property.
- (g) **Assumption of Risk.** The CONTRACTOR and its subcontractors shall assume the risk of, and shall be responsible for, any loss or destruction of or damage to Government property while in its or their possession or control. All Government property shall be returned to LOCKHEED MARTIN or the Government in as good condition as when received, except for reasonable wear and tear, or for the utilization of the property in accordance with the provisions of the prime contract. No cost associated with such loss or destruction of government property shall constitute "allowable cost" under this Contract.
- (h) **Equitable adjustment.** When this clause specifies an equitable adjustment, it shall be made to any affected Contract provision in accordance with the procedures of the Changes clause. When appropriate, the LOCKHEED MARTIN Purchasing Representative may initiate an equitable adjustment in favor of LOCKHEED MARTIN or the Government. The right to an equitable adjustment shall be the CONTRACTOR's exclusive remedy. LOCKHEED MARTIN shall not be liable to suit for breach of Contract for:
- (1) Any delay in delivery of Government furnished property;
 - (2) Delivery of Government furnished property in a condition not suitable for its intended use;
 - (3) A decrease in or substitution of Government furnished property; or
 - (4) Failure to repair or replace Government property for which LOCKHEED MARTIN or the Government is responsible.
- (i) **Final accounting and disposition of Government property.** Upon completing this Contract, or at such earlier dates as may be fixed by the LOCKHEED MARTIN Purchasing Representative, the CONTRACTOR shall submit, in a form acceptable to the LOCKHEED MARTIN Purchasing Representative, inventory schedules covering all items of Government property not consumed in performing this Contract or delivered to the Government. The CONTRACTOR shall prepare for shipment, deliver f.o.b. origin, or dispose of the Government property as may be directed or authorized by LOCKHEED MARTIN. The net proceeds of any such disposal shall be credited to the cost of the work covered by this Contract or paid to the Government as directed by LOCKHEED MARTIN. The foregoing provisions shall apply to scrap from Government property; provided, however, that the LOCKHEED MARTIN Purchasing Representative may authorize or direct the CONTRACTOR to omit from such inventory schedules any scrap consisting of faulty castings or forgings or of cutting and processing waste, such as chips, cuttings, borings, turnings, short ends, circles, trimmings, clippings, and remnants, and to dispose of such scrap in accordance with the CONTRACTOR's normal practice and account for it as a part of general overhead or other reimbursable costs in accordance with the CONTRACTOR's established accounting procedures.
- (j) **Abandonment and restoration of CONTRACTOR premises.** Unless otherwise provided herein, LOCKHEED MARTIN or the Government:
- (1) May abandon any Government property in place, at which time all obligations of the Government and LOCKHEED MARTIN regarding such abandoned property shall cease; and
 - (2) Has no obligation to restore or rehabilitate the CONTRACTOR's premises under any circumstances (e.g., abandonment, disposition upon completion of need, or Contract completion). However, if the Government furnished property (listed in the Schedule or specifications) is withdrawn or is unsuitable for the intended use, or if other Government property is substituted, then the equitable adjustment under paragraph (h) of this clause may properly include restoration or rehabilitation costs.
- (k) **Communications.** All communications under this clause shall be in writing.
- (l) **Overseas contracts.** If this Contract is to be performed outside the United States of America, its territories, or possessions, the words "Government" and "Government furnished" (wherever they appear in this clause) shall be construed as "United States Government" and "United States Government furnished," respectively.
- (m) **LOCKHEED MARTIN Property.** In the event LOCKHEED MARTIN owned property is delivered to CONTRACTOR for use in connection with and under the terms of this Contract, the CONTRACTOR assumes the risk of and shall be responsible for any loss, damage, or destruction thereof, except for reasonable wear and tear, and except to the extent such property is consumed in the performance of this Contract. Such loss, damage or destruction shall not be an "allowable cost" under this Contract. LOCKHEED MARTIN owned property shall be used only for the performance of this Contract, and upon

completion of this Contract or at such earlier date as may be directed or authorized by LOCKHEED MARTIN shall be returned to LOCKHEED MARTIN f.o.b. destination.”

5. INSPECTION AND CORRECTION OF DEFECTS.

- (a) Delete from Sector Document #1 the “WARRANTY” clause and from Sector Document #2 FAR Clauses 52.246-2 (Inspection of Supplies - - Fixed Price), 52.246-4 (Inspection of Services - - Fixed Price), and 52.246-6 (Inspection - - Time-and-Material and Labor-Hour); and insert in lieu thereof the following FAR clauses as applicable and as specified in paragraph “b” below:
 - (i) 52.246-3 INSPECTION OF SUPPLIES- COST REIMBURSEMENT (APR 1984) (In subparagraph (e), change “60 days” to “120 days”, and in subparagraph (f) change “6 months” to “12 months”. See Footnote 1, except in subparagraph (k), where Footnote 3 applies.)
 - (ii) 52.246-5 INSPECTION OF SERVICES-COST REIMBURSEMENT (APR 1984) (See Footnote 1.)
 - (iii) 52.246-8 INSPECTION OF RESEARCH AND DEVELOPMENT-COST REIMBURSEMENT (APR 1984) (In subparagraph (e), change “90 days” to “180 days”, and in subparagraph (f) change “6 months” to “12 months”. See Footnote 1, except in subparagraph (k), where Footnote 3 applies.)
- (b) In each of the above clauses, the Government also may exercise any of LOCKHEED MARTIN’s rights under these clauses.
- (c) If the Schedule of this Contract contains a warranty clause or clauses pursuant to the Defense Procurement Reform Act (Public Law 98-525) (see also DOD FAR Supp 246.770) with respect to the production of a “weapon system” as defined by regulation and/or the Schedule, the warranty clause(s) shall apply to the “weapon system” in lieu of the foregoing “Inspection and Correction of Defects” clause, but the foregoing clause shall apply to work under this Contract which is not part of the “weapon system.”

6. LIMITATION OF FUNDS

- (a) The parties estimate that performance of this Contract will not cost LOCKHEED MARTIN more than the estimated cost specified in the Schedule. The CONTRACTOR agrees to use its best efforts to perform the work specified in the Schedule and all obligations under this Contract within the estimated cost.
- (b) The Schedule specifies the amount presently available for payment by LOCKHEED MARTIN and allotted to this Contract, the items covered, and the period of performance it is estimated the allotted amount will cover. The parties contemplate that LOCKHEED MARTIN will from time to time allot additional funds to the Contract up to the full estimated cost specified in the Schedule, inclusive of any fee. The CONTRACTOR agrees to perform, or have performed, work on the Contract up to the point at which the total amount including fee, paid and payable by LOCKHEED MARTIN under the Contract approximates but does not exceed the total amount actually allotted by LOCKHEED MARTIN to the Contract.
- (c) The CONTRACTOR shall notify LOCKHEED MARTIN in writing whenever it has reason to believe that the costs it expects to incur under this Contract plus allocable fee in the next sixty (60) days, when added to all costs previously incurred, and allocable fee, will exceed seventy-five percent (75%) of the total amount then allotted to the Contract. The notice shall state the estimated amount of additional funds required to continue performance for the period specified in the Schedule.

- (d) Sixty (60) days before the end of the period specified in the Schedule, the CONTRACTOR shall notify LOCKHEED MARTIN in writing of the estimated amount of additional funds, if any, required to continue timely performance under the Contract or for any further period specified in the Schedule or otherwise agreed upon, and when the funds will be required.
- (e) If, after notification, additional funds are not allotted by the end of the period specified in the Schedule or another agreed upon date, upon the CONTRACTOR’s written request, LOCKHEED MARTIN will terminate this Contract on that date in accordance with the provisions of the “Termination” clause of this Contract. If the CONTRACTOR estimates that the funds available will allow it to continue to discharge its obligations beyond that date, it may specify a later date in its request, and LOCKHEED MARTIN, in its discretion, may terminate this Contract on that later date.
- (f) Except as required by other provisions of this Contract, specifically citing and stated to be an exception to this clause:
 - (1) LOCKHEED MARTIN is not obligated to reimburse the CONTRACTOR for costs incurred plus allocable fee in excess of the total amount allotted to this Contract; or if no allotment of funds is set forth in this Contract, the estimated cost and fee set forth in the schedule; and
 - (2) The CONTRACTOR is not obligated to continue performance under this Contract (including actions under the “Termination” clause of this Contract) or otherwise incur costs plus allocable fee in excess of the amount then allotted to the Contract, until LOCKHEED MARTIN notifies the CONTRACTOR in writing that the amount allotted or the estimated amount has been increased and specifies an increased amount, which shall then constitute the total amount allotted to or estimated for this Contract.
- (g) The estimated cost shall be increased to the extent that the amount allotted to the Contract exceeds the estimated cost specified in the Schedule.
- (h) No notice, communication, or representation in any form other than the specified in subparagraph (f)(2) above, or from any person other than the LOCKHEED MARTIN Purchasing Representative, shall affect the amount allotted to this Contract. In the absence of the specified notice, LOCKHEED MARTIN is not obligated to reimburse the CONTRACTOR for any costs or allocable fee in excess of the total amount allotted by LOCKHEED MARTIN to this Contract, whether incurred during the course of the Contract or as a result of termination.
- (i) When and to the extent that the amount allotted to the Contract is increased, any costs plus allocable fee the CONTRACTOR incurs before the increase that are in excess of the amount previously allotted shall be allowable to the same extent as if incurred afterward, unless LOCKHEED MARTIN issues a termination or other notice and directs that the increase is solely to cover termination or other specified expenses.
- (j) Change orders shall not be considered an authorization to exceed the amount allotted specified in the Schedule, unless they contain a statement increasing the amount allotted.
- (k) Nothing in this clause shall affect the right of LOCKHEED MARTIN to terminate this Contract. If this Contract is terminated, LOCKHEED MARTIN and the CONTRACTOR shall negotiate an equitable distribution of all property produced or purchased under the Contract, based upon the share of costs incurred by each.
- (l) If LOCKHEED MARTIN does not allot sufficient funds to allow completion of the work, the CONTRACTOR shall be

entitled to a percentage of the fee specified in the Schedule equaling the percentage of completion of the work contemplated by this Contract, not to exceed the funds in fact allotted to the Contract.

- (m) At the time that the total funds allotted under this Contract equal the full estimated cost inclusive of fee specified in the Schedule, this "Limitations of Funds" clause no longer shall apply, but then the "Limitation of Cost" clause of this Contract shall apply.

title to such passes directly to and vests in the United States upon delivery of the property by the vendor; and (ii) this Contract is for services to be performed in whole or in part within New Mexico. See Footnote 4. Insert "LOCKHEED MARTIN" in blanks for agency name.)

(e) 52.239-20 LIMITATION OF COST (APR 1984) (See Footnotes 1 and 2.)

(f) 52.242-15 STOP WORK ORDER (AUG 1989) with ALTERNATE I (APR 1984) (See Footnotes 1 and 2.)

(g) 52.244-2 SUBCONTRACTS (COST-REIMBURSEMENT AND LETTER CONTRACTS) (MAR 1996) with ALTERNATE I (JUL 1995) (See Footnote 2; in paragraph (k), see Footnote 3.)

(h) 52.245-18 SPECIAL TEST EQUIPMENT (FEB 1993) (Applicable if this Contract provides for acquisition or fabrication of special test equipment or components; Substitute "45" for "30" in paragraphs (b) and (c); see Footnotes 2 and 4.)

(i) 52.249-6 TERMINATION (COST-REIMBURSEMENT) (SEP 1996) (See Footnotes 1 and 2. Substitute "90 days" for "120 days" and "90-day" for "120-day" in paragraph (d). Substitute "180 days" for "1 year" in paragraph (f). Delete paragraph (j). Settlements and payments under this clause may be subject to the approval of the Prime Contract's Contracting Officer.)

B. CLAUSES INCORPORATED BY REFERENCE.

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

2. FAR FLOWDOWN CLAUSES.

REFERENCE TITLE

The following FAR clauses apply to this Contract:

(a) 52.204-2 SECURITY REQUIREMENTS (AUG 1996) (with ALT I (APR 1984) if this is a cost reimbursable R&D contract with an educational institution.) (Applicable if the work requires access to classified information; delete paragraph (c) of the clause.)

(b) 52.215-2 AUDIT AND RECORDS-NEGOTIATION (AUG 1996) (Insert "and the LOCKHEED MARTIN Purchasing Representative" after "the Contracting Officer or representatives of the Contracting Officer" or after "... representatives of the Contracting Officer who are employees of the Government", where indicated throughout the clause. If this is a cost-type contract with an educational institution or other non-profit organization, add ALTERNATE II (OCT 1995).)

(c) 52.222-2 PAYMENT FOR OVERTIME PREMIUMS (JUL 1990) (Applicable to cost reimbursable contracts. Except for overtime permitted by paragraphs (A)(1) through (A)(4), no overtime is authorized unless the CONTRACTOR obtains advance written approval of the LOCKHEED MARTIN Purchasing Representative. This clause does not apply to CPIF contracts.)

(d) 52.229.10 STATE OF NEW MEXICO GROSS RECEIPTS AND COMPENSATING TAX (OCT 1988) (Applicable if (i) CONTRACTOR will acquire tangible personal property as a direct cost under this Contract and

FOOTNOTES:

1. Substitute "LOCKHEED MARTIN" for "Government" or "United States" as applicable throughout this clause.
2. Substitute "LOCKHEED MARTIN Purchasing Representative" for "Contracting Officer", "Administrative Contracting Officer", and "ACO" throughout this clause.
3. Insert "and LOCKHEED MARTIN" after "Government" throughout this clause.
4. Insert "or LOCKHEED MARTIN" after "Government" throughout this clause.
5. Communication/notification required under this clause from/to the CONTRACTOR to/from the Contracting Officer shall be through LOCKHEED MARTIN.
6. "Contracting Officer" shall mean the U.S. Government Contracting Officer for LOCKHEED MARTIN's Government prime contract under which this Contract is entered.

