

LOCKHEED MARTIN CORPORATION

CORPDOC 3 - INT

(Modified for JSF N00019-02-C-3002 on 3 September 2003)

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

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SECTION I: GENERAL PROVISIONS

1. Acceptance of Contract/Terms and Conditions.
 - (a) This Contract integrates, merges, and supersedes any prior offers, negotiations, and agreements concerning the subject matter hereof and constitutes the entire agreement between the Parties.

- (b) SELLER's acknowledgment, acceptance of payment, or commencement of performance, shall constitute SELLER's unqualified acceptance of this Contract.
- (c) **Additional or differing terms or conditions proposed by SELLER or included in SELLER's acknowledgment hereof are hereby objected to by LOCKHEED MARTIN and have no effect unless accepted in writing by LOCKHEED MARTIN.**

2. Applicable Laws.

- (a) This Contract shall be governed by the laws of the State from which this Contract was issued, excluding its choice of laws rules, except that any provision in this Contract that is (i) incorporated in full text or by reference from the Federal Acquisition Regulations (FAR) or (ii) incorporated in full text or by reference from any agency regulation that implements or supplements the FAR or (iii) that is substantially based on any such agency regulation or FAR provision, shall be construed and interpreted according to the federal common law of government contracts as enunciated and applied by federal judicial bodies, Boards of Contracts Appeals, and quasi-judicial agencies of the federal Government.
- (b)
 - (1) SELLER agrees to comply with all applicable laws, orders, rules, regulations, and ordinances of the United States and the country where SELLER will be performing the Contract. The provisions of the "United Nations Convention on Contracts for the International Sales of Goods" shall not apply to this Contract.
 - (2) If: (i) LOCKHEED MARTIN's contract price or fee is reduced; (ii) LOCKHEED MARTIN's costs are determined to be unallowable; (iii) any fines, penalties or interest are assessed on LOCKHEED MARTIN; or (iv) LOCKHEED MARTIN incurs any other costs or damages, as a result of any violation of applicable laws, orders, rules, regulations, or ordinances by SELLER, its officers, employees, agents, suppliers, or subcontractors at any tier, LOCKHEED MARTIN may proceed as provided for in (4) below.
 - (3) Where submission of cost or pricing data is required or requested at any time prior to or during performance of this Contract, if SELLER or its lower-tier subcontractors: (i) submit and/or certify cost or pricing data that are defective; (ii) with notice of applicable cutoff dates and upon LOCKHEED MARTIN's request to provide cost or pricing data, submit cost or pricing data, whether certified or not certified at the time of submission, as a prospective subcontractor, and any such data are defective as of the applicable cutoff date on LOCKHEED MARTIN's Certificate of Current Cost or Pricing Data; (iii) claim an exception to a requirement to submit cost or pricing data and such exception is invalid; or (iv) furnish data of any description that is inaccurate; or (v) if the U.S. Government alleges any of the foregoing, and, as a result, (1) LOCKHEED MARTIN's contract price or fee is reduced; (2) LOCKHEED MARTIN's costs are determined to be unallowable; (3) any fines, penalties or interest are assessed on

LOCKHEED MARTIN; or (4) LOCKHEED MARTIN incurs any other costs or damages; LOCKHEED MARTIN may proceed as provided for in (4) below.

- (4) Upon the occurrence of any of the circumstances identified in (2) and (3) above, LOCKHEED MARTIN may make a reduction of corresponding amounts (in whole or in part) in the price, or in the costs and fee, of this Contract or any other contract with SELLER, and/or may demand payment (in whole or in part) of the corresponding amounts. SELLER shall promptly pay amounts so demanded.
- (5) These rights and obligations shall survive the termination or completion of this Contract.

- (c) SELLER represents that each chemical substance constituting or contained in Work sold or otherwise transferred to LOCKHEED MARTIN hereunder is on the list of chemical substances compiled and published by the Administrator of the Environmental Protection Administration pursuant to the Toxic Substances Control Act (15 U.S.C. Sec. 2601 et seq.) as amended.
- (d) SELLER shall provide to LOCKHEED MARTIN with each delivery any Material Safety Data Sheet applicable to the Work in conformance with and containing such information as required by the Occupational Safety and Health Act of 1970 and regulations promulgated thereunder, or its state approved counterpart.

3. Assignment.

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

4. Communication with Lockheed Martin Customer.

- (a) LOCKHEED MARTIN shall be solely responsible for all liaison and coordination with the LOCKHEED MARTIN customer, including the U. S. Government, as it affects the applicable Prime Contract, this Contract, and any related contract.
- (b) Unless otherwise directed in writing by the authorized LOCKHEED MARTIN Procurement Representative, all documentation requiring submittal to, or action by, the Government or the Contracting Officer shall be routed to, or through, the LOCKHEED MARTIN Procurement Representative, or as otherwise permitted by this Contract.

5. Contract Direction.

- (a) Only the LOCKHEED MARTIN Procurement Representative has authority to amend this Contract. Such amendments must be in writing.
- (b) LOCKHEED MARTIN engineering and technical personnel may from time to time render assistance or give technical advice or discuss or effect an exchange of information with SELLER's personnel concerning the Work hereunder. Such actions shall not be deemed to be a change under the "Changes" clause of this Contract and shall not be the basis for equitable adjustment.
- (c) Except as otherwise provided herein, all notices to be furnished by the SELLER shall be sent to the LOCKHEED MARTIN Procurement Representative.

6. Definitions.

The following terms shall have the meanings set forth below:

- (a) "Contract" means the instrument of contracting, such as "PO", "Purchase Order", or other such type designation, including all referenced documents, exhibits and attachments. If these terms and conditions are incorporated into a "master" agreement that provides for releases, (in the form of a Purchase Order or other such document) the term "Contract" shall also mean the Release document for the Work to be performed.
- (b) "FAR" means the Federal Acquisition Regulation, issued as Chapter 1 of Title 48, Code of Federal Regulations.
- (c) "Government" means the Government of the United States of America or any department or agency thereof.
- (d) "LOCKHEED MARTIN" means LOCKHEED MARTIN CORPORATION, acting through its companies or business sites as identified on the face of the Contract. If a subsidiary or affiliate of LOCKHEED MARTIN CORPORATION is identified on the face of this Contract then "LOCKHEED MARTIN" means that subsidiary or affiliate.
- (e) "LOCKHEED MARTIN Procurement Representative" means the person authorized by LOCKHEED MARTIN's cognizant procurement organization to administer and/or execute this Contract.
- (f) "PO" or "Purchase Order" as used in any document constituting a part of this Contract shall mean this "Contract."

- (g) "SELLER" means the party identified on the face of the Contract with whom LOCKHEED MARTIN is contracting.
- (h) "Work" means all required articles, materials, supplies, goods and services constituting the subject matter of this Contract.

7. Disputes.

All disputes under this Contract which are not disposed of by mutual agreement may be decided by recourse to an action at law or in equity exclusively in a United States Court of competent jurisdiction located in the State from which this Contract was issued. Until final resolution of any dispute hereunder, SELLER shall diligently proceed with the performance of this Contract as directed by LOCKHEED MARTIN.

8. Export Control.

- (a) Seller agrees to comply fully with all applicable U.S. export control laws and regulations. Without limiting the foregoing, SELLER agrees that it will not transfer any export controlled item, data or services, to include transfer to foreign persons employed by or associated with, or under contract to SELLER or SELLER's lower tier suppliers, without the authority of an Export License or applicable license exception.
- (b) SELLER agrees to notify LOCKHEED MARTIN if any deliverable under this Contract is restricted by export control laws or regulations.
- (c) SELLER shall immediately notify the LOCKHEED MARTIN Procurement Representative if SELLER is listed in any Denied Parties List or if SELLER's export privileges are otherwise denied, suspended or revoked in whole or in part by any U.S. Government entity or agency.
- (d) If the technical data required to perform this Contract is subject to the United States International Traffic in Arms Regulations (ITAR), in addition to the terms of any other agreement between LOCKHEED MARTIN and SELLER, SELLER shall comply with the following:
 - 1. The technical data shall be used only to manufacture the Work required by the Contract; and
 - 2. The data shall not be disclosed to any other person except lower-tier subcontractors within the same country; and
 - 3. Any rights in the data may not be acquired by any foreign person; and

4. SELLER, including lower-tier subcontractors, shall return, or at LOCKHEED MARTIN's direction, destroy all of the technical data exported to SELLER pursuant to the Contract upon fulfillment of its terms; and
5. Unless otherwise directed by LOCKHEED MARTIN, SELLER shall deliver the Work only to LOCKHEED MARTIN or to an agency of the U.S. Government.
6. SELLER shall include the terms in this paragraph (d) in all lower-tier subcontracts issued when technical data is provided to the lower tier subcontractor.

(e) Failure of the United States Government to issue any required export license, or withdrawal/termination of a required export license by the United States Government, shall relieve LOCKHEED MARTIN of its obligations under this Contract, and shall relieve SELLER of its' corresponding obligations.

9. Extras.

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

10. Furnished Property.

- (a) LOCKHEED MARTIN may provide to SELLER property owned by either LOCKHEED MARTIN or its customer (Furnished Property). Furnished Property shall be used only for the performance of this Contract. LOCKHEED MARTIN shall at all reasonable times have access to the premises where any of the Furnished Property Is located.
- (b) Title to Furnished Property shall remain in LOCKHEED MARTIN or its customer. SELLER shall clearly mark (if not so marked) all Furnished Property to show its ownership. SELLER shall not incur any liens or encumbrances or permit any liens or encumbrances to attach to the Furnished Property. Title to Furnished Property shall not be affected by the incorporation or attachment thereof to any property not owned by LOCKHEED MARTIN nor shall such Furnished Property, or any part thereof, be or become a fixture or lose its identity as personalty by reason or affixation to any realty.
- (c) Except for reasonable wear and tear, SELLER shall be responsible for, and shall promptly notify LOCKHEED MARTIN of, any loss or damage. Without additional charge, SELLER shall maintain adequate control records and shall manage, maintain, and preserve Furnished Property in accordance with good commercial practice. SELLER shall take all reasonable steps to comply with all appropriate directions or instructions which LOCKHEED MARTIN may prescribe as reasonably necessary for the protection of the Furnished Property.

- (d) Furnished Property shall remain in the possession of the SELLER for such period of time as is required for the performance of this Contract, unless LOCKHEED MARTIN determines that the interests of LOCKHEED MARTIN require removal of such Furnished Property. In such case, SELLER shall promptly take such action as LOCKHEED MARTIN may direct. In such instances, this Contract may be amended to accomplish an equitable adjustment in its terms and provisions.
- (e) At LOCKHEED MARTIN's request, and/or upon completion of this Contract the SELLER shall submit, in an acceptable form, inventory lists of Furnished Property not consumed in the performance of this Contract (including any resulting scrap) and shall deliver or make such other disposal as may be directed by LOCKHEED MARTIN.
- (f) Except for property furnished in accordance with FAR 52.245-19, in the event that any of the Furnished Property is received by SELLER in a condition not suitable for its intended use, SELLER shall notify LOCKHEED MARTIN and, as directed by LOCKHEED MARTIN, either (i) return such Furnished Property at LOCKHEED MARTIN's expense or otherwise dispose of the Furnished Property, or (ii) effect repairs or modifications. Upon completion of (i) and (ii) above, LOCKHEED MARTIN, upon written request from SELLER, shall equitably adjust the delivery or performance dates or the Contract price, or both, in accordance with the procedures delineated in the "Change" clause of this Contract.
- (g) With respect to Government-furnished property, or property to which the Government may take title under this Contract:
 - (1) If this is a fixed price contract the clause at FAR 52.245-2 shall apply. Said clause is incorporated by reference, except as used therein "Government" means "LOCKHEED MARTIN" except in the phrases "Government Furnished Property" and "Government Property" and in references to Government title to property. "Contracting Officer" means "LOCKHEED MARTIN."
 - (2) If this is a cost-reimbursement contract, the clause at FAR 52.245-5 shall apply and is incorporated by reference. In addition to the modifications under 1 above, Paragraphs (g)(1), (g)(2) and (g)(3) of FAR 52.245-5 are deleted and replaced with the following: "SELLER assumes the risk of, and shall be responsible for, any loss or destruction, or damage to, Government property upon its delivery to LOCKHEED MARTIN or upon passage of title to the Government under paragraph (c) of this clause. However, SELLER shall not be liable for reasonable wear and tear to Government property or for Government Property properly consumed in the performance of this Contract."

11. Gratuities/Kickbacks.

- (a) No gratuities (in the form of entertainment, gifts or otherwise) or kickbacks shall be offered or given by SELLER, to any employee of LOCKHEED MARTIN with a view toward securing favorable treatment as a supplier.
- (b) **By accepting this Contract, SELLER certifies and represents that it has not made or solicited and will not make or solicit kickbacks in violation of FAR 52.203-7 or the Anti-Kickback Act of 1986 (41 USC 51-58), both of which are incorporated herein by this specific reference, except that paragraph (c)(1) of FAR 52.203-7 shall not apply.**

12. Importer of Record.

Applies if the Contract involves importation of Work into the United States.

- (a) If elsewhere in the Contract LOCKHEED MARTIN is indicated as importer of record, SELLER warrants that all sales hereunder are or will be made at not less than fair value under United States Anti-Dumping Laws (19 U.S.C. 1673 et seq.).
- (b) If elsewhere in the Contract LOCKHEED MARTIN is not indicated as importer of record, then SELLER agrees that:
 - (1) LOCKHEED MARTIN will not be a party to the importation of Works, the transaction(s) represented by this Contract will be consummated after importation, and SELLER will neither cause nor permit LOCKHEED MARTIN's name to be shown as "Importer of Record" on any customs declaration; and
 - (2) Upon request and where applicable, SELLER will provide to LOCKHEED MARTIN Customs for 7501 entitled "Customs Entry," properly executed.

13. Independent Contractor Relationship.

- (a) SELLER is an independent contractor in all its operations and activities hereunder. The employees used by SELLER to perform Work under this Contract shall be SELLER's employees exclusively without any relation whatsoever to LOCKHEED MARTIN.
- (b) SELLER shall be responsible for all losses, costs, claims, causes of action, damages, liabilities, and expenses, including attorneys' fees, all expenses of litigation and/or settlement, and court costs, arising from any act or omission of SELLER, its officers, employees, agents, suppliers, or subcontractors at any tier, in the performance of any of its obligations under this Contract.

14. Information of Lockheed Martin.

Information provided by LOCKHEED MARTIN to SELLER remains the property of LOCKHEED MARTIN. SELLER agrees to comply with the terms of any Proprietary Information Agreement with LOCKHEED MARTIN and to comply with all Proprietary Information markings and Restrictive Legends applied by LOCKHEED MARTIN to anything provided hereunder to SELLER. **SELLER agrees not to use any LOCKHEED MARTIN provided information for any purpose except to perform this Contract and agrees not to disclose such information to third parties without the prior written consent of LOCKHEED MARTIN.**

15. Information of Seller.

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

16. Insurance/Entry On Lockheed Martin's Property.

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

17. Intellectual Property Infringement.

Subject to the FAR "Authorization and Consent" clauses(s) in this Contract, SELLER warrants that the Work performed and delivered under this Contract will not infringe or otherwise violate the intellectual property rights of any third party in the United States or any foreign country. SELLER agrees to defend, indemnify and hold harmless LOCKHEED MARTIN and its customers from and against any claims, damages, losses,

costs and expenses, including reasonable attorneys' fees, arising out of any action by a third party that is based upon a claim that the Work performed or delivered under this Contract infringes or otherwise violates the intellectual property rights of any person or entity.

18. Language and Standards

All reports, correspondence, drawings, notices, markings, and other communications shall be in the English language. The English version of the Contract shall prevail. Unless otherwise provided in writing all documentation and Work shall employ the units of United States Standard weights and measures.

19. New Materials.

The Work to be delivered hereunder shall consist of new materials, as defined in FAR 52.211-5 (not used, or reconditioned, remanufactured, or of such age as to impair its usefulness or safety).

20. Offset Credit/Cooperation.

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

21. Packing And Shipment.

- (a) Unless otherwise specified, all Work is to be packed in accordance with good commercial practice.
- (b) A complete packing list shall be enclosed with all shipments. SELLER shall mark containers or packages with necessary lifting, loading, and shipping information, including the LOCKHEED MARTIN contract number, item number, dates of shipment, and the names and addresses of consignor and consignee. Bills of lading shall include this contract number.
- (c) Unless otherwise specified, delivery shall be DDU – “Delivery Duty Unpaid (Point of Use)” (Incoterms 2000). The Buyer is responsible for the Customs clearance at the point of importation. The Seller is responsible for all the costs of transportation.

22. Reserved.

23. Payments, Taxes, And Duties.

- (a) Unless otherwise provided, terms of payment shall be net thirty (30) days from the latest of the following: (i) LOCKHEED MARTIN's receipt of the SELLER's proper invoice; (ii) Scheduled delivery date of the Work; or (iii) Actual delivery of the work. LOCKHEED MARTIN shall have a right of setoff against payments due or at issue

under this Contract or any other Contract between the Parties.

- (b) Payment shall be deemed to have been made as of the date of mailing LOCKHEED MARTIN's payment or electronic funds transfer.
- (c) (1) Unless other specified, prices include all applicable federal, state and local taxes, duties, tariffs, and similar fees imposed by any government, all of which shall be listed separately on the invoice; provided, however, that no taxes or duties imposed by (TO BE PROVIDED) shall be charged to Buyer under this PO.

(2) If SELLER obtains a foreign tax credit that reduces its Federal income tax liability under the United States Internal Revenue Code (Title 26, U.S. Code) because of the payment of any tax or duty that was reimbursed under this PO, the amount of the reduction shall be paid or credited at the time of such offset to the Government of the United States as the Government's Contracting Officer or Buyer directs.
- (d) All taxes, assessments and similar charges levied with respect to or upon any such products or Work owned by LOCKHEED MARTIN while in SELLER's possession or control, and for which no exemption is available, shall be borne by SELLER.
- (e) The prices stated in the Contract are firm, fixed prices in United States dollars.

24. Precedence.

Any inconsistencies in this Contract shall be resolved in accordance with the following descending order of precedence: (1) Face of the Purchase Order, Release document or Schedule, (which shall include continuation sheets), as applicable, including any Special Provisions; (2) Any master-type agreement (such as corporate, sector or blanket agreements); (3) these General Provisions; (4) Statement of Work; and (5) Specifications.

25. Priority Rating.

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

26. Quality Control System.

Unless this Contract contains other specific quality requirements,

- (a) SELLER shall provide and maintain a quality control system to an industry recognized Quality Standard for the Work covered by this Contract.

- (b) Records of all quality control inspection work by SELLER shall be kept complete and available to LOCKHEED MARTIN and its customers during the performance of this Contract and for such longer periods as may be specified.

27. Release Of Information.

- (a) Except as required by law, no public release of any information, or confirmation or denial of same, with respect to this Contract or the subject matter hereof, will be made by SELLER without the prior written approval of LOCKHEED MARTIN.
- (b) In addition to the requirements of paragraph (a), above, SELLER shall comply with the “Disclosure of Information (DFARS 252.204-7000) (DEC 1991) (Deviation)” clause contained in Section H of this Contract.

28. Severability.

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

29. Survivability.

If this Contract is terminated for default or convenience, SELLER shall not be relieved of those obligations contained in this Contract for the following provisions:

- (a) Applicable Laws, Clause # 2
Export Control, Clause #8
Independent Contractor Relationship, Clause #13
Information of Lockheed Martin, Clause #14
Insurance/Entry on LOCKHEED MARTIN Property, Clause #16
Intellectual Property Infringement, Clause #17
Release of Information, Clause #27
Warranty, Clause #32
- (b) Those U.S. Government flowdown provisions that by their nature should survive.

30. Timely Performance.

- (a) SELLER’s timely performance is a critical element of this Contract.
- (b) Unless advance shipment has been authorized in writing by LOCKHEED MARTIN, LOCKHEED MARTIN may store at SELLER’s expense, or return, shipping charges collect, all Work received in advance of the scheduled delivery date.

- (c) If SELLER becomes aware of difficulty in performing the Work, SELLER shall timely notify LOCKHEED MARTIN, in writing, giving pertinent details. This notification shall not change any delivery schedule.
- (d) In the event of a termination for convenience or change, no claim will be allowed for any manufacture or procurement in advance of SELLER's normal flow time unless there has been prior written consent by LOCKHEED MARTIN.

31. Waiver, Approval And Remedies.

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

32. Warranty.

SELLER warrants that all Work furnished pursuant to this Contract shall strictly conform to applicable specifications, drawings, samples, and descriptions, and other requirements of this Contract and be free from defects in design, material and workmanship. The warranty shall begin upon final acceptance and extend for a period of (i) the manufacturer's warranty period or six months, whichever is longer, if SELLER is not the manufacturer and has not modified the Work or, (ii) one year or the manufacturer's warranty period, whichever is longer; if the SELLER is the manufacturer of the Work or has modified it. If any non-conformity with Work appears within that time, SELLER shall promptly repair, replace, or reperform the Work. Transportation of replacement Work and return of non-conforming Work and repeat performance of Work shall be at SELLER's expense. If repair or replacement or reperformance of Work is not timely, LOCKHEED MARTIN may elect to return the nonconforming Work or repair or replace Work or reprocur the Work at SELLER's expense. All warranties shall run to LOCKHEED MARTIN and its customer(s).

SECTION II: FAR FLOWDOWN PROVISIONS

A. Incorporation of FAR Clauses.

The Federal Acquisition Regulation (FAR) clauses referenced below are incorporated herein by reference, with the same force and effect as if they were given in full text, and are

applicable, including any notes following the clause citation, during the performance of this Contract. If the date or substance of any of the clauses listed below is different than the date or substance of the clause actually incorporated in the Prime Contract referenced by number herein, the date or substance of the clause incorporated by said Prime Contract shall apply instead.

B. Government Subcontract.

This Contract is entered into by the Parties in support of a U.S. Government Contract. As used in the FAR clauses referenced below and otherwise in this Contract:

1. "COMMERCIAL ITEM" means a commercial item as defined in FAR 2.101.
2. "CONTRACTOR" means the SELLER, as defined in Corporate Document 3, acting as the immediate (first-tier) subcontractor to LOCKHEED MARTIN.
3. "Prime Contract" means the contract between LOCKHEED MARTIN and the U.S. Government or between LOCKHEED MARTIN and its higher-tier contractor who has a contract with the U.S. Government.
4. "Contract" means this Contract.
5. "Subcontract" means any contract placed by the CONTRACTOR or lower-tier subcontractors under this Contract.

C. Notes.

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

D. Amendments Required By Prime Contract.

SELLER agrees that upon the request of LOCKHEED MARTIN it will negotiate in good faith with LOCKHEED MARTIN relative to amendments to this Contract to incorporate additional provisions herein or to change provisions hereof, as LOCKHEED MARTIN may reasonably deem necessary in order to comply with the provisions of the applicable prime contract or with the provisions of amendments to such prime contract. If any such amendment to this Contract causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the Work under this Contract, an equitable adjustment shall be made pursuant to the "Changes" clause of this Contract.

E. FAR Flowdown Clauses.

REFERENCE

TITLE

1. The following FAR clauses apply to this Contract :

52.204-4	PRINTED OR COPIED DOUBLE-SIDED ON RECYCLED PAPER (AUG 2000)
52.222-1	NOTICE TO GOVERNMENT OF LABOR DISPUTES (FEB 1997) (See Note 2).
52.225-13	RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (JUL 2000) - (In paragraph (a), see Notes 5 and 6.)
52.234-1	INDUSTRIAL RESOURCES DEVELOPED UNDER DEFENSE PRODUCTION ACT TITLE III (DEC 1994) - (See Note 2.)
52.242-13	BANKRUPTCY (JUL 1995) - (See Note 2.)
52.242-15	STOP-WORK ORDER (AUG 1989) - (See Notes 1 and 2.)
52.243-1	CHANGES - FIXED PRICE (AUG 1987) - (See Notes 1 and 2; delete the reference to the "disputes" clause in subparagraph (e).)
52.244-6	SUBCONTRACTS FOR COMMERCIAL ITEMS AND COMMERCIAL COMPONENTS (MAY 2001).
52.246-2	INSPECTION OF SUPPLIES - FIXED PRICE (AUG 1996) - (The Government also may exercise any of LOCKHEED MARTIN's inspection rights under this clause. See Notes 1 and 2.)
52.246-4	INSPECTION OF SERVICES - FIXED PRICE (AUG 1996) - (The Government also may exercise any of LOCKHEED MARTIN's inspection rights under this clause. See Note 1.)
52.246-7	INSPECTION OF RESEARCH AND DEVELOPMENT - FIXED PRICE (AUG 1996) - (The Government also may exercise any of LOCKHEED MARTIN's inspection rights under this clause. See Notes 1 and 2.)

- 52.249-2 **TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED-PRICE) (SEP 1996)** - (Applicable only for fixed-price contracts. See Notes 1 and 2. "Government" and "Contracting Officer" mean "LOCKHEED MARTIN" except in paragraph (n) where "Government" means LOCKHEED MARTIN and the "Government" and "Contracting Officer" means "LOCKHEED MARTIN or the "Contracting Officer." In paragraph (c) "120 days" is changed to "60 days." In paragraph (d) "15 days" is changed to "30 days," and "45 days" is changed to "60 days." In paragraph (e) "1 year" is changed to "6 months." Paragraph (j) is deleted. In paragraph (l) "90 days" is changed to "45 days." Settlements and payments under this clause may be subject to the approval of the Contracting Officer.)
- 52.249-8 **DEFAULT (FIXED PRICE SUPPLY AND SERVICE) (APR 1984)** - (Applicable only to fixed-price Contracts.) See Notes 1 and 2 except Note 1 is not applicable to paragraph (e). In subparagraph (a)(1)(i), add the following after the word "services": "(including, without limitation, research and development)..." Timely performance is a material element of this Contract.

2. The following FAR clauses apply to this Contract if the value of this Contract equals or exceeds \$100,000:

- 52.203-6 **RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (JUL 1995).**
- 52.203-12 **LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (JUN 1997)** - (See Note 5.)
- 52.215-2 **AUDIT AND RECORDS-NEGOTIATION (JUN 1999)** - (Applicable if (1) CONTRACTOR is required to furnish cost or pricing data, or (2) the Contract requires CONTRACTOR to furnish cost, funding or performance reports. Insert "and the LOCKHEED MARTIN Purchasing Representative" after "the Contracting Officer or representatives of the Contracting Officer" or after "... representatives of the Contracting Officer who are employees of the Government", where indicated throughout the clause.)
- 52.215-14 **INTEGRITY OF UNIT PRICES (JAN 1997).** (Delete paragraph (b) of this clause.)
- 52.227-1 **AUTHORIZATION AND CONSENT (JUL 1995) and ALT 1 (APR 1984)** - In the clause, in paragraph (a)(1) see Note 4, and in paragraph (a)(2)(ii) see Note 2.)
- 52.227-2 **NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (AUG 1996)** - (See Notes 2 and 4.)
- 52.244-5 **COMPETITION IN SUBCONTRACTING (DEC 1996)** (See

Note 5.)

3. The following FAR clauses apply only if the stipulation in the relevant parenthetical applies:

- 52.204-2 **SECURITY REQUIREMENTS (AUG 1996)** - (Applicable if the Work requires access to classified information; delete paragraph (c) of the clause.)
- 52.215-11 **PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA - MODIFICATIONS (OCT 1997)** - (Applicable for modifications if not otherwise exempt under FAR 15.403. See Notes 2 and 4. Rights and obligations under this clause shall survive completion of the work and final payment under this Contract.)
- 52.215-13 **SUBCONTRACTOR COST OR PRICING DATA - MODIFICATIONS (OCT 1997)** - (Applicable for modifications if not otherwise exempt under FAR 15.403. All of the duties and obligations which this clause imposes upon a sub-tier contractor shall be and are hereby imposed upon the CONTRACTOR with respect to LOCKHEED MARTIN in pricing the award of this Contract or any modification to this Contract. Rights and obligations under this clause shall survive completion of the work and final payment.)
- 52.215-15 **PENSION ADJUSTMENTS AND ASSET REVERSIONS (DEC 1998)** - (Applicable if this Contract meets the applicability requirements of FAR 15.408(g); see Note 5.)
- 52.215-16 **FACILITIES CAPITAL COST OF MONEY (OCT 1997)** - (Applicable only if the Contract is subject to the Cost Principles at FAR Subpart 31.2 and the CONTRACTOR proposed facilities capital cost of money in its offer.)
- 52.215-17 **WAIVER OF FACILITIES CAPITAL COST OF MONEY (OCT 1997)** - (Applicable only if the Contract is subject to the cost principles at FAR Subpart 31.2 for Contracts with commercial organizations, and the CONTRACTOR did not propose facilities capital cost of money in its offer.)
- 52.215-18 **REVERSION OR ADJUSTMENT OF PLANS FOR POST-RETIREMENT BENEFITS (PRB) OTHER THAN PENSIONS (OCT 1997)** - (Applicable if this Contract meets the applicability requirements of FAR 15.408(j); see Note 5.)
- 52.215-19 **NOTIFICATION OF OWNERSHIP CHANGES (OCT 1997)** - (Applicable if this Contract meets the applicability requirements of FAR 15.408(k);. See Note 2.
- 52.215-21 **REQUIREMENTS FOR COST OR PRICING DATA OR INFORMATION OTHER THAN COST OR PRICING DATA**

- **MODIFICATIONS (OCT 1997)** - (See Note 2.)
- 52.223-7 **NOTICE OF RADIOACTIVE MATERIALS (JAN 1997)** - (Applicable to Work containing covered radioactive material. In the blank insert “30”; See Notes 1 and 2.)
- 52.225-8 **DUTY FREE ENTRY (FEB 2000)** - (Applicable if supplies will be imported into the Customs Territory of the United States. In paragraph (c)(1) the notice provision shall be 30 days. See Notes 2, 3, 5 and 6.)
- 52.227-10 **FILING OF PATENT APPLICATIONS-CLASSIFIED SUBJECT MATTER (APR 1984)** - (Applicable if the Work or any patent application may cover classified subject matter.)
- 52.227-11 **PATENT RIGHTS-RETENTION BY THE CONTRACTOR (SHORT FORM) (JUN 1997)** (Applicable if CONTRACTOR is a small business or domestic non-profit organization performing experimental or R&D Work.)
- 52.227-12 **PATENT RIGHTS-RETENTION BY THE CONTRACTOR (LONG FORM) (JAN 1998)** - (Applicable to other than a small business or domestic non-profit organization performing experimental or R&D work.)
- 52.229-6 **TAXES – FOREIGN FIXED-PRICED CONTRACTS (JAN 1991)**. (Applicable unless taxes or duties are imposed by or in To Be Provided . See Note 2.)
- 52.233-3 **PROTEST AFTER AWARD (AUG 1996)** - (In the event LOCKHEED MARTIN’s customer has directed LOCKHEED MARTIN to stop performance of the work under the prime contract under which this contract is issued pursuant to FAR 33.1, LOCKHEED MARTIN may, by written order to CONTRACTOR, direct CONTRACTOR to stop performance of the work called for by this Contract; “30 days” means “20 days” in paragraph (b)(2); Note 1 applies except the first time it appears in paragraph (f); in paragraph (f) add after “33.104(h)(1)” “and recovers those costs from LOCKHEED MARTIN”; See Note 2.)
- 52.242-12 **REPORT OF SHIPMENT (RESHIP) (JUL 1995)** Applicable if this contract involves classified information (See FAR 4.401).
- 52.245-17 **SPECIAL TOOLING (DEC 1989)** - (Applicable if this is a fixed-price Contract and the Contract involves the use of special tooling; see Note 2. DoD Contracts shall incorporate the (APR 1984) clause.)
- 52.245-18 **SPECIAL TEST EQUIPMENT (FEB 1993)** - (Applicable if this Contract involves the acquisition or fabrication of Special Test Equipment. Notice to acquire shall be through LOCKHEED MARTIN. See Notes, 4, 5, and 6.)
- 52.245-19 **GOVERNMENT PROPERTY FURNISHED “AS IS” (APR 1984)** – (Applicable if any Government Property is furnished in “as is” condition.) The first line of paragraph (a) is changed to

ready “Neither the Government nor LOCKHEED MARTIN makes any warranty....” Notes 5. and 6. apply, except that in the tenth line from the bottom of paragraph (c), substitute “the LOCKHEED MARTIN Procurement Representative” for “the Contracting Officer.”

4. The following FAR clauses apply to this Contract, if Work under the Contract will be performed in the United States or Contractor is recruiting employees in the United States to Work on the Contract:

- (i) The following FAR clauses apply to this Contract:

52.219-8 **UTILIZATION OF SMALL BUSINESS CONCERNS (OCT 2000).**
52.222-20 **WALSH HEALY PUBLIC CONTRACTS ACT (DEC 1996).**
52.222-21 **PROHIBITION OF SEGREGATED FACILITIES (FEB 1999).**
52.222-26 **EQUAL OPPORTUNITY (FEB 1999) - (Only subparagraphs (b)(1)-(11) applies.)**

- (ii) The following FAR clauses apply to this Contract if the value of the Contract equals or exceeds \$10,000:

52.222-35 **AFFIRMATIVE ACTION FOR DISABLED VETERANS AND VIETNAM ERA VETERANS (APR 1998).**
52.222-36 **AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES (JUN 1998).**
52.222-37 **EMPLOYMENT REPORTS ON DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA (JAN 1999).**

- (iii) The following FAR clauses apply to this Contract if the value of this Contract equals or exceeds \$100,000:

52.222-4 **CONTRACT WORK HOURS AND SAFETY STANDARDS ACT - OVERTIME COMPENSATION (SEP 2000) - (Applicable as prescribed at FAR 22.305.)**
52.223-14 **TOXIC CHEMICAL RELEASE REPORTING (OCT 2000) - (See Notes 2 and 5, delete subparagraph (e).)**

- (iv) The following FAR Clauses apply to this Contract if the value of this Contract equals or exceeds \$500,000:

52.219-9 **SMALL BUSINESS SUBCONTRACTING PLAN (JAN 1999) - (Applicable if the CONTRACTOR is not a small business; see Note 1 and Note 2, applicable to subparagraph (c) only; the**

CONTRACTOR's subcontracting plan is incorporated herein by reference.)

(v) The following FAR Clauses apply as indicated:

52.223-11 **OZONE-DEPLETING SUBSTANCES (MAY 2001)** -
(Applicable if the Work was manufactured with or contains ozone-depleting substances.)

F. Certifications And Representations.

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

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

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

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

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

- (b) If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with a solicitation or order, the offeror shall complete and submit, with its offer, OMB standard form LLL, Disclosure of Lobbying Activities, in accordance with its instructions, and
 - (c) He or she will include the language of this certification in all subcontracts at any tier and require that all recipients of subcontract awards in excess of \$100,000 shall certify and disclose accordingly.
- (iii) Submission of this certification and disclosure is a prerequisite for making or entering into a contract as imposed by section 1352, title 31, United States Code. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.
- (2) **FAR 52.209-5 Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters.**
- (i) CONTRACTOR certifies that, to the best of its knowledge and belief, that CONTRACTOR and/or any of its Principals, (as defined in FAR 52.209-5,) are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency.
 - (ii) CONTRACTOR shall provide immediate written notice to LOCKHEED MARTIN if, any time prior to award of any contract, it learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- (3) The following FAR Clauses apply to this Contract, if Work under this Contract will be performed in the United States or Contractor is recruiting employees in the United States to Work on the Contract:
- (i) **FAR 52.222-22 Previous Contracts and Compliance Reports.** CONTRACTOR represents that if CONTRACTOR has participated in a previous contract or subcontract subject either to Equal Opportunity clause (FAR 52.222-26) of the Solicitation/Contract, the clause originally contained in Section 310 of Executive Order No. 10925, or the clause contained in Section 201 of Executive Order No. 11114, (i)

CONTRACTOR has filed all required compliance reports and (ii) that representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards.

(ii) **FAR 52.222-25 Affirmative Action Compliance.** CONTRACTOR represents (1) /that CONTRACTOR has developed and has on file at each establishment, affirmative action programs required by the rules and regulations of the Secretary of Labor (41 CFR 60-1 and 60-2), or (2) that in the event such a program does not presently exist, CONTRACTOR will develop and place in operation such a written Affirmative Action Compliance Program within 120 days from the award of this Contract.

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

(a) Submission of this certification is a prerequisite for making or entering into this contract imposed by Executive Order 12969, August 8, 1995.

(b) CONTRACTOR certifies that—

(1) As the owner or operator of facilities that will be used in the performance of this CONTRACT that are subject to the filing and reporting requirements described in section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11023) and section 6607 of the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13106), CONTRACTOR will file and continue to file for such facilities for the life of the contract the Toxic Chemical Release Inventory Form (Form R) as described in sections 313(a) and (g) of EPCRA and section 6607 of PPA; or

(2) None of its owned or operated facilities to be used in the performance of this CONTRACT is subject to the Form R filing and reporting requirements because each such facility is exempt for at least one of the following reasons:

(i) The facility does not manufacture, process or otherwise use any toxic chemicals listed under section 313(c) of EPCRA, 42 U.S.C. 11023(c);

(ii) The facility does not have 10 or more full-time employees as specified in section 313(b)(1)(A) of EPCRA 42 U.S.C. 11023(b)(1)(A);

- (iii) The facility does not meet the reporting thresholds of toxic chemicals established under section 313(f) of EPCRA, 42 U.S.C. 11023(f) (including the alternate thresholds at 40 CFR 372.27, provided an appropriate certification form has been filed with EPA);
- (iv) The facility does not fall within Standard Industrial Classification Code (SIC) designations 20 through 39 or their corresponding North American Industry Classification System (NAICS) sectors 31 through 33; or
- (v) The facility is not located within any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Northern Mariana Islands, or any other territory or possession over which the United States has jurisdiction.

G. Additional JSF Specific Clauses:

INVESTMENT. Any decision by Seller at, or prior to, the date of award of this P.O. or at or prior to the date of execution of any modification to this P.O. to (i) incur costs, by reason of investment or otherwise, that are not expressly included in writing in the Seller's bid, offer, or proposal to Buyer, agreed to by Buyer, and incorporated into this P.O.'s price, (ii) forego profit on costs, or (iii) apply a management decrement, is made at the sole risk of Seller. Seller acknowledges that the price of this P.O. shall not be increased by any portion of incurred costs, foregone profit, or management decrement, for any reason, including, but not limited to, a termination for convenience of this P.O., notwithstanding any provisions of this P.O. or applicable regulations governing termination for convenience settlements of purchase orders under United States Government prime contracts, unless Buyer first expressly agrees in writing to pay such portion. Buyer, as set forth in the clause of this P.O. entitled "Termination for Convenience (Fixed Price)," may terminate this P.O. for any reason if Buyer determines that it is in the Buyer's interest to do so. The term "any reason" includes, but is not limited to, termination of the Buyer's prime contract with the U. S. Government on any basis, convenience or default. A termination for default of this P.O. is justified at any time where the circumstances provided in the clause of this P.O. entitled "Default" apply.