



LOCKHEED MARTIN CORPORATION

CORPDOC 2INT

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

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) Unless expressly accepted in writing by LOCKHEED MARTIN, additional or differing terms or conditions proposed by SELLER or included in SELLER's acknowledgment are objected to by LOCKHEED MARTIN and have no effect.

2. APPLICABLE LAWS

(a) This Contract shall be governed and construed in accordance with by the laws of the State from which this Contract is issued by LOCKHEED MARTIN, without regard to its conflicts of laws provisions, except that any provision in this Contract that is: (i) incorporated in full text or by reference from the Federal Acquisition Regulation (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, in the performance of this Contract, agrees to comply with all applicable local, state, and federal laws, orders, representations rules, regulations, and ordinances of the United States and the country where SELLER will be performing the Contract. SELLER shall procure all licenses/permits, and pay all fees, and other required charges, and shall comply with of all applicable guidelines and directives of any local, state, and/or federal governmental authority. The provisions of the United Nations Convention on Contracts for International Sale 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 (3) below.

(3) Upon the occurrence of any of the circumstances, other than withholdings, identified in (2) above, LOCKHEED MARTIN may make a reduction of corresponding amounts (in whole or in part) in the price 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. In the case of withholding(s), LOCKHEED MARTIN may withhold the same amount from SELLER under this Contract.

(4) In the event it is determined that the Work is not a Commercial Item as defined at FAR 2.101, then SELLER agrees that CORPDOC 3, General Provisions and FAR Flowdown Provisions for Subcontracts/Purchase Orders (All Agencies) for Non-Commercial Items under a U.S. Governmental Prime Contract, and the corresponding agency flowdowns shall be applicable to this Contract, in lieu of these terms and conditions, effective as of the date of this Contract.

(c) If the Work is to be shipped to, or performed in the United States:

(1) 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.

(2) 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 SELLER's duties shall be void, unless prior written consent is given by LOCKHEED MARTIN.

4. CHANGES

(a) The LOCKHEED MARTIN Procurement Representative may at any time, by written notice, and without notice to sureties or assignees, make changes within the general scope of this Contract in any one or more of the following: (i) drawings, designs, or specifications; (ii) method of shipping or packing; (iii) place of inspection, acceptance, or point of delivery; and (iv) delivery schedule.

(b) If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of this Contract, LOCKHEED MARTIN shall make an equitable adjustment in the Contract price and/or delivery schedule, and modify this Contract accordingly. Changes to the delivery schedule will be subject to a price adjustment only.

(c) SELLER must assert its right to an equitable adjustment under this clause within thirty (30) days from the date of receipt of the written change order from LOCKHEED MARTIN. If the SELLER's proposed equitable adjustment includes the cost of property made obsolete or excess by the change, LOCKHEED MARTIN shall have the right to prescribe the manner of disposition of the property.

(d) Failure to agree to any adjustment shall be resolved in accordance with the "Disputes" clause of this Contract. However, nothing contained in this "Changes" clause shall excuse SELLER from proceeding without delay in the performance of this Contract as changed.

5. COMMUNICATION WITH LOCKHEED MARTIN CUSTOMER

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.

6. CONTRACT DIRECTION

(a) Only the LOCKHEED MARTIN Procurement Representative has authority on behalf of LOCKHEED MARTIN to make changes to this Contract. All amendments must be in writing and executed by the parties.

(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' personnel concerning the Work hereunder. No such action shall 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 in writing and sent to the LOCKHEED MARTIN Procurement Representative.

7. DEFAULT

(a) LOCKHEED MARTIN, by written notice, may terminate this Contract for default, in whole or in part, if SELLER (i) fails to comply with any of the terms of this Contract; (ii) fails to make progress so as to endanger performance of this Contract; (iii) fails to provide adequate assurance of future performance; (iv) files or has filed against it a petition in bankruptcy; or (v) becomes insolvent or suffers a material adverse change in financial condition. SELLER shall have ten (10) days (or such longer period as LOCKHEED MARTIN may authorize in writing) to cure any such failure after receipt of notice from LOCKHEED MARTIN. Default involving delivery schedule delays, bankruptcy or adverse change in financial condition shall not be subject to the cure provision.

(b) Following a termination for default of this Contract, SELLER shall be compensated only for Work actually delivered and accepted. LOCKHEED MARTIN may require SELLER to deliver to LOCKHEED MARTIN any supplies and materials, manufacturing materials, and manufacturing drawings that SELLER has specifically produced or acquired for the terminated portion of this Contract. LOCKHEED MARTIN and SELLER shall agree on the amount of payment for these other deliverables.

(c) Upon the occurrence and during the continuation of a default, LOCKHEED MARTIN may exercise any and all rights and remedies available to it under applicable law and equity, including without limitation, cancellation of this Contract. If after termination for default under this Contract, it is determined that SELLER was not in default, such termination shall be deemed a termination for convenience.

(d) SELLER shall continue all Work not terminated or cancelled.

8. DEFINITIONS

The following terms shall have the meanings set forth below:

- (a) "Contract" means the instrument of contracting, such as "Purchase Order", "PO", "Subcontract", or other such type designation, including these General Provisions, 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 units as identified on the face of this 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 a person authorized by LOCKHEED MARTIN's cognizant procurement organization to administer and/or execute this Contract.
- (f) "SELLER" means the party identified on the face of this Contract with whom LOCKHEED MARTIN is contracting.
- (g) "Work" means all required labor, articles, materials, supplies, goods, and services constituting the subject matter of this Contract.

9. DISPUTES

All disputes under this Contract that 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 is issued. Until final resolution of any dispute, SELLER shall diligently proceed with the performance of this Contract as directed by LOCKHEED MARTIN.

10. ELECTRONIC CONTRACTING

The parties agree that if this Contract is transmitted electronically neither party shall contest the validity of this Contract, or any acknowledgement thereof, on the basis that this Contract or acknowledgement contains an electronic signature.

11. EXCUSABLE DELAY

(a) Subject to (b) and when mutually agreed by the parties, SELLER shall be excused from, and shall not be liable for, failure of performance due to one or more of the following qualifying events (such list being exclusive):

(1) War; warlike operation; insurrection; riot; fire; explosion; accident; governmental act; material control regulations or orders; act of God; act of a public enemy; epidemic; and quarantine restriction; and if

(2) Such event was beyond SELLER's control and not occasioned by its negligence or default. This Contract will be extended for that period of time attributable to such event.

(b) In order to be excused from performance under (a) SELLER shall submit, within ten (10) calendar days of the start of the qualifying event, a written notice stating a complete and detailed description of such event, the date of commencement, an estimate of the probable period of delay, and explanation indicating how such event was beyond the control of the Seller and not due to its negligence or fault and what efforts Seller will make to minimize the length of delay. Seller shall submit within ten (10) calendar days of the end of the event a written notice stating the impact to the schedule and evidence justifying the length of the delay. If the delay extends for thirty (30) days or more this Contract may be terminated by Lockheed Martin without additional cost.

(c) 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.

12. EXPORT CONTROL

(a) SELLER agrees to comply with all applicable in country and U.S. export control laws and regulations, specifically including for the U.S., but not limited to, the requirements of the Arms Export Control Act, 22 U.S.C. 2751-2794, including the International Traffic in Arms Regulation (ITAR), 22 C.F.R. 120 et seq.; and the Export Administration Act, 50 U.S.C. app. 2401-2420, including the Export Administration Regulations, 15 C.F.R. 730-774; including the requirement for obtaining any export license or agreement, if applicable.

(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, or becomes, 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, or by any entity or agency of SELLER's own country.

(d) LOCKHEED MARTIN ITAR Controlled Technical Data can be provided to SELLER's same country national employees ONLY. Third Country national employees of SELLER are not authorized to receive LOCKHEED MARTIN ITAR Controlled Technical Data without separate authorization and approval by LOCKHEED MARTIN and the U.S. Government.

(e) If the technical data required to perform this Contract is exported pursuant to ITAR 124.13 to the SELLER under a DSP-5, Offshore Procurement license, SELLER shall comply with the following:

(1) The technical data shall be used only to manufacture the Work required by this 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 this 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 of this paragraph (e) in all lower-tier subcontracts issued when technical data is provided to the lower-tier subcontractor.

(f) Where SELLER is a signatory under a LOCKHEED MARTIN export license or export agreement (e.g., TAA, MLA), SELLER shall provide prompt notification to the LOCKHEED MARTIN Procurement Representative in the event of changed circumstances including, but not limited to, ineligibility, a violation or potential violation of the ITAR, and the initiation or existence of a U.S. Government investigation, that could affect the SELLER's performance under this Contract.

(g) If Sublicensing is authorized in writing by LOCKHEED MARTIN and the U.S. Government under the export agreement, SELLER shall comply with the following:

(1) Obtain an ITAR Non-Disclosure Agreement (NDA) from each authorized lower-tier Supplier which SELLER will sublicense ITAR controlled technical data to; and

(2) Provide a copy of the fully executed ITAR NDA to the LOCKHEED MARTIN Procurement Representative; and then

(3) Upon completion of (i) and (ii) above, Lockheed Martin will acknowledge receipt of the NDA and provide authorization to SELLER to provide LOCKHEED MARTIN ITAR Controlled Technical Data to its authorized lower-tier Suppliers;

(4) LOCKHEED MARTIN ITAR Controlled Technical Data can be provided to SELLER's authorized lower-tier Supplier's national employees only;

(5) Third Country national employees of SELLER's authorized lower-tier Suppliers are not authorized to receive LOCKHEED MARTIN ITAR Controlled Technical Data without separate authorization and approval by LOCKHEED MARTIN and the U.S. Government.

(h) SELLER shall be responsible for all losses, costs, claims, causes of action, damages, liabilities and expense, including attorneys' fees, all expense 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 clause.

13. EXTRAS

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

14. 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.

(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.

(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 manage, maintain, and preserve Furnished Property in accordance with good commercial practice.

(d) 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 and shall deliver or make such other disposal as may be directed by LOCKHEED MARTIN.

15. GRATUITIES/KICKBACKS

(a) SELLER shall not offer or give a kickback or gratuity (in the form of entertainment, gifts, or otherwise) for the purpose of obtaining or rewarding favorable treatment as a LOCKHEED MARTIN 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.

16. IMPORTER OF RECORD

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

(a) If elsewhere in this 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 the United States Anti-Dumping Laws (19 U.S.C. 1673 et seq.).

(b) If elsewhere in this 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 Temporary or Import Bond; and

(2) Upon request and where applicable, SELLER will provide to LOCKHEED MARTIN Customs Form 7501 entitled "Customs Entry", properly executed.

17. 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 and hold harmless LOCKHEED MARTIN and its customers from and against 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.

18. 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. SELLER shall maintain data protection processes and systems sufficient to adequately protect LOCKHEED MARTIN INFORMATION.

19. INFORMATION OF SELLER

SELLER shall not provide any proprietary information to LOCKHEED MARTIN without prior execution of a proprietary information agreement by the parties.

20. INSPECTION AND ACCEPTANCE

(a) LOCKHEED MARTIN and its customer may inspect all Work at reasonable times and places, including, when practicable, during manufacture and before shipment. SELLER shall provide all information, facilities, and assistance necessary for safe and convenient inspection without additional charge.

(b) No such inspection shall relieve SELLER of its obligations to furnish and warrant all Work in accordance with the requirements of this Contract. LOCKHEED MARTIN's final inspection and acceptance shall be at destination.

(c) If SELLER delivers non-conforming Work, LOCKHEED MARTIN may, in addition to any other remedies available at law or at equity: (i) accept all or part of such Work at an equitable price reduction; or (ii) reject such Work; or (iii) require SELLER, at SELLER's cost, to make all repairs, modifications, or replacements at the direction of LOCKHEED MARTIN necessary to enable such Work to comply in all respects with Contract requirements.

(d) SELLER shall not re-tender rejected Work without disclosing the corrective action taken.

21. INSURANCE/ENTRY ON LOCKHEED MARTIN PROPERTY

(a) In the event that SELLER, its employees, agents, or subcontractors enter the site(s) of LOCKHEED MARTIN or its customers for any reason in connection with this Contract then SELLER and its subcontractors shall procure and maintain for the performance of this Contract workers compensation, comprehensive general liability, bodily injury and property damage insurance in reasonable amounts, and such other insurance as LOCKHEED MARTIN may require. In addition, SELLER and its subcontractors shall comply with all site requirements. SELLER shall provide LOCKHEED MARTIN thirty (30) days advance written notice prior to the effective date of any cancellation or change in the term or coverage of any of SELLER's required insurance, provided however such notice shall not relieve SELLER's of its obligations to procure and maintain the 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. "Subcontractor" as used in this clause shall include SELLER's subcontractors at any tier. SELLER's obligations for procuring and maintaining insurance coverages are freestanding and are not affected by any other language in this Contract.

(b) SELLER shall defend, 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.

22. INTELLECTUAL PROPERTY

(a) SELLER warrants that the Work performed or 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.

(b) All data, copyrights, reports, and works of authorship developed in performance of this Contract shall be the sole property of LOCKHEED MARTIN, shall be used by SELLER solely in work for LOCKHEED MARTIN. To the extent that any of the deliverable items may not, by operation of law, be works made for hire, SELLER hereby assigns to LOCKHEED MARTIN the ownership of copyright in the deliverable items and LOCKHEED MARTIN shall have the right to obtain and hold in its own name copyrights, registrations, and similar protection which may be available in the deliverable items. SELLER agrees to give LOCKHEED MARTIN or its designees all assistance reasonably required to perfect such rights.

(c) To the extent that any pre-existing inventions, technology, designs, works of authorship, mask works, technical information, computer software, and other information or materials are used, included, or contained in the Work or deliverable items and not owned by LOCKHEED MARTIN pursuant to this or a previous agreement with SELLER, SELLER grants to LOCKHEED MARTIN an irrevocable, nonexclusive, world-wide, royalty-free license to: (i) make, have made, sell, offer for sale, use, execute, reproduce, display, perform, distribute (internally or externally) copies of, and prepare derivative works based upon, such pre-existing inventions, technology, designs, works of authorship, mask works, technical information, computer software, and other information or materials and derivative works thereof; and (ii) authorize others to do any, some or all of the foregoing.

(d) All reports, memoranda or other materials in written form, including machine readable form, prepared by SELLER pursuant to this Contract and furnished to LOCKHEED MARTIN by SELLER hereunder shall become the sole property of LOCKHEED MARTIN.

23. LANGUAGE AND STANDARDS

All reports, correspondence, drawings, notices, marking, 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.

24. 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.

25. OFFSET CREDIT/COOPERATION

This Contract has been entered into in direct support of LOCKHEED MARTIN's international offset programs. All offset benefit credits resulting from this Contract are the sole property of LOCKHEED MARTIN to be applied to the offset program of its choice. SELLER agrees to assist LOCKHEED MARTIN in securing appropriate offset credits from the respective country government authorities.

26. 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 is FCA Free Carrier, in accordance with INCOTERMS 2000. Carrier and site of delivery for the goods shall be specified in the Contract.

27. 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.

(b) Each payment made shall be subject to reduction to the extent of amounts which are found by LOCKHEED MARTIN or SELLER not to have been properly payable, and shall also be subject to reduction for overpayments. SELLER shall promptly notify LOCKHEED MARTIN of any such overpayments found by SELLER.

(c) LOCKHEED MARTIN shall have a right of setoff against payments due or at issue under this Contract or any other contract between the parties.

(d) Payment shall be deemed to have been made as of the date of mailing LOCKHEED MARTIN's payment or electronic funds transfer.

(e) Unless otherwise 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.

(f) The prices stated in the Contract are firm, fixed prices in United States Dollars.

28. PRECEDENCE

Any inconsistencies in this Contract shall be resolved in accordance with the following descending order of precedence: (1) Face of the Purchase Order and/or Task Order, release document, or schedule, (including any continuation sheets), as applicable, including any special terms and conditions; (2) this CorpDoc; and (3) the Statement of Work.

29. 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), when placing order with United States suppliers.

30. PROHIBITED SOFTWARE

(a) This clause only applies to Work that includes the delivery of software.

(b) As used herein, "Prohibited License" means the General Public License ("GPL") or Lesser/Library GPL, the Artistic License (e.g., PERL), the Mozilla Public License, the Netscape Public License, the Sun Community Source License, the Sun Industry Standards License, or variations thereof, including without limitation licenses referred to as "GPL-Compatible, Free Software License."

(c) As used herein, "Prohibited Software" means software that incorporates or embeds software in, or uses software in connection with, as part of, bundled with, or alongside any (1) open source, publicly available, or "free" software, library or documentation, or (2) software that is licensed under a Prohibited License, or (3) software provided under a license that (a) subjects the delivered software to any Prohibited License, or (b) requires the

delivered software to be licensed for the purpose of making derivative works or be redistributable at no charge, or (c) obligates LOCKHEED MARTIN to sell, loan, distribute, disclose or otherwise make available or accessible to any third party (i) the delivered software, or any portion thereof, in object code and/or source code formats, or (ii) any products incorporating the delivered software, or any portion thereof, in object code and/or source code formats.

(d) Unless SELLER has obtained LOCKHEED MARTIN's prior written consent, which LOCKHEED MARTIN may withhold in its sole discretion, SELLER shall not use in connection with this Contract, or deliver to LOCKHEED MARTIN, any Prohibited Software.

(e) SELLER agrees to defend, indemnify, and hold harmless LOCKHEED MARTIN, its customers and suppliers from and against any claims, damages, losses, costs, and expenses, including reasonable attorneys fees, relating to use in connection with this Contract or the delivery of Prohibited Software.

31. QUALITY CONTROL SYSTEM

(a) SELLER shall provide and maintain a quality control system to an industry recognized Quality Standard and in compliance with any other specific quality requirements identified in this Contract.

(b) Records of all quality control inspection work by SELLER shall be kept complete and available to LOCKHEED MARTIN and its customers.

32. RELEASE OF INFORMATION

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.

33. SEVERABILITY

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

34. STOP WORK

(a) SELLER shall stop Work for up to ninety (90) days in accordance with any written notice received from LOCKHEED MARTIN, or for such longer period of time as the parties may agree and shall take all reasonable steps to minimize the incurrence of costs allocable to the Work during the period of Work stoppage.

(b) Within such period, LOCKHEED MARTIN shall either terminate in accordance with the provisions of this Contract or continue the Work by written notice to SELLER. In the event of a continuation, an equitable adjustment in accordance with the principles of the "Changes" clause shall be made to the price, delivery schedule, or other provision(s) affected by the Work stoppage, if applicable, provided that the claim for equitable adjustment is made within thirty (30) days after date of notice to continue.

35. SURVIVABILITY

(a) If this Contract expires, is completed or is terminated, SELLER shall not be relieved of those obligations contained in the following clauses:

- Applicable Laws
- Electronic Contracting
- Export Control
- Independent Contractor Relationship
- Information of Lockheed Martin
- Insurance/Entry on Lockheed Martin's Property
- Intellectual Property
- Language and Standards
- Prohibited Software
- Release of Information
- Warranty

(b) Those U. S. Government flowdown provisions that by their nature should survive.

36. TERMINATION FOR CONVENIENCE

(a) For specially performed Work:

(1) LOCKHEED MARTIN may terminate part or all of this Contract for its convenience by giving written notice to SELLER.

(2) Upon termination, in accordance with LOCKHEED MARTIN written direction, SELLER will immediately: (i) Cease work; (ii) Prepare and submit to LOCKHEED MARTIN an itemization of all completed and partially completed deliverables and services; (iii) Deliver to LOCKHEED MARTIN any and all Work completed up to the date of termination at the agreed upon prices; and (iv) Deliver upon request any Work in process. In the event LOCKHEED MARTIN terminates for its convenience after performance has commenced, LOCKHEED MARTIN will compensate SELLER for the actual, allowable, and reasonable expenses incurred by SELLER for Work in process up to and including the date of termination provided SELLER uses reasonable efforts to mitigate LOCKHEED MARTIN's liability under this clause.

(3) In no event shall LOCKHEED MARTIN be liable for lost or anticipated profits, or unabsorbed indirect costs or overhead, or for any sum in excess of the total Contract price. SELLER's termination claim shall be submitted within ninety (90) days from the effective date of the termination.

(b) For other than specially performed Work: LOCKHEED MARTIN may terminate part or all of this Contract for its convenience by giving written notice to SELLER and LOCKHEED MARTIN's only obligation to SELLER shall be payment of a mutually agreed-upon restocking or service charge.

(c) In either case, SELLER shall continue all Work not terminated.

37. 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.

38. WAIVERS, APPROVALS, AND REMEDIES

(a) Failure by either party to enforce any of the provisions of this Contract or applicable law shall not constitute a waiver of the requirements of such provisions or law, or as a waiver of the right of a party thereafter to enforce such provision or law.

(b) LOCKHEED MARTIN's approval of documents shall not relieve SELLER of its obligation to comply with the requirements of this Contract.

(c) The rights and remedies of either party in this Contract are cumulative and in addition to any other rights and remedies provided by law or in equity.

39. WARRANTY

SELLER warrants that all Work furnished pursuant to this Contract shall strictly conform to applicable specifications, drawings, samples, descriptions, and other requirements of this Contract and be free from defects in design, material, and workmanship. This warranty shall begin upon final acceptance and extend for a period of one (1) year. If any nonconforming Work is identified within the warranty period, SELLER, at LOCKHEED MARTIN's option, shall promptly repair, replace, or reperform the Work. Transportation of replacement Work, return of nonconforming Work, and reperformance 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, reperform, repair, replace, or reprocur the non-conforming Work at SELLER's expense. All warranties shall run to LOCKHEED MARTIN and its customers.

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, to this Contract. If the date or substance of any of the clauses listed below is different from 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. The Contracts Disputes Act shall have no application to this Contract. Any reference to a "Disputes" clause shall mean the "Disputes" clause of this Contract.

B. GOVERNMENT SUBCONTRACT

(a) This Contract is entered into by the parties in support of a U.S. Government contract.

(b) 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. "Contract" means this contract.
3. "Contracting Officer" shall mean the U.S. Government Contracting Officer for LOCKHEED MARTIN's government prime contract under which this Contract is entered.
4. "Contractor" and "Offeror" means the SELLER, as defined in this CorpDoc, acting as the immediate subcontractor to LOCKHEED MARTIN.
5. "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.
6. "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" 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" 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. Insert "and LOCKHEED MARTIN" after "Contracting Officer", throughout the clause.
7. Insert "or LOCKHEED MARTIN PROCUREMENT REPRESENTATIVE" after "Contracting Officer", throughout the clause.

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 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. PRESERVATION OF THE GOVERNMENT'S RIGHTS

If LOCKHEED MARTIN furnishes designs, drawings, special tooling, equipment, engineering data, or other technical or proprietary information (Furnished Items) which the U. S. Government owns or has the right to authorize the use of, nothing herein shall be construed to mean that LOCKHEED MARTIN, acting on its own behalf, may modify or limit any rights the Government may have to authorize the Contractor's use of such Furnished Items in support of other U. S. Government prime contracts.

F. PROVISIONS OF THE FEDERAL ACQUISITION REGULATION

1. The following FAR clauses apply to this Contract:

- (a) FAR 52.215-20 REQUIREMENTS FOR COST OR PRICING DATA OR INFORMATION OTHER THAN COST OR PRICING DATA (OCT 1997) (Note 2 applies.)
- (b) FAR 52.215-21 REQUIREMENTS FOR COST OR PRICING DATA OR INFORMATION OTHER THAN COST OR PRICING DATA - MODIFICATIONS (OCT 1997) (Note 2 applies.)
- (c) FAR 52.222-50 COMBATING TRAFFICKING IN PERSONS (AUG 2007) (Note 2 applies. In paragraph (e) Note 3 applies)

(d) FAR 52.225-13 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (FEB 2006)

(e) FAR 52.244-6 SUBCONTRACTS FOR COMMERCIAL ITEMS (MAR 2007)

(f) FAR 52.247-64 PREFERENCE FOR PRIVATELY OWNED U.S. FLAG COMMERCIAL VESSELS (FEB 2006)

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

(a) FAR 52.203-12 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (SEP 2007)

3. The following FAR clauses apply to this Contract if the value of this Contract equals or exceeds \$550,000:

(a) FAR 52.219-9 SMALL BUSINESS SUBCONTRACTING PLAN (NOV 2007) (Applicable if the Contractor is not a small business. Note 2 is applicable to paragraph (c) only. The Contractor's subcontracting plan is incorporated herein by reference.)

4. The following FAR clauses apply to this Contract as indicated:

(a) FAR 52.204-2 SECURITY REQUIREMENTS (AUG 1996) (Applies if the Work requires access to classified information.)

(b) FAR 52.204-9 PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL (SEP 2007) (Applicable where the Contractor will have physical access to a federally-controlled facility or access to a Federal information system.)

(c) FAR 52.225-5 TRADE AGREEMENTS (AUG 2007) (Applicable if the Work contains other than U.S. made or designated country end products as specified in the clause.)

(d) FAR 52.227-19 COMMERCIAL COMPUTER SOFTWARE-RESTRICTED RIGHTS (DEC 2007) (Applicable only if existing computer software is to be delivered under this Contract.)

(e) FAR 52.245-1 GOVERNMENT PROPERTY (JUN 2007) "Contracting Officer" means "Lockheed Martin" except in the definition of Property Administrator and in paragraphs (h)(1)(iii) and where it is unchanged, and in paragraphs (c) and (h)(4) where it includes Lockheed Martin. "Government" is unchanged in the phrases "Government property" and "Government furnished property" and where elsewhere used except in paragraph (d)(1) where it means "Lockheed Martin" and except in paragraphs (d)(2) and (g) where the term includes Lockheed Martin." The following is added as paragraph (n) "Seller shall provide to Lockheed Martin immediate notice of any disapproval, withdrawal of approval, or nonacceptance by the Government of property control system."

5. The following FAR clauses apply to this Contract, if Work under the Contract will 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:

(a) FAR 52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS (MAY 2004)

(b) FAR 52.222-21 PROHIBITION OF SEGREGATED FACILITIES (FEB 1999)

(c) FAR 52.222-26 EQUAL OPPORTUNITY (MAR 2007) (Only subparagraphs (b) (1)-(11) apply.)

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

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

(a) FAR 52.222-36 AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES (JUN 1998)

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

(a) FAR 52.222-39 NOTIFICATION OF EMPLOYEE RIGHTS CONCERNING PAYMENT OF UNION DUES OR FEES (DEC 2004)

(b) FAR 52.222-35 EQUAL OPPORTUNITY FOR SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS (DEC 2001)

(c) FAR 52.222-37 EMPLOYMENT REPORTS ON SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS (DEC 2001)

(d) FAR 52.222-39 NOTIFICATION OF EMPLOYEE RIGHTS CONCERNING PAYMENT OF UNION DUES OR FEES (DEC 2004)

(iv) The following FAR clauses apply to this Contract if the value of this Contract equals or exceeds \$550,000:

(a) FAR 52.219-9 SMALL BUSINESS SUBCONTRACTING PLAN (NOV 2007) (Applicable if the Contractor is not a small business. Note 2 is applicable to paragraph (c) only. The Contractor's subcontracting plan is incorporated herein by reference.)

G. CERTIFICATIONS AND REPRESENTATIONS

Contractor acknowledges that LOCKHEED MARTIN will rely upon Contractor certifications and representations contained in this clause and in any written offer, proposal or quote, or company profile submission, which results in award of a contract to Contractor. By entering into such contract, Contractor republishes the certifications and representations submitted with its written offer, including company profile information, and oral offers/quotations made at the request of LOCKHEED MARTIN, and Contractor makes those certifications and representations set forth below. Contractor shall immediately notify LOCKHEED MARTIN of any change of status regarding any certification or representation.

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

(a) Definitions. As used in this provision--

"Lobbying contact" has the meaning provided at 2 U.S.C. 1602(8).

The terms "agency," "influencing or attempting to influence," "officer or employee of an agency," "person," "reasonable compensation," and "regularly employed" are defined in the FAR clause of this solicitation entitled "Limitation on Payments to Influence Certain Federal Transactions" (52.203-12).

(b) Prohibition. The prohibition and exceptions contained in the FAR clause of this solicitation entitled "Limitation on Payments to Influence Certain Federal Transactions" (52.203-12) are hereby incorporated by reference in this provision.

(c) Certification. Contractor hereby certifies to the best of its knowledge and belief that 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 its behalf in connection with the awarding of this contract.

(d) Disclosure. If any registrants under the Lobbying Disclosure Act of 1995 have made a lobbying contact on behalf of the offeror with respect to this contract, Contractor shall complete and submit, with its offer, to LOCKHEED MARTIN OMB Standard Form LLL, Disclosure of Lobbying Activities, to provide the name of the registrants. Contractor need not report regularly employed officers or employees of the offeror to whom payments of reasonable compensation were made.

(e) Penalty. Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by 31 U.S.C. 1352. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure required 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

(a) 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.

(b) 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. FAR 52.222-22 Previous Contracts and Compliance Reports

(a) This clause applies only to the extent (1) Contractor performs work in the United States, or (2) recruits employees in the United States to Work on this Contract.

(b) Contractor represents that if Contractor has participated in a previous contract or subcontract subject to the Equal Opportunity clause (FAR 52.222-26), (1) Contractor has filed all required compliance reports and (2) that representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards.

4. FAR 52.222-25 Affirmative Action Compliance

(a) This clause applies only to the extent (1) Contractor performs work in the United States, or (2) recruits employees in the United States to Work on this Contract.

(b) Contractor represents: (a) 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 (b) 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 one-hundred twenty (120) days from the award of this Contract.