

PRIME CONTRACT

as

- 21 Offset Credit/Cooperation
- 22 Packing and Shipment
- 23 Reserved
- 24 Payments, Taxes, and Duties
- 25 Precedence
- 26 Priority Rating
- 27 Prohibited Software
- 28 Quality Control System
- 29 Release of Information
- 30 Severability
- 31 Survivability
- 32 Timely Performance
- 33 Waivers, Approvals, and Remedies
- 34 Warranty

**SECTION II: FAR FLOWDOWN PROVISIONS**

- A Incorporation of FAR Clauses
- B Government Subcontract

- 12 Furnished Property
- 13 Gratuities/Kickbacks
- 14 Importer of Record
- 15 Independent Contractor Relationship
- 16 Information of Lockheed Martin
- 17 Information of Seller
- 18 Insurance/Entry on Lockheed Martin Property
- 19 Intellectual Property
- 20 Language and Standards

- (b) (1) SELLER agrees to comply with all applicable 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 (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; (iv) furnish data of any description that is inaccurate; or

MARTIN Procurement Representative.

6. **DEFINITIONS**

The following terms shall have the meanings set forth below:



- (iii) Upon completion of (i) and (ii) above, SELLER is authorized to provide LOCKHEED MARTIN ITAR Controlled Technical Data to its same country lower-tier Suppliers;
- (iv) LOCKHEED MARTIN ITAR Controlled Technical Data can also be provided to SELLER's same country national employees only;
- (v) 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.
- (h) **SELLER shall be responsible for all losses, costs, claims, causes of action, d0029 p d00/P 25(t, clid00/bilitn002 13.4671 0 Td**



Prime Contract for infringement of a U.S. patent and LOCKHEED MARTIN and its customers are not subject to any actions for claims, damages, losses, costs, and expenses, including reasonable attorneys' fees by a third party.

- (c) In addition to the Government's rights in data and inventions SELLER agrees that LOCKHEED MARTIN in the performance of its Prime contract obligation, shall have an unlimited, irrevocable, paid-up, royalty-free right to make, have made, sell, offer for sale, use, execute, reproduce, display, perform, distribute (internally or externally) copies of, and prepare derivative, and authorize others to do any, some or all of the foregoing, any and all, inventions, discoveries, improvements, maskworks and patents as well as any and all data, copyrights, reports, and works of authorship, conceived, developed, generated or delivered in performance of this Contract.
- (d) All reports, memoranda or other materials in written form, including machine readable form, prepared by SELLER

- (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.

25. **PRECEDENCE**

Any inconsistencies in this Contract shall be resolved in accordance with the following descending order of precedence: (i) Face of the Purchase Order and/or Task Order, release document or schedule, (including any continuation sheets), as applicable, including any special provisions; (ii) This CORPDOC ; and (iii) Statement of Work.

26. **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.

27. **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



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

- Applicable Laws
- Electronic Contracting
- Export Control
- Independent Contractor Relationship
- Information of Lockheed Martin
- Insurance/Entry on Lockheed Martin 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.

**32. 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.

**33. WAIVERS, APPROVALS, AND REMEDIES**

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

**34. 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 non-conforming 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 non-conforming Work, re-performance of Work shall be at SELLER's expense. If repair, replacement, or re-performance 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 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, to 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. The Contracts Disputes Act shall have no application to this Contract. Any reference to a "Disputes" clause shall

If LOCKHEED MARTIN furnishes designs, drawings, special tooling, equipment, engineering data, or other technical or proprietary information (Furnished Items) to 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. **FAR FLOWDOWN CLAUSES.**

**REFERENCE TITLE**

**1. The following FAR clauses apply to this Contract:**

- (a)52.204-4 PRINTED OR COPIED DOUBLE SIDED ON RECYCLED PAPER (AUG 2000)
- (b) 52.211-5 MATERIAL REQUIREMENTS (AUG 2000) (Note 2 applies.)
- (c) 52.215-20 REQUIREMENTS FOR COST OR PRICING DATA OR INFORMATION OTHER THAN COST OR PRICING DATA (OCT 1997) (Note 2 applies.)
- (d) 52.215-21 REQUIREMENTS FOR COST OR PRICING DATA OR INFORMATION OTHER THAN COST OR PRICING DATA - MODIFICATIONS (OCT 1997) (Note 2 applies.)
- (e) 52.225-13 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (FEB 2006)
- (f) 52.227-13 PATIENT RIGHTS-ACQUISITION BY THE GOVERNMENT (JAN 1997)
- (g)52.227-14 RIGHTS IN DATA - GENERAL (JUN 1987)
- (h) 52.229-8 TAXES-FOREIGN COST-REIMBURSEMENT CONTRACTS (MAR 1990) Notes 1 and 2 apply to subparagraph (b).
- (i) 52.232-17 INTEREST (JUN 1996) (Note 1 applies.)
- (j) 52.234-1 INDUSTRIAL RESOURCES DEVELOPED UNDER DEFENSE PRODUCTION ACT TITLE III (DEC 1994) (Notes 1 and 2 apply.)
- (k) 52.242-13 BANKRUPTCY (JUL 1995) (Notes 1 and 2 apply.)
- (l) 52.242-15 STOP-WORK ORDER (AUG 1989) (Notes 1 and 2 apply.)
- (m)52.243-1 CHANGES - FIXED PRICE (AUG 1987) (Notes 1 and 2 apply.)
- (n) 52.243-1 Changes – Fixed Price (AUG 1987) and its Alt. II (APR 1984) (Notes 1 and 2 apply.)
- (o) 52.244-6 SUBCONTRACTS FOR COMMERCIAL ITEMS (MAR 2007)
- (p) 52.246-2 INSPECTION OF SUPPLIES - FIXED PRICE (AUG 1996) (Note 2 applies. Note 3 applies, except in paragraph (b) the second time “Government” appears; (f), (h), (j), and (l) where Note 1 applies.)
- (q)52.246-4 INSPECTION OF SERVICES - FIXED PRICE (AUG 1996) (Note 3 applies., except in paragraphs (e) and (f) where Note 1 applies.)
- (r) 52.249-2 TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED-PRICE) (MAY 2004) (Notes





2 applies, except paragraph (b). Note 1 applies to paragraph (d)(1) and (d)(3) and (m) where “Government” appears the last time and in paragraph (f)(1). In paragraph (j) change “180 days” to “240 days” and “90 days” to “150 days”. In (j)(ii) remove “prime” before “Contractor” in the last sentence.)

(s) 52.245-18 SPECIAL TEST EQUIPMENT (FEB 1993) (Applicable if this Contract involves the acquisition or fabrication of Special Test Equipment. Note 2 applies to paragraphs (b) and (d). Note 5 applies. In paragraphs (b) and (c), change “30 days” to “60 days”.)

(t) 52.247-63 PREFERENCE FOR U.S.-FLAG AIR CARRIERS (JUN 2003) (Applicable if this Contract involves international air transportation.)

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

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

(1) **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.**

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

(1) The definitions and prohibitions contained in the clause at FAR 52.203-12, Limitation on Payments to Influence Certain Federal Transactions are here





H. 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 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.