

- (B) Materials issued from the SELLER's inventory and placed in the production process for use on the Contract;
 - (C) Direct labor;
 - (D) Direct travel;
 - (E) Other direct in-house costs; and
 - (F) Properly allocable and allowable indirect costs, as shown in the records maintained by the SELLER for purposes of obtaining reimbursement under Government contracts; and
- (iii) The amount of financing payments that have been paid by cash, check or other forms of payment to the SELLER's subcontractors.
- (2) Accrued costs of SELLER contributions under employee pension plans shall be excluded until actually paid unless:
 - (i) SELLER's practice is to make contributions to the retirement fund quarterly

5. 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.

6. 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.

7. 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.

- (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.

10. 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.

11. Fixed Fee. (Applicable Only If This Contract Includes A Fixed Fee.)

LOCKHEED MARTIN shall pay the SELLER for performing this Contract the fixed fee as specified in the Schedule. After payment of 85 percent of the fixed fee, LOCKHEED MARTIN may withhold further payment of fee until a reserve is set aside in an amount that LOCKHEED MARTIN considers necessary in its sole discretion to protect LOCKHEED MARTIN's interest. This reserve shall not exceed 15 percent of the total fixed fee or \$100,000, whichever is less.

- (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.

15. 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.

16. 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.

17. Information Of Seller.

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

18. 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

23. 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,

27. 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).

28. 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.

29. 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.

30. 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.

31. 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) Allowable Cost and Payment, Clause #2
Applicable Laws, Clause # 3
Export Control, Clause #9
Independent Contractor Relationship, Clause #15
Information of Lockheed Martin, Clause #16

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 repro cure the Work at SELLER's expense. All warranties shall run to LOCKHEED MARTIN and its customer(s).

35. Unallowability of Pre-Contract Costs:

SELLER shall not be reimbursed for pre-contract costs unless there is a written agreement to the contrary signed by an Authorized LOCKHEED MARTIN Procurement Representative.

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

52.229-8	(See Note 6.)	
52.232-20	(Applicable when this Contract becomes fully funded. See Notes 1 and 2.)	
52.232-22	(Applicable if this Contract is incrementally funded. When the Contract becomes fully funded, 52.232-20 shall apply in lieu of this clause. See Notes 1 and 2.)	
52.234-1		- (See Note 2.)
52.242-1	(See Notes 2 and 4.)	-
52.242-13		- (See Note 2.)
52.242-15		- (See Notes 1 and 2.)
52.243-2		- (See Notes 1 and 2; delete the reference to the “disputes” clause in subparagraph (d).)
52.244-6		
52.246-3		- (See Note 1 except in paragraphs (b), (c) and (d) where Note 3 applies, and in paragraph (k) where the term is unchanged. In subparagraph (e), change “60 days” to “120 days,” and in subparagraph (f) change “6 months” to “12 months.”)
52.246-5		(See Note 3 in paragraphs (b) and (c). See Note 1 in paragraphs (d) and (e).)
52.246-8		- (See Note 3 in paragraphs (b), (c) and (d). See Note 1 in paragraphs (e), (f), (g) and (h).)
52.249-6		-
	See Notes 1 and 2. Substitute “90 days” for “120 days” and “90-day” for “120-day” in paragraph (d). Substitute “180 days” for “1 year” in paragraph (f). Delete paragraph (j). Settlements and payments under this clause may be subject to the approval of the Prime Contract’s Contracting Officer.)	
52.249-14		- See Note 2. Lines 7, 8, and 9 (subparagraph (a)(2)), are modified to read as follows: “(2) acts of the Government in its sovereign capacity or LOCKHEED MARTIN in its contractual capacity,....” In subparagraph (c), substitute “LOCKHEED MARTIN” for “the Government.”

52.222-36

52.222-37

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

52.222-4

(Applicable as prescribed at FAR 22.305.)

52.223-14

(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

- (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 only if the stipulation in the relevant parenthetical applies:

52.223-11

(Applicable if the Work was manufactured with or contains ozone-depleting substances.)

F. Certifications And Representations.

(a)

(1)

(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)

(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. 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 (Cost Reimbursement)," 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.