

**LOCKHEED MARTIN CORPORATION**

**PRIME SUPPLEMENTAL FLOWDOWN DOCUMENT (PSFD)**

**ADDITIONAL TERMS AND CONDITIONS FOR SUBCONTRACTS/PURCHASE ORDERS  
UNDER**

CANADA CP140 ASLEP KIT PROCUREMENT  
CONTRACT NO. W8495-06BA01/001/SSC

**Generated using Lockheed Martin CorpDocs 2009 Version**

09 February 2009

The Terms and Conditions listed below are incorporated by reference and made a part of this Contract. Unless otherwise limited in this Contract, each document applies in its entirety.

In the event of a conflict between the version or date of a clause set forth in this document and the version or date of a clause set forth in the identified CorpDocs, the version or date of the clauses set forth in this document shall take precedence.

To the extent that any clause included in this PSFD is inapplicable to the performance of this Contract, the parties shall consider such clauses to be self-deleting and shall not impose any obligations upon the SELLER.

**1.0 SECURITY REQUIREMENT**

In the event SELLER will generate or receive CLASSIFIED information/assets (identified as TOP SECRET, SECRET, CONFIDENTIAL, or PROTECTED by Canada) in the performance of Work under this Contract, then certain Canada terms and conditions shall apply with respect to safeguarding such information/assets. Prior to generating or receiving CLASSIFIED information/assets, SELLER shall immediately contact the applicable LOCKHEED MARTIN Buyer for the terms and conditions that will apply.

**2.0 PLANT ACCESS**

LOCKHEED MARTIN or Canada, or any other Canadian authorized representative shall have access to SELLER's plant or premises where the Work is being performed during usual business hours and subject to reasonable advance notice to SELLER. LOCKHEED MARTIN or Canada's Quality Assurance Authority Representative shall have access at all times to SELLER's plant or premises where the Work is being performed, subject to reasonable limitations and restrictions as may be determined to be necessary by SELLER.

**3.0 SUSPENSION OF PAYMENT**

(1) Notwithstanding anything herein contained, LOCKHEED MARTIN may suspend payments whenever it finds substantial evidence that SELLER:

(a) has failed to comply with any material requirem



(b) consignee address (if multiple addresses, goods must be packaged and labeled separately with each consignee address);

(c) description of each item; skid);

(d) the number of pieces and type of packaging (e.g. carton, crate, drum,

(e) actual weight and dimensions of each piece type, including gross weight;

(f) copy of the commercial invoice (in accordance with SACC Manual clause C2608C, section 4) or a copy of the Canada Customs Invoice;

(g) export/harmonized tariff number (in the U.S., the export tariff is commonly called "Schedule B" and can be found at:

<http://www.customs.ustreas.gov/xp/cgov/export> or <http://www.census.gov/foreign-trade/schedules/b/index.html>);

(h) NAFTA Certificate of Origin (in accordance with SACC Manual clause C2608C, section 2) for the U.S. and Mexico only;

(i) full details of dangerous material, as required for the applicable mode of transportation, signed certificates for dangerous material as required for shipment by the International Maritime Dangerous Goods Code, or International Air Transportation Association regulations or the applicable Canadian Dangerous Goods Shipping Regulations and a copy of the Material Safety Data Sheet.

(5) Following receipt of this information by Canada, Canada will provide the appropriate shipping instructions, which may include the requirement for specific consignee address labelling, the marking of each piece with a Transportation Control Number and customs documentation.

(6) If SELLER delivers the Work at a place and time that are not in accordance with the given delivery instructions or fails to fulfill reasonable delivery instructions given by Canada, SELLER shall be liable for the cost of re-delivery of the Work to the consignee. SELLER shall be liable for the cost of re-delivery of the Work to the consignee.

(3) By law, SELLER must co

(1) Canada's primary objective in entering into the prime contract with LOCKHEED MARTIN is to receive the deliverables contracted for, to be able to use those deliverables, and any Intellectual Property arising by virtue of the prime contract for Canada's activities, including future contracts, procurements and to protect or advance the broader public interest. The clauses in this Addendum (Clauses 12.0 through 12.6) grant the Commonwealth of Canada the rights in SELLER's Intellectual Property as required by LOCKHEED MARTIN's prime contract as set forth herein.

(2) "Background Information" means all Intellectual Property that is not Foreground Information that is incorporated into the Work or necessary for Canada to use the Work and that is proprietary to or the confidential information of SELLER or any other third party.

(3) "Firmware" means computer programs that are stored in integrated circuits, read-only memory or other similar devices within the hardware or other equipment.

(4) "Foreground Information" means all Intellectual Property first conceived, developed, produced or reduced to practice as a part of the Work under this Contract.

(5) "Intellectual Property" means any information or knowledge of an industrial, scientific, technical, commercial, literary, dramatic, artistic or otherwise creative nature relating to the Work, whether oral or recorded in any form or medium and whether or not subject to patent, copyright or other forms of formal registration; this includes but is not limited to any inventions, works of authorship, trade secrets, business methods, designs, methods, processes, techniques, know-how, show-how, models, prototypes, patterns, samples, schematics, experimental or test data, reports, drawings, plans, specifications, photographs, manuals and any other documents, Software, and Firmware.

(6) "Intellectual Property Right" means any intellectual property right recognized by law, including any intellectual property right protected by legislation such as patents, copyright, industrial design, integrated circuit topography, and plant breeders' rights, or subject to protection under the law as trade secrets and confidential information.

(7) "Moral Rights" has the same meaning as in Canada's Copyright Act, R.S. 1985, c. C-42.

(8) "Software" means any computer program whether in source or object code (including Firmware), any computer program documentation recorded in any form or upon any medium, and any computer database, including any modification.

## **12.1 Records and disclosure of Foreground Information**

(1) During and after the performance of this Contract, SELLER shall keep records sufficient to identify the Foreground Information generated in performance of this Contract, including details of its creation and ownership. SELLER shall report and disclose to LOCKHEED MARTIN or Canada all Foreground Information upon reasonable notice of request by LOCKHEED MARTIN or Canada whether before or for a period of five (5) years after the completion of this Contract.

(2) Upon reasonable written notice and during the time period stipulated in subsection 1 above, SELLER must provide LOCKHEED MARTIN and/or Canada with access to such records and supporting data that are reasonably required to identify Foreground Information.

(3) For any Intellectual Property that was first developed or created in relation to the Work, SELLER

agrees that Canada will be entitled to assume as between LOCKHEED MARTIN, SELLER and Canada that it was developed or created by Canada, if SELLER's records do not list that Intellectual Property or do not indicate that it was created by SELLER, or by someone on behalf of SELLER, other than Canada.

## **12.2 Ownership of Intellectual Property Rights in Foreground Information**

(1) In addition to LOCKHEED MARTIN's ownership of all the Intellectual Property Rights in the Foreground Information under CORP DOCS 1, 1 SER, 1 T&M, or 1 INT, SELLER agrees that Canada has ownership rights in the tangible embodiment of any prototype, model, custom or customized system or equipment that is a deliverable under this Contract. This includes the right to make the tangible embodiment of any prototype, model, custom or customized system or equipment that is a deliverable under this for public use solely in connection with CP-140's owned and operated by Canada.

(2) Any personal information, as defined in the *Privacy Act*, R.S., 1985, c. P-21, collected by SELLER in the execution of the Work under this Contract becomes the property of Canada immediately upon collection and must be used only for the performance of the Work. SELLER has no right in any such personal information.

(3) If the Work under this Contract involves the preparation of a database or other compilation using

or has unrestricted sub-

(1) Any information supplied by Canada to SELLER for the performance of the Work remains the property of Canada. SELLER shall use and disclose Canada's Information only to perform this Contract.

(2) If SELLER wants to use any information owned by Canada for the commercial exploitation or further development of the Foreground Information, SELLER must obtain a license from the department or agency for which the prime contract is performed. In its request for a license to that department or agency, SELLER must explain why the license is required and how SELLER intends to use the information. If the department or agency agrees to grant a license, conditions will be negotiated between SELLER and that department or agency and may include the payment of compensation to Canada.