



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

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SECTION I: GENERAL PROVISIONS

1. ACCEPTANCE OF CONTRACT/TERMS AND CONDITIONS

- (a) This Contract integrates, merges, and supersedes any prior offers, negotiations, and agreements concerning the subject matter hereof and constitutes the entire agreement between the parties.
- (b) SELLER's acknowledgment, acceptance of payment, or commencement of performance, shall constitute SELLER's unqualified acceptance of this Contract.
- (c) 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. ALLOWABLE COST AND PAYMENT.

- (a) **Invoicing.** LOCKHEED MARTIN shall make payments to SELLER when requested as work progresses, but (except for Small Business Concerns) not more often than once every 2 weeks, in amounts determined to be allowable by LOCKHEED MARTIN in accordance with the terms of this Contract and Subpart 31.2 of the FAR, and agency supplements as appropriate, in effect on the date of this Contract. If the Contract is with an educational institution, FAR Subpart 31.3 shall apply; and if with a non-profit organization other than an educational institution, FAR Subpart 31.7 shall apply. SELLER may submit to the

LOCKHEED MARTIN Procurement Representative, in such form and reasonable detail as the Representative may require, an invoice or voucher supported by a statement of the claimed allowable cost for performing this Contract.

(b) Reimbursing costs.

(1) For the purpose of reimbursing allowable costs (except as provided in paragraph (b)(2) of the clause, with respect to pension, deferred profit sharing, and employee stock ownership plan contributions), the term “costs” includes only:

(i) Those recorded costs that, at the time of the request for reimbursement, SELLER has paid by cash, check, or other form of actual payment for items or services purchased directly for this Contract;

(ii) When SELLER is not delinquent in paying costs of contract performance in the ordinary course of business, costs incurred, but not necessarily paid, for—

(A) Work purchased directly Tw[(b)4.5(Tw[(C-27n)-4.f.6(n)-5t29.6(n)-1.8(t)3(r—)TJ:(n)-1.8(20)3.93.9(y

- (e) **Billing Rates.** There shall be included as allowable indirect costs such overhead rates as may be established by SELLER and the cognizant Government agency in accordance with the principles of the FAR and applicable FAR supplement. Pending establishment of final indirect overhead rates for any period, SELLER shall be reimbursed at billing rates approved by the cognizant Government agency, which billing rates may be revised from time to time subject to such approval and subject to appropriate adjustment when the final rates for that period are established.
- (f) **Quick-closeout procedures.** When SELLER and LOCKHEED MARTIN agree, quick-closeout procedures of Subpart 42.7 of the FAR may be used.
- (g) **Audit.** At any time or times before final payment, LOCKHEED MARTIN or the Contracting Officer may have SELLER's invoices or vouchers and statements of cost audited. Any payment may be (1) reduced by amounts found not to constitute allowable costs or (2) adjusted for prior overpayments or underpayments.
- (h) **Final payment.**
 - (1) SELLER shall submit a completion invoice or voucher, designated as such, promptly upon completion of the Work, but no later than one year (or longer, as LOCKHEED MARTIN may approve in writing) from the completion date.

- (b) (1) The parties agree to comply with all applicable local, state, and federal laws, orders, rules, regulations, and ordinances. SELLER shall procure all licenses/permits and pay all fees and other required charges. SELLER shall comply with all applicable guidelines and directives of any local, state, and/or federal governmental authority.
- (2) If: (i) LOCKHEED MARTIN's contract cost 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 if (v) the U.S. Government alleges any of the foregoing; and, as a result, (1) LOCKHEED MARTIN's Contract price or fee is reduced; (2) LOCKHEED MARTIN's costs are determined to be unallowable; (3) any fines, penalties, or interest are assessed on LOCKHEED MARTIN; or (4) LOCKHEED MARTIN incurs any other costs or damages; LOCKHEED MARTIN may proceed as provided for in paragraph (4) below.
- (4) **Upon the occurrence of any of the circumstances, other than withholdings, identified in paragraphs (2) and (3) above, LOCKHEED MARTIN may make a reduction of corresponding amounts (in whole or in part) in the costs and fee of this Contract or any other contract with SELLER, and/or may demand payment (in whole or in part) of the corresponding amounts. SELLER shall promptly pay amounts so demanded. Such sums shall not be considered allowable costs under any provision of the Contract. In the case of withholding(s), LOCKHEED MARTIN may withhold the same amount from SELLER under this Contract.**
- (c) SELLER represents that each chemical substance constituting or contained in Work sold or otherwise transferred to LOCKHEED MARTIN hereunder is on the list of chemical substances compiled and published by the Administrator of the Environmental Protection Administration pursuant to the Toxic Substances Control Act (15 U.S.C. Sec. 2601 et seq.) as amended.
- (d) SELLER shall provide to LOCKHEED MA

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. 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) "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.
- (d) "LOCKHEED MARTIN Procurement Representative" means a person authorized by LOCKHEED MARTIN's cognizant procurement organization to administer and/or execute this Contract.
- (e) "SELLER" means the party identified on the face of this Contract with whom LOCKHEED MARTIN is contracting.
- (f) "Work" means all required labor, articles, materials, supplies, goods and services constituting the subject matter of this Contract.

8. 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. Until final resolution of any dispute hereunder, SELLER shall diligently proceed with the performance of this Contract as directed by LOCKHEED MARTIN.

9. 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.

10. EXPORT CONTROL

- (a) SELLER agrees to comply with all applicable U.S. export control laws and regulations, specifically including, 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. Without limiting t05 Tc(n)-1.i4n.3()-7.1(CT TD1 an c.4(m)19.2c5T)-6 0 TDw[1]4.4.(D1 anor)5.0knoT

- (e) Where SELLER is a signatory under a LOCKHEED MARTIN export license or export agreement (e.g., TAA, MLA), SELLER shall provide prompt notificati

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. SELLER agrees not to use any LOCKHEED MARTIN provided information for any purpose except to perform this

(d)

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

(c) If SELLER becomes aware of difficulty in performing the Work, SELLER sha

- (i) 52.222-26 EQUAL OPPORTUNITY (APR 2002) (Only paragraphs (b) (1)-(11) applies.)
- (j) 52.225-13 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (FEB 2006)
- (k) 52.227-14 RIGHTS IN DATA - GENERAL (JUN 1987)
- (l) 52.232-20 LIMITATION OF COST (APR 1984) (Applicable when this Contract becomes fully funded. Notes 1 and 2 apply.)
- (m) 52.232-22 LIMITATION OF FUNDS (APR 1984) (Applicable if this Contract is incrementally funded. When the Contract becomes fully funded 52.232-20 shall apply in lieu of this clause. Notes 1 and 2 apply.)
- (n) 52.234-1 INDUSTRIAL RESOURCES DEVELOPED UNDER DEFENSE PRODUCTION ACT TITLE III (DEC 1994) (Notes 1 and 2 apply.)
- (o) 52.242-13 BANKRUPTCY (JUL 1995) (Notes 1 and 2 apply.)
- (p) 52.242-15 STOP-WORK ORDER (AUG 1989) with ALT I (APR 1984) (Notes 1 and 2 apply.)
- (q) 52.243-2 CHANGES - COST REIMBURSEMENT (AUG 1987) (Notes 1 and 2 apply.)
- (r) 52.244-6 SUBCONTRACTS FOR COMMERCIAL ITEMS (FEB 2006)
- (s) 52.246-3 INSPECTION OF SUPPLIES - COST REIMBURSEMENT (MAY 2001) (Note 1 applies, except in paragraphs (b), (c), and (d) where Note 3 applies, and in paragraph (k) where the term is unchanged. In paragraph (e), change "60 days" to "120 days", and in paragraph (f) change "6 months" to "12 months".)
- (t) 52.246-5 INSPECTION OF SERVICES - COST REIMBURSEMENT (APR 1984) (Note 3 applies in paragraphs (b) and (c). Note 1 applies in paragraphs (d) and (e).)
- (u) 52.247-64 PREFERENCE FOR PRIVATELY OWNED U.S.-FLAG COMMERCIAL VESSELS (FEB 2006)
- (v) 52.249-6 TERMINATION (COST-REIMBURSEMENT) (MAY 2004) (Notes 1 and 2 apply. Substitute "90 days" for "120 days" and "90-day" for "120-day" in paragraph (d). Substitute "180 days" for "1 year"

- (b) 52.203-12 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (SEPT 2005)
- (c) 52.215-2 AUDIT AND RECORDS-NEGOTIATION (JUN 1999) (Applicable if: (1) Contractor is required to furnish cost or pricing data, or (2) the Contract requires Contractor to furnish cost, funding, or performance reports. If this is a cost type contract with an educational institution or other non-profit organization, add ALT II (APR 1998). Note 3 applies.)
- (d) 52.215-14 INTEGRITY OF UNIT PRICES (OCT 1997) (Delete paragraph (b) of the clause.)
- (e) 52.222-39 NOTIFICATION OF EMPLOYEE RIGHTS CONCERNING PAYMENT OF UNION DUES OR FEES (DEC 2004)
- (f) 52.223-14 TOXIC CHEMICAL RELEASE REPORTING (AUG 2003) (Note 2 applies. Delete paragraph (e).)

- (f) 52.215-16 FACILITIES CAPITAL COST OF MONEY (JUN 2003) (Applicable only if this Contract is subject to the Cost Principles at FAR Subpart 31.2 and the Contractor proposed facilities capital cost of money in its offer.)
- (g) 52.215-17 WAIVER OF FACILITIES CAPITAL COST OF MONEY (OCT 1997) (Applicable only if this Contract is subject to the Cost Principles at FAR Subpart 31.2 and the Contractor did not propose facilities capital cost of money in its offer.)
- (h) 52.215-18 REVERSION OR ADJUSTMENT OF PLANS FOR POST-RETIREMENT BENEFITS (PRB) OTHER THAN PENSIONS (JUL 2005) (Applicable if this Contract meets the applicability requirements of FAR 15.408(j). Note 5 applies.)
- (i) 52.215-19 NOTIFICATION OF OWNERSHIP CHANGES (OCT 1997) (Applicable if this Contract meets the applicability requirements of FAR 15.408(k). Note 5 applies.)

- (v) 52.228-5 INSURANCE – WORK ON A GOVERNMENT INSTALLATION (JAN 1997) (Applicable if this Contract involves Work on a Government installation. Note 2 applies. Note 4 applies to paragraph (b). Unless otherwise specified by this contract, the minimum kinds and amount of insurance shall be as described in FAR 28.307-2.)

- (w) 52.230-2 COST ACCOUNTING STANDARDS (APR 1998) (When referenced in the Contract, full CAS coverage applies.

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 hereby incorporated by reference in paragraph (b) of this certification.

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

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

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

(2) Contractor certifies that—

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

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

(i) The facility does not manufacture, process or otherwise use any toxic chemicals listed in 40 C.F.R. 372.65 ;

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

(iii) The facility does not meet the reporting thresholds of toxic chemicals established under section 313(f) of EPCRA, 42 U.S.C. 11023(f) (including the alternate thresholds at 40 CFR 372.27, provided an appropriate certification form has been filed with EPA);

(iv) The facility does not fall within Standard Industrial Classification Code (SIC) codes or their corresponding North American Industry Classification System (NAICS); or

(A) Major group code 10 (except 1011, 1081, and 1094).

(B) Major group code 12 (except 1241).