



GENERAL PROVISIONS AND FAR FLOWDOWN PROVISIONS FOR SUBCONTRACTS/PURCHASE ORDERS FOR 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) **Additional or differing terms or conditions proposed by SELLER or included in SELLER's acknowledgment hereof are hereby objected to by LOCKHEED MARTIN and have no effect text or by reference from the Federal Acquisition Regulations (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 agrees to comply with all applicable laws, orders, rules, regulations, and ordinances.

3. **ASSIGNMENT**

Any assignment of SELLER's contract rights or delegation of duties shall be void, unless prior written consent is given by LOCKHEED MARTIN. However, SELLER may assign rights to be paid amounts due, or to become due, to a financing institution if LOCKHEED MARTIN is promptly furnished a signed copy of such assignment reasonably in advance of the due date for payment of any such amounts. Amounts assigned to an assignee shall be subject to setoffs or recoupment for any present or future claims of LOCKHEED MARTIN against SELLER. LOCKHEED MARTIN

from LOCKHEED MARTIN. Default involving delivery schedule delays shall not be subject to the cure provision.

- (b) LOCKHEED MARTIN shall not be liable for any Work not accepted; however, 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) SELLER shall continue all Work not terminated.
- (d) If after termination under paragraph (a), it is later determined that SELLER was not in default, such termination shall be deemed a Termination for Convenience.

9. 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) "LOCKHEED MARTIN", means LOCKHEED MARTIN CORPORATION, acting through its companies or business sites as identified on the face of this Contract. If a subsidiary or affiliate of LOCKHEED MARTIN CORPORATION is identified on the face of the Contract then "LOCKHEED MARTIN" means that subsidiary or affiliate.
- (d) "LOCKHEED MARTIN Procurement Representative" means the person authorized by LOCKHEED MARTIN's cognizant procurement organization to administer this Contract.
- (e) "PO" or "Purchase Order" as used in any document constituting a part of this Contract shall mean this "Contract."
- (f) "SELLER" means the party identified on the face of the contract with whom LOCKHEED MARTIN is contracting.
- (g) "Work" means all required articles, materials, supplies, goods, and services constituting the subject matter of this Contract.

10. DISPUTES

All disputes under this Contract which 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.

11. EXPORT CONTROL

Export of technical data from the United States or disclosure to any foreign person may require some form of Export License from the United States Government. Failure to obtain necessary Export Licenses may result in criminal liability.

12.

LOCKHEED MARTIN provided information for any purpose except to perform this Contract and agrees not to disclose such information

- (b) Payment shall be deemed to have been made as of the date of mailing LOCKHEED MARTIN's payment or electronic funds transfer.
- (c) 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.
- (d) All taxes, assessments and similar charges levied with respect to or upon any such products or Work owned by LOCKHEED MARTIN while in SELLER's possession or control, and for which no exemption is available, shall be borne by SELLER.

25. **PRECEDENCE**

Any inconsistencies in this Contract shall be resolved in accordance with the following descending order of precedence: (1) Face of the Purchase Order, Release document or Schedule, (which shall include continuation sheets), as applicable, including any Special Provisions; (2) Any master-type agreement (such as corporate, sector or blanket agreements); (3) these General Provisions; (4) 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).

27. **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.

28. **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.

29. **STOP WORK ORDER**

- (a) SELLER shall stop Work for up to ninety (90) days in accordance with the terms of 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 or continue the Work by written order 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,

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 reprocur the Work at SELLER's expense. All warranties shall run to LOCKHEED MARTIN and its customer(s). **Any implied warranty of merchantability and fitness for a particular purpose is hereby disclaimed.**

34. **YEAR 2000 COMPLIANCE**

- (a) Year 2000 Compliant, as used in this clause, means that with respect to information technology, that the information technology accurately processes data/time data (including but not limited to, calculating, comparing, and sequencing) from, to, and between the twentieth and twenty-first centuries, and the years 1999 and 2000 and leap year calculations, to the extent that other information technology, used in combination with the information technology being acquired, properly exchanges date/time data with it.
- (b) Any and all products provided hereunder will be Year 2000 Compliant at the time of delivery to LOCKHEED MARTIN, including but not limited to accurately inputting, storing, manipulating, comparing, calculating, updating, displaying, outputting, and transferring such dates and data unless otherwise expressly provided herein by LOCKHEED MARTIN.
- (c) This provision takes precedence over all other provisions of this Contract with respect to being Year 2000 Compliant. In the event of a discovery of any non-compliance, either before, concurrent with, or subsequent to delivery of a good or service under this Contract, the discovering party shall notify the other party within five (5) calendar days. If the defective good or service is being presented for acceptance or has already been delivered, at LOCKHEED MARTIN's option, the defective good or service shall be repaired or replaced within ten (10) days notice at no cost to LOCKHEED MARTIN.
- (d) Nothing in this provision shall be construed to limit any other rights under this Contract, at law or in equity that LOCKHEED MARTIN may have with respect to Year 2000 compliance.

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.

B. **GOVERNMENT SUBCONTRACT.**

- (a) 52.222-35 AFFIRMATIVE ACTION FOR SPECIAL DISABLED AND VIETNAM ERA VETERANS (APR 1998)
- (b) 52.222-36 AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES (JUNE 1998)

3. **The following FAR clauses apply to this Contract if the value of this Contract equals or exceeds \$500,000:**

- (a) 52.219-9 SMALL, SMALL DISADVANTAGED AND WOMEN-OWNED SMALL BUSINESS SUBCONTRACTING PLAN (AUG 1996) (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.)

4. **The following clauses apply as indicated:**

- (a) 52.204-2 SECURITY REQUIREMENTS (AUG 1996) (Applicable if the Work involves access to classified information; delete paragraph (c) of the clause.)
- (c) 52.223-11 OZONE-DEPLETING SUBSTANCES (JUN 1996) (Applicable if the Work was manufactured with or contains ozone-depleting substances.)
- (d) 52.225-3 BUY AMERICAN ACT-SUPPLIES (JAN 1994) (Applicable if the Work contains other than domestic components as defined by this clause.)

F. **CERTIFICATIONS AND REPRESENTATIONS**

- 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 AND 10.288 IT~~inv cca A**