**A. INCORPORATION OF THE FEDERAL ACQUISITION REGULATION (FAR) AND THE DEPARTMENT OF DEFENSE FEDERAL ACQUISITION REGULATION SUPPLEMENT (DFARS)**

The FAR and DFARS 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 from 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, and nothing in this Contract grants SELLER a direct claim or cause of action against the U.S. Government. Any reference to a "Disputes" clause shall mean the "Disputes" clause of this Contract. SELLER shall include in each lower-tier subcontract the appropriate flow down clauses as required by the FAR and FAR Supplement clauses included in this Contract.

**B. GOVERNMENT SUBCONTRACT**

(a) This Contract is entered into by the parties in support of a U.S. Government contract.

(b) As used in the FAR and DFARS clauses referenced below and otherwise in this Contract:

1. "Commercial product" means any such product as defined in FAR 2.101.

2. "Commercial service" means any such service as defined in FAR 2.101.

3. "Commercially available off-the-shelf (COTS) item" means a COTS item as defined in FAR 2.101

4. "Contract" means this contract.

5. "Contracting Officer" shall mean the U.S. Government Contracting Officer for LOCKHEED MARTIN's government prime contract under which this Contract is entered.

6. "Contractor" and "Offeror" means the SELLER, which is the party identified on the face of the Contract with whom Lockheed Martin is contracting, acting as the immediate subcontractor to LOCKHEED MARTIN.

7. "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.

8. "Subcontract" means any contract placed by SELLER or lower-tier subcontractors under this Contract.

**C. INDEMNITY**

SELLER shall indemnify and hold LOCKHEED MARTIN harmless from and against any cost, price reduction, withholding, offset, penalty, interest, claim, demand, determination of unallowability, unallocability or unreasonableness, or any other civil, criminal, or administrative liability, whether arising under statute, regulation, contract or common law, and shall reimburse LOCKHEED MARTIN for all of its damages and associated costs, including reasonable attorney fees and other expenses, if said liability is attributable to the SELLER or SELLER’s suppliers’ failure to comply with these U.S. Government Provisions and Clauses.

**D. RESERVED**

**E. PROVISIONS OF FAR/DFARS INCORPORATED BY REFERENCE**

The FAR/DFARS clauses listed herein are applicable to this Contract if required under the pertinent law or regulation. If the applicability condition(s) in the relevant law or regulation is(are) not met, or LOCKHEED MARTIN does not require information or data from SELLER to satisfy its obligations, the clause is not applicable to this Contract. The applicability statements, statutory references, and regulatory references set forth in the parentheticals, if any, after each clause below are for convenience only.

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| --- | --- | --- | --- | --- |
| **Type** | **Clause No.** | **Title** | **Date** | **Modifications** |
| FAR | 52.216-12 | Cost-Sharing Contract-No Fee. | 4/1/1984 | "Government" and "Contracting Officer" mean "Lockheed Martin." |
| FAR | 52.232-17 | Interest. | 5/1/2014 | "Government" means "LockheedMartin." |
| FAR | 52.232-39 | Unenforceability of Unauthorized Obligations. | 6/1/2013 | None. |
| FAR | 52.239-1 | Privacy or Security Safeguards. | 8/1/1996 | N/A. |
| FAR | 52.245-9 | Use and Charges. | 4/1/2012 | Communications with the Government under this clause will be made through Lockheed Martin. |
| DFARS | 252.204-7004 | Antiterrorism Awareness Training for Contractors. | 1/1/2023 | None. |
| DFARS | 252.219-7004 | Small Business Subcontracting Plan (Test Program). | 12/1/2022 |  |
| DFARS | 252.225-7028 | Exclusionary Policies and Practices of Foreign Governments. | 4/1/2003 | N/A. |
| DFARS | 252.234-7004 | Cost and Software Data Reporting System. | 11/1/2014 | In paragraph (b), "Government" means Lockheed Martin. |
| FAR | 52.243-2 ALT V | Alternate V - Changes-Cost-Reimbursement. | 4/1/1984 |  |
| DFARS | 252.234-7003 ALT I | Alternate I - Notice of Cost and Software Data Reporting System | 11/1/2014 |  |
| DFARS | 252.234-7004 ALT I | Alternate I - Cost and Software Data Reporting System | 11/1/2014 |  |
| DFARS | 252.225-7027 | Restriction on Contingent Fees for Foreign Military Sales. | 4/1/2003 | The reference to the clause inparagraph (a) means FAR 52.203-5. The blank in paragraph (b)(1) iscompleted with "any Government."  Subparagraph (b)(2) isdeleted. |
| DFARS | 252.239-7016 | Telecommunications Security Equipment, Devices, Techniques, and Services. | 12/1/1991 | Applies if this contract requires securingtelecommunications. |

**F. GOVERNMENT CONTRACT CLAUSES INCORPORATED BY FULL-TEXT**

**H-09 ORGANIZATIONAL CONFLICT OF INTEREST (Apr 2020)**

1. Purpose: The purpose of this clause is to ensure that:
2. the Contractor is rendering impartial assistance and advice to the Government at all times under this contract and related Government contracts;
3. the Contractor's objectivity in performing work under this contract or related Government contracts is not impaired; and
4. the Contractor does not obtain an unfair competitive advantage by virtue of its access to non-public Government information, or by virtue of its access to proprietary information belonging to others.
5. Scope: The Organizational Conflict of Interest (OCI) rules, procedures and responsibilities described in FAR 9.5 "Organizational and Consultant Conflicts of Interest", FAR 3.101-1 "Standards of Conduct - General, DFARS 209.5 "Organizational and Consultant Conflicts of Interest," and in this clause are applicable to the prime Contractor (including any affiliates and successors-in-interest), as well as any co-sponsor, joint-venture partner, consultant, subcontractor or other entity participating in the performance of this contract. The Contractor shall flow this clause down to all subcontracts, consulting agreements, teaming agreements, or other such arrangements which have OCI concerns, while modifying the terms "contract", "Contractor", and "Contracting Officer" as appropriate to preserve the Government's rights.
6. Access to and Use of Nonpublic Information: If in performance of this contract the contractor obtains access to nonpublic information such as plans, policies, reports, studies, financial plans, or data which has not been released or otherwise made available to the public, the Contractor agrees it shall not use such information for any private purpose or release such information without prior written approval from the Contracting Officer.
7. Access to and Protection of Proprietary Information: The Contractor agrees to exercise due diligence to protect proprietary information from misuse or unauthorized disclosure in accordance with FAR 9.505-4. The Contractor may be requested to enter into a written non-disclosure agreement with a third party asserting proprietary restrictions, if required in the performance of the contract.
8. In accordance with FAR 3.101-1, the Contractor shall also take all appropriate measures to prevent the existence of conflicting roles that might bias the Contractor's judgement, give the Contractor an unfair competitive advantage, and deprive MDA of objective advice or assistance that can result from hiring former Government employees. (See Health Net Fed. Svcs, B-401652.3).
9. Restrictions on Participating in Other Government Contract Efforts. NONE
10. OCI Disclosures: The Contractor shall disclose to the Contracting Officer all facts relevant to the existence of an actual or potential OCI, using an OCI Analysis/Disclosure Form which the Contracting Officer will provide upon request. This disclosure shall include a description of the action the Contractor has taken or plans to take to avoid, neutralize or mitigate the OCI.
11. Remedies and Waiver:
12. If the contractor fails to comply with any requirements of FAR9.5, FAR 3.101-1, DFARS 209.5, or this clause, the Government may terminate this contract for default, disqualify the Contractor from subsequent related contractual efforts if necessary to neutralize a resulting organizational conflict of interest, and/or pursue other remedies permitted by law or this contract. If the Contractor discovers and promptly reports an actual or potential OCI subsequent to contract award, the Contracting Officer may terminate this contract for convenience if such termination is deemed to be in the best interest of the Government, or take other appropriate actions.
13. The parties recognize that the requirements of this clause may continue to impact the contractor after contract performance is completed, and that it is impossible to foresee all future impacts. Accordingly, the Contractor may at any time seek an OCI waiver from the Director, MDA by submitting a written waiver request to the Contracting Officer. Any such request shall include a full description of the OCI and detailed rationale for the OCI waiver.

**H-10 ENABLING CLAUSE FOR BMD INTERFACE SUPPORT (APR 2009)**

1. It is anticipated that, during the performance of this contract, the Contractor will be required to support Technical Interface /Integration Meetings (TIMS) with other Ballistic Missile Defense (BMD) Contractors and other Government agencies. Appropriate organizational conflicts of interest clauses and additional costs, if any, will be negotiated as needed to protect the rights of the Contractor and the Government.
2. Interface support deals with activities associated with the integration of the requirements of this contract into BMD system plans and the support of key Missile Defense Agency (MDA) program reviews.
3. The Contractor agrees to cooperate with BMD Contractors by providing access to technical matters, provided, however, the Contractor will not be required to provide proprietary information to non-Government entities or personnel in the absence of a non­disclosure agreement between the Contractor and such entities.
4. The Contractor further agrees to include a clause in each subcontract requiring compliance with paragraph c. above, subject to coordination with the Contractor. This agreement does not relieve the Contractor of its responsibility to manage its subcontracts effectively, nor is it intended to establish privity of contract between the Government and such subcontractors.
5. Personnel from BMD Contractors or other Government agencies or Contractors are not authorized to direct the Contractor in any manner.
6. This clause shall not prejudice the Contractor or its subcontractors from negotiating separate organizational conflict of interest agreements with BMD Contractors; however, these agreements shall not restrict any of the Government's rights established pursuant to this clause or any other contract.

**H-35 INCORPORATING COMMERCIAL AND OPEN SOURCE SOFTWARE (Aug 2012)**

1. DFARS 252.227-7014(d) requires the written approval of the PCO before the Contractor may incorporate any copyrighted computer software in the software to be delivered under this contract.
2. A request for approval to incorporate Commercial Computer Software should be accompanied by a license that conforms with the requirements of the Commercial Computer Software Licenses clause of this contract.
3. A request for approval to incorporate Open Source Software must be accompanied by the applicable license, a detailed description of the source of the software and how it has been or will be used, and an explanation of the restrictions imposed and potential risks and liabilities.
4. Nothing in this clause shall take precedence over any other clause or provision of this contract. Government concurrence, as defined in paragraph a above, does not in any way affect the Government's technical data rights as established by the terms and conditions of this contract.