

LOCKHEED MARTIN CORPORATION

PRIME SUPPLEMENTAL FLOWDOWN DOCUMENT (PSFD)

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

JSF LRIP 1

SECTION H – SPECIAL PURCHASE ORDER REQUIREMENTS

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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.

For purposes of this Section H, the following terms shall have the meanings set forth below:

(a) "Contract" means the instrument of contracting, such as "PO", "Purchase Order", or "Task 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) "Government" means United States Government.

(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) "PO" or "Purchase Order" means this Contract.

(e) "SELLER" means the party identified on the face of this Contract with whom LOCKHEED MARTIN is contracting.

H-1 PRESERVATION OF RIGHTS FOR INFORMATION PROVIDED ELECTRONICALLY

Information, whether delivered under any SDRL or Seller equivalent form of this Purchase Order or in response to Seller's Statement of Work provided via the JSF Virtual Enterprise that would be deemed

Technical Data under DFARS 252.227-7013, “Rights In Technical Data—Noncommercial Items,” or Software and Software Documentation under DFARS 252.227-7014, “Rights in Noncommercial Software and Noncommercial Software Documentation,” if it were delivered in written form, shall not lose its status as technical data, software or software documentation solely because access by the Government or Lockheed Martin or delivery by the Seller is by electronic means. The rights of the parties shall be as specified in DFARS 252.227-7013 and DFARS 252.227-7014.

H-2 CONCURRENCY MANAGEMENT

(a) The JSF production effort in LRIP 1 is occurring at the same time as, or concurrently with, the System Development and Demonstration (SDD) program. Due to this concurrency, the LRIP 1 production configuration of the JSF Air System may evolve or change as the design matures and systems are tested and qualified during SDD development testing. LOCKHEED MARTIN, in its prime contract with the US Government, is responsible for incorporating concurrency related changes into the LRIP production Air Systems. The purpose of this clause is to describe SELLER’s responsibility to support LOCKHEED MARTIN in incorporating concurrency related changes into LRIP production.

(b) Definitions.

Concurrency Change – Changes to the LRIP 1 production baseline Air System hardware or software resulting from SDD design maturation processes which require incorporation into the LRIP 1 Air System in order to meet contract capability or the JSF Air System Contract Specification.

Concurrency Change Plan – Action required by LOCKHEED MARTIN to implement a Concurrency Change into the LRIP 1 production Air System.

Configuration Management Plan 2YZA00017 Rev C, Section 4.1 – describes the requirements for addressing the concurrency management process.

Pre-Acceptance Concurrency Action – Incorporation of a Concurrency Change prior to acceptance of the SELLER’s Item.

Post-Acceptance Concurrency Action – Incorporation of a Concurrency Change after acceptance of the SELLER’s Item via a post-delivery installation kit.

(c) SELLER Responsibility to Support and Incorporate Concurrency Related Changes.

(1) Material or Workmanship Deficiencies: Concurrency Changes do not include material and workmanship deficiencies. SELLER is obligated to correct material or workmanship deficiencies in accordance with the terms of the Contract.

(2) For any Concurrency Change that does not involve a deficiency in material or workmanship, SELLER will support the LM Concurrency process by a Not to Exceed (NTE) proposals for the recurring effort, as delineated in CM 2YZA00017 Rev C. In the event LOCKHEED MARTIN and its Customer agree to

proceed with incorporation of the Concurrency Change, whether by Pre-Acceptance Concurrency Action or Post-Acceptance Concurrency Action, LOCKHEED MARTIN will notify SELLER and SELLER will incorporate the Concurrency Change into LRIP 1 production. Cost and schedule impacts of the Concurrency Change will be negotiated between the Parties consistent with SELLER's NTE. In no event will a Concurrency Change action under this provision exceed the Truth in Negotiation Act (TINA) threshold. For any action that exceeds the TINA threshold, the Parties will proceed as delineated in the Changes clause of this Contract. Whether any change to the LRIP baseline is a Concurrency Change will be determined by LOCKHEED MARTIN.

(3) For purposes of Concurrency Changes hereunder, non-recurring costs are borne under the SDD contract pursuant to the term of that contract.

H-3 ALTERNATIVE DISPUTE RESOLUTION

Alternative Dispute Resolution is the preferred approach for settling Purchase Order disputes. Accordingly, the parties confirm their mutual commitment to consider the use of Alternative Dispute Resolution (ADR) processes to avoid/resolve disputes under this Purchase Order. Notwithstanding the foregoing, nothing herein shall be deemed to limit the rights and remedies of the parties under the "Disputes" provision in Section I of this Purchase Order.

H-4 5252.216-9501 IDENTIFICATION OF COSTS (MAR 1999) (NAVAIR)

The Seller shall identify all costs incurred under this Purchase Order from the costs of all other work currently being performed and from all contracts that are subsequently received.

H-5 DATA DELIVERY

All technical data generated in the performance of this Purchase Order or Contract shall be furnished to the JSF Virtual Environment (JDL or PDM, as applicable).

H-6 MANAGEMENT OF SUPPLIERS

Notwithstanding any direction to the contrary herein, Seller has an obligation under this Purchase Order to manage any and all lower tier subcontractors. Nothing herein will excuse Seller from performance under this Purchase Order due to an agreed or directed source at a lower tier.

H-7 5252.245-9500 I GOVERNMENT PROPERTY FOR THE PERFORMANCE OF THIS CONTRACT (APR 1998) - ALTERNATE I (APR 1998) (NAVAIR) (VARIATION)

(a) Definition. Government production and research property, as the term is used herein, shall consist of special tooling to which the Government has title or the right to acquire title, Government-owned special test equipment and Government-owned facilities as each term is defined respectively in FAR 45.101 and 45.301.

(b) Authorization to Use Government Production and Research Property, Material, and Agency Peculiar Property Currently Covered by Government Contracts Without Rental Charge in Performing this Contract. Government production and research property, material, and agency peculiar property covered by the following listed Government contracts on the effective date of this Purchase Order is hereby

authorized for use on a rent-free, non-interference basis in the performance of this Purchase Order and sub-contracts of any tier issued hereunder: Contract No(s): N00019-02-C-3002 and N00019-97-C-0038

(c) Authorization to Use Government Production and Research Property and Agency Peculiar Property to be Provided Under this Contract Without Rental Charge in Performing this Contract. (This paragraph does not cover such property in possession of the Seller or his subcontractors on the date of award of this contract.)

(1) Subject to the provisions of the Government Property clause of this Purchase Order, the Government hereby agrees to provide hereunder the Government production and research property and agency peculiar property identified in (c)(2) through (c)(5) to the Seller. The Seller is hereby authorized to use, on a rent-free basis, said property in the performance of this contract.

(2) Special Tooling (as defined in FAR 45.101): TBD

(3) Special Test Equipment (as defined in FAR 45.101): TBD

(4) Reserved

(5) Reserved

The following terms and conditions shall be applicable to the agency peculiar property, if any, identified above:

(A) each item of agency peculiar property shall be identified by its Federal Item

Identification Number and Government Nomenclature; and

(B) the agency peculiar property shall be accounted for under this Purchase Order;

(C) upon completion or termination of this Purchase Order, the Seller shall request and comply with disposition instructions from the Lockheed Martin Procurement Representative.

(d) Government Material and Agency Peculiar Property to be Furnished Under this Purchase Order. (This paragraph covers Government-owned material and agency peculiar property furnished to the Seller for

(A) consumption in the course of manufacture, testing, development, etc., or (B) incorporation in items to be delivered under this contract, e.g., Master Government- Furnished Equipment List (MGFEL).)

(1) Subject to the provisions of the Government Property clause of this contract, the Government hereby agrees to provide hereunder the Government-owned agency peculiar property and material identified in (d)(2) and (d)(3) to the Seller. The Seller is hereby authorized as appropriate, (A) to consume the material identified in (d)(2) and the agency peculiar property identified in (d)(3) in performing this contract or (B) to incorporate such material and agency peculiar property in articles under this contract.

(2) Material (as defined in FAR 45.301): TBD

Requisitioning Documentation: Seller access to the federal supply system is permitted only when the material as well as the quantity is identified in the above paragraph. The Seller shall prepare

requisitioning documentation for the above material in accordance with the “Military Standard Requisitioning and Issue Procedures (MILSTRIP) for Defense Contractors”, DoD 4000.25-1-M, Chapter 11 and NAVSUP Publication 437 as revised by DoD AMCL 1 A guidance. The Seller must submit all requisitions for Government Furnished Material (GFM) from the supply system to the Material Control Activity (MCA) specified in Section G of this Purchase Order. Upon completion or termination of this Purchase Order, the Seller shall request and comply with disposition instructions from the Lockheed Martin Authorized Procurement Representative.

(3) Agency Peculiar Property (as defined in FAR 45.301 and DFARS 245.301): TBD

The terms and conditions made applicable to agency peculiar property in (c)(5) shall be applicable to the agency peculiar property, if any, identified above.

(e) Government Installations to be Made Available Under this Purchase Order. (This paragraph covers Government installations, or portions thereof, to be made available to a Seller but not transferred to his possession - for example, test centers, wind tunnels, aircraft fields, as well as buildings, furniture or equipment. Instructions may be needed to establish ground rules or plans governing availability of installations.)

(1) The Government hereby agrees to make available hereunder on a rent-free, non- interference basis for performing this Purchase Order the Government installations, or portions thereof, identified in (e)(2) in accordance with standard operating procedures and priorities unless otherwise specified in the Schedule. Although not “Government-furnished property” under this Purchase Order, the provisions of paragraph (a) of the Government Property clause of this Purchase Order shall apply to these installations.

(2) Installations.

TBD

(f) Bailed Property to be Used Under this Purchase Order. (This paragraph will not obviate the need to set forth in this contract the terms of the project agreement as required by the pertinent bailment agreement.)

(1) The bailed property identified in (f)(2) is hereby authorized for use on a rent-free basis in the performance of this Purchase Order. Although not “Government-furnished property” under this Purchase Order, the provisions of paragraph (a) of the Government Property clause of this Purchase Order shall apply to this bailed property

Bailment Agreement

Under which

(2) Description Serial Number Accountable

TBD

(g) This clause shall in no event be construed to authorize rent-free use of any property identified above for any effort other than that called for under this Purchase Order.

(h) Installation Cost. The estimated cost, and fee, if any, of this Purchase Order makes full allowance for all costs to be incurred under this Purchase Order for the adaptation and installation of the property identified in this clause.

(i) Installation. Government production and research property, other than foundations and

similar improvements necessary for the installation of special tooling, special test equipment, and plant equipment, as defined in FAR 45.101, shall not be installed or constructed on land not owned by the Government in such fashion as to be non-severable unless authority is granted by the United States Government Contracting Officer cognizant of the Lockheed Martin prime contract and the Lockheed Martin Authorized Procurement Representative under which the property is provided in accordance with FAR 45.309.

(j) Limitation: This clause does not authorize the Seller to acquire any property for the Government.

(k) The Seller represents that the price and delivery schedule of this Purchase Order have been established in reliance on the Government granting the authorization in (b), (c), (d), (e) and (f), and that no charge has been included in this Purchase Order for use of the property as authorized above.

(l) Whenever the United States Government Contracting Officer authorizes or makes available the use, on a rent-free basis, of additional Government production and research property or other Government property in the performance of this Purchase Order or subcontracts of any tier under this Purchase Order, the Purchase Order will be equitably adjusted in accordance with the procedures provided for in the Changes clause

(m) If the Government production and research property or other Government property authorized or made available above is decreased by the Government, the Seller will be entitled to an equitable adjustment to the terms of this Purchase Order in accordance with the procedures provided for in the Changes clause hereof, as a result of such decrease; provided, however, that if any such decrease is due to the failure of the Seller or his subcontractors of any tier under this Purchase Order to fulfill their respective obligations either with respect to the Government property or with respect to the work such property is to be used to perform, the Lockheed Martin Authorized Procurement Representative will take such circumstances into account in establishing the equitable adjustment.

(n) The Seller is responsible for scheduling the use of all property covered by this clause and the Government shall not be responsible for Seller caused conflicts, delays, or disruptions to any work performed by the Seller due to use of any or all such property, either under this Purchase Order or any other Purchase Order under which use of such property is authorized.

H-8 INDUSTRIAL PARTICIPATION

A. It is anticipated that Lockheed Martin will be involved in a number of foreign industrial participation arrangements in various countries in connection with the sale of Lockheed Martin's products

to foreign countries. Seller agrees to cooperate with Lockheed Martin in fulfillment of such industrial participation obligations.

B. Lockheed Martin encourages Seller to develop a plan for creating industrial participation opportunities in many countries, including the following: Australia, Canada, Denmark, The State of the Netherlands, Norway, Italy, Turkey and the United Kingdom. Any industrial participation credit value resulting from Seller's procurements, investments or technology transfers related to work to be performed under this Contract shall accrue solely to the benefit of Lockheed Martin for its use.

C. In addition, Seller agrees to provide to Lockheed Martin, at no additional cost, a report every six (6) months during the performance of this Contract summarizing, by country, the Seller's lower tier industrial participation plan, investment plan, and technology transfer activity related to work to be performed under this Contract.

H-9 INFORMATION SECURITY ASSURANCE

1. A. Seller certifies and represents that it has established Information Security Assurance processes sufficient to adequately protect data and information of Lockheed Martin, its subsidiaries, suppliers, teammates, contractors and agents.

B. Seller shall monitor and update its Information Security Assurance processes as necessary to ensure the data and information of Lockheed Martin, its subsidiaries, suppliers, teammates, contractors and agents, is and, during the term of this Purchase Order or for longer periods as may be specified in this Purchase Order, continues to be, adequately protected.

C. Records of Seller's Information Security Assurance processes shall be kept complete and available to Lockheed Martin and its customers during the performance of this Purchase Order and for such longer periods as may be specified in this Purchase Order.

D. Lockheed Martin shall have the right to audit Seller's Information Security Assurance processes. In the event Seller's Information Security Assurance processes do not adequately protect the data or information, Lockheed Martin shall have the right to deny or revoke the Seller's access to any or all Lockheed Martin computing system(s). Denial or revocation of access to any or all Lockheed Martin computing system(s) shall not alter or change Seller's obligations under this Contract.

E. The rights and remedies available to Lockheed Martin in this paragraph are in addition to any other rights and remedies provided in this Purchase Order, any Proprietary Information Agreement between the Parties, at law or in equity.