



**LOCKHEED MARTIN CORPORATION**

**PRIME SUPPLEMENTAL FLOWDOWN DOCUMENT (PSFD)**

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

LRIP 10  
F-35 Production  
Prime Contract Number N00019-15-C-0003

**Generated using of Lockheed Martin CorpDocs 2014 Version**

Revision 1 August 18, 2014

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<sup>1</sup>.

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. This document includes clauses that flow-down LOCKHEED MARTIN's U.S. Government regulatory and customer obligations. 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.

**The Terms and Conditions set forth herein are based on the F-35 LRIP 9 Prime Contract N00019-14-C-0002. SELLER agrees that upon the request of LOCKHEED MARTIN it will negotiate in good faith with LOCKHEED MARTIN relative to amendments to this Contract to incorporate additional provisions herein or to change provisions hereof, as LOCKHEED MARTIN may reasonably deem necessary in order to comply with the provisions of the LRIP 10 Prime Contract or with the provisions of amendments to such Prime Contract. If any such amendment to this Contract causes an increase or decrease in the cost of, or the time required for, performance of any part of the Work under this Contract, an equitable adjustment shall be made pursuant to the "Changes" clause of this Contract.**

**PART I.** The dates of the following FAR and DFARS clauses are modified as follows and are incorporated into the Contract:

**RESERVED**

**PART II. ADDITIONS:** The following FAR, DFARS and other agency clauses are incorporated into this Contract in addition to those set out in the applicable CorpDocs:

**DFARS 252.209-7010 Critical Safety Items.**

**Aug. 2011**

(Statements of Work and/or purchase orders will identify Aviation CSI parts, if any, based on upon agreement with the JSFPO.)

**DFARS 252.211-7005 Substitutions for Military or Federal Specifications and Standards. Nov. 2005**

(The clause is only applicable where a management or manufacturing process has been accepted previously by the Department of Defense under the Single Process Initiative (SPI) for use in lieu of a specific military or Federal specification or standard).

**DFARS 252.211-7006 Passive Radio Frequency Identification. Sep. 2011**

(The clause is only applicable when the Seller will make direct shipments meeting the criteria at FAR 211.275-2 to the Government of items covered by the clause.)

**DFARS 252.211-7007 Reporting of Government-Furnished Property. Aug. 2012**

(Not applicable to the Seller when Lockheed Martin has expressly assumed responsibility for marking the property itself elsewhere in the Contract; otherwise, the clause obligates the Seller to perform their own markings if Seller will be in possession of Government property for the performance of this contract.)

**DFARS 252.211-7008 Use of Government-Assigned Serial Numbers Sep. 2010**

(Not applicable to the Seller when Lockheed Martin has expressly assumed responsibility for marking the property itself elsewhere in the Contract; otherwise, the clause obligates the Seller to perform their own markings if Seller will be in possession of Government property for the performance of this contract.)

**DFARS 252.219-7004 Small Business Subcontracting Plan (Test Program). Jan. 2011**

(Applicable to the Seller only when the contract involves the procurement of non-commercial items wherein the Seller is a participant of the "DoD Test Program for the Negotiation of Comprehensive Small Business Subcontracting Plans".)

**DFARS 252.222-7006 Restrictions on the Use of Mandatory Arbitration Agreements. Dec. 2010**

(Applies to subcontracts for non-commercial items that exceed \$1,000,000. However, the clause does not apply if all of the Seller's employees performing work under the contract will be located outside of the United States.)

**DFARS 252.225-7027 Restriction on Contingent Fees for Foreign Military Sales. Apr. 2003**

(The reference to the clause in paragraph (a) means FAR 52.203-5. The blank in paragraph (b)(1) shall be deemed to be completed with "any Government." Subparagraph (b)(2) of the clause is deleted.)

**DFARS 252.225-7028 Exclusionary Policies and Practices of Foreign Governments. Apr. 2003**

(Applicable to contracts for non-commercial items only.)

**DFARS 252.225-7048 Export-Controlled Items. June 2013**

**DFARS 252.234-7002 Earned Value Management System. May 2011**

(Applies to cost reimbursement contract items. "Government" means "Lockheed Martin and Government." Paragraphs (i) and (j) are deleted.)

**DFARS 252.234-7004 Alternate I - Cost and Software Data Reporting System Nov. 2010**

(The clause is only applicable to Seller's under contracts in excess of \$50,000,000 for non-commercial items. In paragraph (b) of the clause, "Government" shall mean Lockheed Martin.)

**DFARS 252.239-7016 Telecommunications Security Equipment, Devices, Techniques, and Services. Dec. 1991**

(Applicable to the Seller only if the contract involves non-commercial items requiring secure telecommunications.)

**DFARS 252.243-7002 Requests for Equitable Adjustment. Dec. 2012**

(Applicable only to contracts for non-commercial items in excess of \$150,000. "Government" shall mean "Lockheed Martin.")

**DFARS 252.245-7001 Tagging, Labeling, and Marking of Government-Furnished Property. Apr. 2012**

(Applicable to the Seller in contracts where the items furnished by the contractor will be subject to serialized tracking, should the Statement of Work or another document in the solicitation identify such items subject to serialized tracking.)

**DFARS 252.245-7004 Reporting, Reutilization, and Disposal. May 2013**

(Applicable to contracts involving items indicated in this DFAR clause only. In this clause, "Contracting Officer" shall mean Lockheed Martin.)

**DFARS 252.246-7000 Material Inspection and Receiving Report. Mar. 2008**

(Applicable to the Seller only when Lockheed Martin authorizes direct shipments by the Seller to the Government.)

**DFARS 252.229-7003 Tax Exemptions (Italy) (MAR 2012)** - The clause applies to the Seller if performing work will be performed in Italy for non-commercial items. Section (b)(1)(iii) of the clause is completed by inserting fiscal codes 80028250241 for Army, 80156020630 for Navy, or 91000190933 for Air Force.

**DFARS 252.246-7007 Contractor Counterfeit Electronic Part Detection and Avoidance System (MAY 2014)** Paragraph (6) is modified: "Contracting Officer" shall mean "Lockheed Martin".

**FAR 52.228-3 Workers' Compensation Insurance (Defense Base Act) Apr. 1984**

(Applies to the Seller if it will perform work subject to the Defense Base Act 42 U.S.C. 1651 et seq.)

**FAR 52.228-4 Workers' Compensation and War-Hazard Insurance Overseas. Apr. 1984**

(Applies to the Seller if it will perform work subject to the Defense Base Act 42 U.S.C. 1651 et seq., unless Lockheed Martin specifies greater minimum insurance coverages than specified in this clause or Lockheed Martin has obtained a waiver that has been flowed down to the Seller elsewhere in the contract.)

**FAR 52.232-16 Progress Payments. Apr. 2012**

(Applicable to the Seller only if paid by means of progress payments in non-commercial contracts. "Contracting Officer" shall mean "Lockheed Martin" except in paragraph (g) of the clause where it shall mean "Lockheed Martin or Contracting Officer." "Government" shall mean "Lockheed Martin" except: (1) in paragraphs (d), (e) and (j)(5) of the clause where the term is unchanged and (2) in paragraphs (g)

and (i) of the clause where it means "Lockheed Martin and the Government." Alternate I applies to the Seller if the Seller is a small business.)

**FAR 52.232-17 Interest.** **Oct. 2010**  
 (Applicable to the Seller only in contracts involving non-commercial items where other Government clauses expressly refer to an Interest clause (e.g. fixed price incentive subcontracts containing FAR 52.216-16 or FAR 52.216-17), unless the contract meets the criteria in exceptions (a)(1) through (7) of FAR 32.611.)

**FAR 52.232-32 Performance-Based Payments.** **April 2012**  
 (Applicable to the Seller only if under the contract Lockheed Martin will be making financing payments to the Seller in the form of performance based payments. "Contracting Officer" and "Government" shall mean "Lockheed Martin" except with respect to title for property where the references to the Government shall be unchanged. Subparagraph (c)(2) of the clause is deleted.)

**FAR 52.232-39 Unenforceability of Unauthorized Obligations.** **June 2013**  
 (Applicable to the Seller when the contract involves a supply or service subject to any End User License Agreement (EULA), Terms of Service (TOS), or similar legal instrument or agreement, that includes any clause requiring the Government to indemnify the Seller or any person or entity for damages, costs, fees, or any other loss or liability that would create an Anti-Deficiency Act violation (31 U.S.C. 1341).)

**FAR 52.245-9 Use and Charges.** **April 2012**  
 (Applicable to contracts involving non-commercial items where Government furnished property shall be provided through Lockheed Martin to the Seller. Communications with the Government under this clause shall be made by the Seller through Lockheed Martin.)

**FAR 52.246-15 Certificate of Conformance.** **April 1984**  
 (The clause is applicable to the Seller in cases where it will make direct shipments to the Government and there is no intervening acceptance by Lockheed Martin. However, if Quality Appendix QX or other contract document provisions specify a different requirement than what is contained in this clause, those differing provisions elsewhere in the contract documents shall govern instead.)

**FAR 52.246-2 ALT I Alternate I - Inspection of Supplies Fixed-Price.** **JUL 1985**  
 (The Government has provided Lockheed Martin in its prime contract an earlier version of this clause than what has been published and included in the CorpDocs. The July 1985 version shall govern, unless Quality Appendix QX or another contract document contains provisions specifying a different requirement than what is contained in this clause, in which case those differing provisions elsewhere in the contract documents shall govern instead. "Government" in the clause shall mean "Lockheed Martin and the Government" except in paragraphs (f), (j), and (l) where it shall mean "Lockheed Martin." "Contracting Officer" shall mean "Lockheed Martin.")

**FAR 52.247-64 ALT I Alternate I - Preference for Privately Owned U.S.-Flag Commercial Vessels.** **Apr. 2003**  
 (The Government has provided Lockheed Martin in its prime contract an earlier version of this clause than what has been published and included in the CorpDocs. The April 2003 version shall govern instead. Applicable to all contracts for non-commercial items. Applicable to commercial item contracts only if paragraph (e)(4) of the clause applies.)

**FAR 52.247-68 Report of Shipment (REPSHIP).**

**FEB 2006**

(Applicable to contracts involving any item(s) shipped directly to the U.S. Government, with Lockheed Martin's authorization.)

**FAR 52.227-3 Patent Indemnity. (APRIL 1984)**

**NAVAIR 5252.204-9501 NATIONAL STOCK NUMBERS (NAVAIR) (MAR 2007)**

(The clause is applicable to non-commercial item contracts only; however, the clause is not applicable to items that will be incorporated into higher level assemblies where the item is not separately purchasable (such as for spares) and where the item loses its individual identity in the higher level assembly. The clause is also not applicable to contracts where the item(s) purchased will not be delivered to the Government. "Contracting Officer" shall mean "Lockheed Martin.")

**NAVAIR 5252.247-9508 PROHIBITED PACKING MATERIALS (NAVAIR)  
1998**

**JUNE**

(Applicable to the Seller if it is shipping non-commercial items directly to U.S. Government, with Lockheed Martin's authorization.)

**NAVAIR 5252.247-9509 PRESERVATION, PACKAGING, PACKING AND MARKING  
(NAVAIR)  
JULY 1998**

(Applicable to the Seller if it is shipping non-commercial items directly to U.S. Government, with Lockheed Martin's authorization. In subparagraph (b), "Contract Number" shall mean "Lockheed Martin's prime contract number and the number assigned to this contract.")

**NAVAIR 5252.247-9510 PRESERVATION, PACKAGING, PACKING AND MARKING FOR  
FOREIGN  
MILITARY SALES (FMS) REQUIREMENTS (NAVAIR)  
OCT. 2005**

(Applicable to the Seller if it is shipping non-commercial items directly to U.S. Government, with Lockheed Martin's authorization.)

**NAVAIR 5252.204-9504 Disclosure of Contract Information (NAVAIR) (JAN 2007)**

Communications with the Contracting Officer shall be made through Lockheed Martin. In paragraph (b), 10 days is changed to 20 days.

**PART III. SECTION H –PRIME CONTRACT SPECIAL PROVISIONS**

For purposes of this Section H, "Government" means the United States Government. The following Section H clauses are incorporated into the Contract in full-text:

**H-3 5252.227-9507 NOTICE REGARDING THE DISSEMINATION OF EXPORT-  
CONTROLLED  
TECHNICAL DATA (NAVAIR) (OCT 2005)**

(The following clause applies only to contracts where Lockheed Martin is acquiring non-commercial items).

- (a) Export of information contained herein, which includes release to foreign nationals within the United States, without first obtaining approval or license from the Department of State for items controlled by the International Traffic in Arms Regulations (ITARs), or the Department of Commerce for items controlled by the Export Administration Regulations (EAR), may constitute a violation of law.
- (b) For violation of export laws, the contractor, its employees, officials or agents are subject to:
  - (1) Imprisonment and/or imposition of criminal fines; and
  - (2) Suspension or debarment from future Government contracting actions.
- (c) The Government shall not be liable for any unauthorized use or release of export-controlled information, technical data or specifications in this contract.
- (d) The contractor shall include the provisions or paragraphs (a) through (c) above in any subcontracts awarded under this contract.

**H-4 CONTRACTOR EMPLOYEES (NAVAIR 5252.211-9510) (MAY 2011 – VARIATION)**

(a) In all situations where Seller personnel status is not obvious, Seller’s personnel are required to identify themselves to avoid creating an impression to the public, agency officials, or Congress that such contractor personnel are Government officials. This can occur during meeting attendance, through written (letter or email) correspondence or verbal discussions (in person or telephonic), when making presentations, or in other situations where their contractor status is not obvious to third parties. This list is not exhaustive. Therefore, the Seller’s employee(s) shall:

- (1) Not by word or deed give the impression or appearance of being a Government employee;
- (2) Wear appropriate badges visible above the waist that identify them as Seller’s employees when in Government spaces, at a Government-sponsored event, or an event outside normal work spaces in support of the contract/order;
- (3) Clearly identify themselves as Seller’s employees in telephone conversations and in all formal and informal written and electronic correspondence. Identification shall include the name of the company for whom they work;
- (4) Identify themselves by name, their company name, the name of the prime contractor their company is supporting, as well as the Government office they are supporting when participating in meetings, conferences, and other interactions in which all parties are not in daily contact with the individual contractor employee; and
- (5) Be able to provide, when asked, the full number of the contract/order under which they are Performing.

(b) If wearing a badge is a risk to safety and/or security, then an alternative means of identification may be utilized if endorsed by the Contracting Officer’s Representative and approved by the Contracting Officer, through LOCKHEED MARTIN.

(c) The Contracting Officer, through LOCKHEED MARTIN, will make final determination of compliance with regulations with regard to proper identification of contractor employees.

**H-7 5252.227-9511 DISCLOSURE, USE AND PROTECTION OF PROPRIETARY INFORMATION (NAVAIR) (FEB 2009) (VARIATION)**

(The clause is applicable in the event Seller’s proprietary information may be required by a government support contractor, or an “ISC”.)

(a) During the performance of this contract, the Government may use an independent services contractor (ISC), who is neither an agent nor employee of the Government. The ISC may be used to conduct

reviews, evaluations, or independent verification and validations of technical documents submitted to the Government during performance.

(b) The use of an ISC is solely for the convenience of the Government. Except as otherwise provided by separate agreement between the ISC and the prime contractor, the ISC has no obligation to the Seller or LOCKHEED MARTIN. The Seller is required to provide full cooperation, reasonable working facilities and access to the ISC for the purposes stated in paragraph (a) above.

(c) Since the ISC is neither an employee nor agent of the Government or Lockheed Martin, any findings, recommendations, analyses, or conclusions of such a contractor are not those of the Government or Lockheed Martin.

(d) The Seller acknowledges that the Government has the right to use ISCs as stated in paragraph (a) above. It is possible that under such an arrangement the ISC may require access to or the use of information, which is proprietary to the Seller in addition to third party proprietary data that the prime contractor is authorized to disclose.

(e) To protect any such proprietary information from unauthorized disclosure or use, and to establish the respective rights and duties of both the ISC and prime contractor, the Seller agrees to enter into a direct agreement with any ISC as the Government requires. The ISC will be responsible for initiating contact with the Seller sufficiently in advance of any work that may require facility access, cooperation from Seller, or access to proprietary information belonging to the Seller or to third parties who may have authorized the Seller to disclose such data to enable the Seller to arrange for such access and cooperation and to obtain the necessary agreements. A properly executed copy of the agreement will be provided to the Government through Lockheed Martin.

**H-9 5252.228-9501 LIABILITY INSURANCE (NAVAIR) (MAR 1999 - VARIATION)**

(Applicable to non-commercial item contracts requiring work on a Government installation. Insurance coverage minimums specified elsewhere in the Contract documents that exceed those below shall govern in lieu of the following clause. The following types of insurance are required in accordance with the clause entitled FAR 52.228-7, "Insurance--Liability to Third Persons" and shall be maintained in the minimum amounts shown below.)

(a) Comprehensive General Liability: \$200,000 per person and \$500,000 per accident for bodily injury.

(b) Automobile Insurance: \$200,000 per person and \$500,000 per accident for bodily injury and \$500,000 per accident for property damage.

(c) Standard Workman's Compensation and Employer's Liability Insurance (or, where maritime employment is involved, Longshoremen's and Harbor Worker's Compensation Insurance) in the minimum amount of \$100,000.

(d) Aircraft public and passenger liability: \$200,000 per person and \$500,000 per occurrence for bodily injury, other than passenger liability; \$200,000 per occurrence for property damage. Passenger bodily injury liability coverage of \$200,000 per passenger, multiplied by the number of seats or number of passengers, whichever is greater.

**H-10 5252.232-9509 REIMBURSEMENT OF TRAVEL, PER DIEM, AND SPECIAL MATERIAL COSTS (NAVAIR) (MAY 2012) (VARIATION)**

(The clause is applicable to cost-reimbursement contracts involving travel and other non-commercial item costs covered by this clause; otherwise the clause is inapplicable to the seller.)

(a) Area of Travel. Performance under this contract may require travel by contractor personnel. If travel, domestic or overseas, is required, the contractor is responsible for making all necessary arrangements for its personnel. These include but are not limited to: medical examinations, immunizations,

passports/visas/etc., and security clearances. All contractor personnel required to perform work on any U.S. Navy vessel shall obtain boarding authorization from the Commanding Officer of the vessel before boarding.

(b) Travel Policy. The Government will reimburse the contractor for allowable travel costs incurred by the contractor in performance of the contract in accordance with FAR Subpart 31.2.

Consistent with FAR Subpart 31.2, all costs incurred for lodging, meals and incidental expenses required for tasks assigned under this contract shall be considered reasonable and allowable only to the extent that they do not exceed on a daily basis the maximum per diem rates in effect at the time of travel as set forth in the Federal Travel Regulations, prescribed by the General Services Administration for travel in the conterminous 48 United States, (hereinafter the FTR); Joint Travel Regulation, Volume 2, DoD Civilian Personnel, Appendix A, prescribed by the Department of Defense, for travel in Alaska, Hawaii, The Commonwealth of Puerto Rico, and territories and possessions of the United States (hereinafter JTR); and Standardized Regulations (Government Civilians, Foreign Areas), Section 925, "Maximum Travel Per Diem Allowances for Foreign Areas," prescribed by the Department of State, for travel in areas not covered in the FTR or JTR (hereinafter the SR).

(c) Travel. Travel and subsistence are authorized for travel beyond a fifty-mile radius of the contractor's office whenever a task assignment requires work to be accomplished at a temporary alternate worksite. No travel or subsistence shall be charged for work performed within a fifty-mile radius of the contractor's office. The contractor shall not be paid for travel or subsistence for contractor personnel who reside in the metropolitan area in which the tasks are being performed. Travel performed for personal convenience, in conjunction with personal recreation, or daily travel to and from work at the contractor's facility will not be reimbursed.

(1) For travel costs other than described in paragraph (c) above, the contractor shall be paid on the basis of actual amount paid to the extent that such travel is necessary for the performance of services under the contract and is authorized by the COR in writing.

(2) When transportation by privately owned conveyance is authorized, the contractor shall be paid on a mileage basis not to exceed the applicable Government transportation rate as contained in the FTR, JTR or SR. Authorization for the use of privately owned conveyance shall be indicated in the basic contract. Distances traveled between points shall be documented in the contractor's records as listed in standard highway mileage guides. Reimbursement will not exceed the mileage shown in the standard highway mileage guides.

(3) The contractor agrees, in the performance of necessary travel, to use the lowest cost mode commensurate with the requirements of the mission as set forth in the basic contract and in accordance with good traffic management principles. When it is necessary to use air or rail travel, the contractor agrees to use coach, tourist class, or similar accommodations to the extent consistent with the successful and economical accomplishment of the mission for which the travel is being performed.

(4) The contractor shall retain receipts or other evidence substantiating actual costs incurred for authorized travel as required by FAR Subpart 4.7, Contractor Records Retention, and FAR 52.215-2, Audit and Records – Negotiation (OCT 2010). In no event will such payments exceed the rates of common carriers.

(d) Vehicle and/or Truck Rentals. The contractor shall be reimbursed for actual rental/lease of special vehicles and/or trucks (i.e., of a type not normally used by the contractor in the conduct of its business) only if authorized in the basic contract or upon approval by the COR. Reimbursement of such rental shall be made based on actual amounts paid by the contractor. Use of rental/lease costs of vehicles and/or trucks that are of a type normally used by the contractor in the conduct of its business are not subject to reimbursement.

(e) Car Rental. The contractor shall be reimbursed for car rental, exclusive of mileage charges, as authorized in the basic contract or upon approval by the COR, when the services are required to be



performed beyond the normal commuting distance from the contractor's facilities. Car rental for a team on TDY at one site will be allowed for a minimum of four (4) persons per car, provided that such number or greater comprise the TDY team.

(f) Per Diem. The contractor shall not be paid for per diem for contractor personnel who reside in the metropolitan areas in which the tasks are being performed. Per Diem shall not be paid on services performed within a fifty-mile radius of the contractor's home office or the contractor's local office. Per Diem is authorized for contractor personnel beyond a fifty-mile radius of the contractor's home or local offices whenever a task assigned requires work to be done at a temporary alternate worksite. Per Diem shall be paid to the contractor only to the extent that overnight stay is necessary and authorized under this contract. The authorized per diem rate shall be the same as the prevailing per diem in the worksite locality. These rates will be based on rates contained in the FTR, JTR or SR. The applicable rate is authorized at a flat seventy-five (75%) percent on the day of departure from contractor's home or local office, and on the day of return. Reimbursement to the contractor for per diem shall be limited to actual payments to per diem defined herein. The contractor shall provide actual payments of per diem defined herein. The contractor shall provide supporting documentation for per diem expenses as evidence of actual payment.

(g) Shipboard Stays. Whenever work assignments require temporary duty aboard a Government ship, the contractor will be reimbursed at the per diem rates identified in paragraph C8101.2C or C81181.3B(6) of the Department of Defense Joint Travel Regulations, Volume II.

(h) Special Material. "Special material" includes only the costs of material, supplies, or services which is peculiar to the ordered data and which is not suitable for use in the course of the contractor's normal business. It shall be furnished pursuant to specific authorization approved by the COR. The contractor will be required to support all material costs claimed by its costs less any applicable discounts. Special materials" include, but are not limited to, graphic reproduction expenses, or technical illustrative or design requirements needing special processing.

**H-19 WORK SHARE AGREEMENTS**

The Seller shall not enter into any new F-35 LRIP 9 work share agreements with any subcontractors that specify that a subcontractor will receive a certain amount of business based solely on a dollar amount or percentage of contract or program cost unless it is best value to the F-35 Program and the Contracting Officer, through LOCKHEED MARTIN, has provided written consent. The Contracting Officer shall provide, through Lockheed Martin, written response to the notice of work share agreement within 14 working (exclusive of federal holidays, Saturdays and Sundays) days after receipt of the work share notification; if a written response is not provided within 14 working days by the Government to Lockheed Martin, the Seller may proceed with the entering into the agreement.

**H-23 PRESERVATION OF RIGHTS FOR TECHNICAL DATA, COMPUTER SOFTWARE, AND COMPUTER SOFTWARE DOCUMENTATION ACCESSED, DELIVERED, OR PROVIDED ELECTRONICALLY**

Information, whether delivered pursuant to the Contract Data Requirements List (CDRL) or provided in response to any other requirement contained in this contract, which would be deemed "technical data" under DFARS 252.227-7013, Rights in Technical Data-Noncommercial Items (FEB 2014), or "computer software" and "computer software documentation" under DFARS 252.227-7014, Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation (FEB 2014), if it were delivered in written form, shall not lose its status as technical data, computer software, or computer software documentation solely because access by the Government, delivery by the Contractor, or provision by the Contractor is by electronic means. The rights of the parties shall be as specified in DFARS 252.227-7013 and DFARS 252.227-7014.

**H-24 AUTHORIZATION TO DELIVER ITEMS CONTAINING HEXAVALENT CHROMIUM IN EXCESS OF LIMITS SET FORTH IN DFARS 252.223-7008 – PROHIBITION OF HEXAVALENT CHROMIUM (JUNE 2013)**

In accordance with paragraph (c) of DFARS 252.223-7008, “Prohibition of Hexavalent Chromium” (JUN 2013) and paragraph (a) of DFARS 223.7304, the Government has considered the factors contained in paragraph (a) of DFARS 223.7305 and has determined that alternatives to Hexavalent Chromium are either not available or in the Government’s interest for the applications listed below in Table H-8a, “Hexavalent Chromium Applications Used in the Manufacture of the F-35 Air System.” Therefore, items using the applications listed below in Table H-8a may be delivered by the Contractor and accepted by the Government even though they contain Hexavalent Chromium in a concentration greater than 0.1 percent by weight in any homogenous material or require the removal or reapplication of Hexavalent Chromium materials during subsequent sustainment phases of the deliverable or construction material. DFARS 252.223-7008, “Prohibition of Hexavalent Chromium” (JUN 2013) applies to all other items delivered under this contract.

Table H-8a:

**Hexavalent Chromium Applications Used in the Manufacture of the F-35 Air System**

- Fuel tank coating to AMS-C-27725 Type 2
- Sealant to LMA-MU065
- Sealant primer to LMA-MR058 Form 1
- Adhesive bonding primer to LMA-MD007 Type 2 or 2ZZZ00002 Type 2
- General structural primer to MIL-PRF-23377
- Non-Curing Corrosion Resistant Sealing Compound

**PERFORMANCE BASED PAYMENTS**

- (a) Performance-based payments shall form the basis for contract financing payments, if such payments are provided under this contract. The Performance Based Payments schedule set forth in this Contract describes the basis for payment, to include identification of the individual payment events, evidence of completion, and amount of payment due upon completion of each event.
- (b) At no time shall cumulative performance-based payments exceed cumulative contract cost. To ensure compliance with this requirement, the SELLER shall, in addition to providing the information required by FAR 52.232-32 (Performance-Based Payments (APR 2012), submit the required certificate, modified to include Item (6), as set forth below on or in conjunction with each invoice:

I certify to the best of my knowledge and belief that—

- (1) This request for performance-based payment is true and correct; this request (and attachments) has been prepared from the books and records of the Contractor, in accordance with the contract and the instructions of LOCKHEED MARTIN;
- (2) (Except as reported in writing on \_\_\_\_\_[insert date if applicable]), all payments to subcontractors and suppliers under this contract have been paid, or will be paid, currently, when due in the ordinary course of business;

- (3) There are no encumbrances (except as reported in writing on \_\_\_\_\_ [insert date if applicable]) against the property acquired or produced for, and allocated or properly chargeable to, the contract which would affect or impair the Government's title;
- (4) There has been no materially adverse change in the financial condition of the Contractor since the submission by the Contractor to LOCKHEED MARTIN of the most recent written information dated \_\_\_\_\_ [insert date if applicable]; and
- (5) After the making of this requested performance-based payment, the amount of all payments for each deliverable item for which performance-based payments have been requested will not exceed any limitation in the contract, and the amount of all payments under the contract will not exceed any limitation in the contract.
- (6) THE CUMULATIVE PERFORMANCE-BASED PAYMENTS REQUESTED AND PAID TO DATE DO NOT EXCEED CUMULATIVE COST INCURRED UNDER THIS CONTRACT.

(c) Costs-incurred are determined by the SELLER's accounting books and records. LOCKHEED MARTIN intends to rely on the SELLER's submission of cost-incurred information in processing invoices in order to facilitate prompt financing payments.

(d) Verification by LOCKHEED MARTIN of successful performance of each event, according to the criteria outlined in the Performance Based Payments schedule, is required prior to payment.

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