

LOCKHEED MARTIN AERONAUTICS COMPANY
PRIME SUPPLEMENTAL FLOWDOWN DOCUMENT (PSFD)
ADDITIONAL TERMS AND CONDITIONS
FOR SUBCONTRACTS/PURCHASE ORDERS UNDER
PRIME CONTRACT NUMBER N00019-20-C-0006
FY20 ANNUALIZED

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Original

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 document is inapplicable to the performance of this Contract, the parties shall consider such clauses to be self-deleting and they shall not impose any obligations upon SELLER.

PART I. DELETIONS: The following clauses are deleted in their entirety from the applicable CorpDocs incorporated into this Contract:

FAR 52.243-6 CHANGE ORDER ACCOUNTING (APR 1984)

FAR 52.225-5 TRADE AGREEMENTS (NOV 2013)

PART II. MODIFICATIONS: The dates or versions of the following FAR, DFARS, and other agency clauses are modified as follows and are incorporated into the Contract:

Reserved

PART III. 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) (Applicable to subcontracts under which critical safety items covered by the clause may be furnished by suppliers.)

DFARS 252.211-7006 PASSIVE RADIO FREQUENCY IDENTIFICATION (MAR 2018) (Applicable to subcontracts where the subcontractor 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) (Applies 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) (Applicable if SELLER will be in possession of government property for the performance of the contract.)

DFARS 252.219-7004 SMALL BUSINESS SUBCONTRACTING PLAN (TEST PROGRAM) (APR 2018) (Not Applicable to commercial items as defined by FAR 2.101.)

DFARS 252.223-7006 PROHIBITION ON STORAGE, TREATMENT, AND DISPOSAL OF TOXIC OR HAZARDOUS MATERIALS (SEP 2014) ("Government" means "Lockheed Martin and Government." Not applicable to Commercial Items as defined in FAR 2.101.)

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) is completed with "any Government." Subparagraph (b)(2) is deleted.)

DFARS 252.225-7028 EXCLUSIONARY POLICIES AND PRACTICES OF FOREIGN GOVERNMENTS (APR 2003) (Not Applicable to commercial items as defined by FAR 2.101.)

DFARS 252.225-7976 (DEVIATION 2018-O0019) CONTRACTOR PERSONNEL PERFORMING IN JAPAN. (AUG 2018) (Applies if Seller will perform work in Japan.)

DFARS 252.225-7979 (DEVIATION 2018-O0008) ADDITIONAL ACCESS TO CONTRACTOR AND SUBCONTRACTOR RECORDS IN THE UNITED STATES CENTRAL COMMAND THEATER OF OPERATIONS (DEC 2017)

DFARS 252.228-7001 GROUND AND FLIGHT RISK (JUNE 2010) (In paragraph (a)(1)(i) "this contract" means "the prime contract." The following is added at the beginning of the clause: "Communications between Seller and the Government shall be made through Lockheed Martin. Any equitable adjustment provided for this clause shall be implemented in this contract to the extent such adjustment is implemented in the prime contract." Subparagraphs (d)(2)(ii), (d)(3)(ii) and the last sentence of subparagraph (j)(2) are deleted. The provision of this clause relating to assumption of risk by the Government are not applicable to Seller unless this contract includes language stating the Government has agreed to assume such risk of loss.) (Not Applicable to commercial items as defined by FAR 2.101.)

DFARS 252.229-7003 TAX EXEMPTIONS (ITALY) (MAR 2012) (The blank in paragraph (b) is completed with TBD.) (Not Applicable to commercial items as defined by FAR 2.101.)

DFARS 252.229-7006 VALUE ADDED TAX EXCLUSION (UNITED KINGDOM) (DEC 2011) (Applies if Seller is a United Kingdom firm. "This contract" means "the prime contract.") (Not Applicable to commercial items as defined by FAR 2.101.)

DFARS 252.234-7002 EARNED VALUE MANAGEMENT SYSTEM (MAY 2011) ("Government" means "Lockheed Martin and Government." Paragraphs (i) and (j) are deleted.) (Not Applicable to commercial items as defined by FAR 2.101)

DFARS 252.234-7004 NOV-14 COST AND SOFTWARE DATA REPORTING SYSTEM. (Applicable to subcontracts in excess of \$50,000,000. In paragraph (b), "Government" means Lockheed Martin.) (Not Applicable to commercial items as defined by FAR 2.101)

DFARS 252.237-7010 PROHIBITION ON INTERROGATION OF DETAINEES BY CONTRACTOR PERSONNEL (JUN 2013) (Applicable to all subcontracts that may require subcontractor personnel to interact with detainees in the course of their duties.)

DFARS 252.237-7023 CONTINUATION OF ESSENTIAL CONTRACTOR SERVICES (OCT 2010) (Applicable to all subcontracts for mission essential services. "Contracting Officer" means Lockheed Martin. The term "Government" includes Lockheed Martin.)

DFARS 252.239-7001 INFORMATION ASSURANCE CONTRACTOR TRAINING AND CERTIFICATION (JAN 2008) (Applicable if SELLER personnel will access DoD information systems in performance of the subcontract.)

DFARS 252.239-7016 TELECOMMUNICATIONS SECURITY EQUIPMENT, DEVICES, TECHNIQUES, AND SERVICES (DEC 1991) (Applies if this contract requires securing telecommunications.) (Not Applicable to commercial items as defined by FAR 2.101.)

DFARS 252.243-7002 REQUESTS FOR EQUITABLE ADJUSTMENT (DEC 2012) ("Government" means "Lockheed Martin.") (Not Applicable to commercial items as defined by FAR 2.101.)

DFARS 252.245-7001 TAGGING, LABELING, AND MARKING OF GOVERNMENT-FURNISHED PROPERTY (APR 2012)

DFARS 252.245-7004 REPORTING, REUTILIZATION, AND DISPOSAL (DEC 2017) ("Contracting Officer" means Lockheed Martin.) (Applicable if SELLER will possess government property in performance of the subcontract.)

FAR 52.203-8 CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY (MAY 2014)

FAR 52.203-15 WHISTLEBLOWER PROTECTIONS UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (JUN 2010)

FAR 52.203-16 PREVENTING PERSONAL CONFLICTS OF INTEREST (DEC 2011) (Not Applicable to commercial items as defined by FAR 2.101.)

FAR 52.204-23 PROHIBITION ON CONTRACTING FOR HARDWARE, SOFTWARE, AND SERVICES DEVELOPED OR PROVIDED BY KASPERSKY LAB AND OTHER COVERED (JULY 2018) (Seller shall provide Lockheed Martin copies of any reports provided under this clause which relate to the performance of this contract.)

FAR 52.204-21 BASIC SAFEGUARDING OF COVERED CONTRACTOR INFORMATION SYSTEMS (JUN 2016) (Applies unless Seller is furnishing commercially available off-the-shelf items.)

FAR 52.216-16 INCENTIVE PRICE REVISION FIRM TARGET (OCT 1997) ("Contracting Officer," "contract administrative office" and "Government" mean "Lockheed Martin." Paragraph (i) is deleted. The blanks in the clause are completed with the amounts specified in the contract.) (Not Applicable to commercial items as defined by FAR 2.101.)

FAR 52.222-17 NONDISPLACEMENT OF QUALIFIED WORKERS (MAY 2014) (Applicable to for services in excess of \$150,000. Not Applicable to commercial items as defined by FAR 2.101.)

FAR 52.222-42 STATEMENT OF EQUIVALENT RATES FOR FEDERAL HIRES (MAY 2014) (Applies if this subcontract is subject to [FAR 52.222-41](#). The information contained in the blanks of this clause is specified elsewhere in this contract.)

FAR 52.222-44 FAIR LABOR STANDARDS ACT AND SERVICE CONTRACT LABOR STANDARDS-PRICE ADJUSTMENT (MAY 2014) (Applies if FAR 52.222-41 applies to this contract. "Contracting Officer" means "Lockheed Martin and the Contracting Officer" except in paragraph (e) where it means "Lockheed Martin." The notice period in paragraph (e) is changed to twenty (20) days. Adjustments made to this contract shall not be made unless or until the Contracting Officer make appropriate adjustments to Lockheed Martin's prime contract.)

FAR 52.222-55 MINIMUM WAGES UNDER EXECUTIVE ORDER 13658 (DEC 2015) (Applies if this Contract is subject to the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute, and are to be performed in whole or in part in the United States. "Contracting Officer" means "Lockheed Martin.")

FAR 52.228-3 WORKERS' COMPENSATION INSURANCE (DEFENSE BASE ACT) (JUL 2014) (Applies if Seller 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)

FAR 52.229-8 TAXES AND FOREIGN COST-REIMBURSEMENT CONTRACTS (MAR 1990) (In paragraph (b), "Contracting Officer" and "Government of the United States" mean "Lockheed Martin." The blank is completed with TBD.) (Not Applicable to commercial items as defined by FAR 2.101.)

FAR 52.232-16 PROGRESS PAYMENTS (APR 2012) ("Contracting Officer" means "Lockheed Martin" except in paragraph (g) where it means "Lockheed Martin or Contracting Officer." "Government" means "Lockheed Martin" except: (1) in paragraphs (d), (e) and (j)(5) where the term is unchanged and (2) in paragraphs (g) and (i) where it means "Lockheed Martin and the Government.") (Not Applicable to commercial items as defined by FAR 2.101.)

FAR 52.232-17 INTEREST (MAY 2014) (Not Applicable to commercial items as defined by FAR 2.101. "Government" means "Lockheed Martin.")

FAR 52.232-39 UNENFORCEABILITY OF UNAUTHORIZED OBLIGATIONS (JUN 2013) (Applicable to subcontracts where software or services will be retransferred to the Government.)

FAR 52.243-2 ALT II ALTERNATE II - CHANGES-COST-REIMBURSEMENT (APR 1984) ("Contracting Officer" and "Government" mean "Lockheed Martin." In paragraph (a) add as subparagraph (4) "Delivery schedule." In paragraph (d) the reference to the disputes clause is deleted.) (Not applicable to Commercial Items as defined in FAR 2.101.)

FAR 52.245-9 USE AND CHARGES (APR 2012) (Communications with the Government under this clause will be made through Lockheed Martin. Applicable to subcontracts in which SELLER will possess government property.)

FAR 52.246-15 CERTIFICATE OF CONFORMANCE (APR 1984) (Applicable if SELLER will make direct shipments to the Government and there is no intervening acceptance by Lockheed Martin.)

Part IV. 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 – USE OF DATA OR SOFTWARE WITH LESS THAN GOVERNMENT PURPOSE RIGHTS

If the SELLER believes it to be in the best interest of the F-35 program to consider use or incorporation of any noncommercial technical data, noncommercial computer software, or noncommercial computer software documentation with less than Government Purpose rights other than assertions previously accepted under SELLER's F-35 contracts, the SELLER shall submit a written request for approval to the BUYER prior to use or incorporation. The request for approval shall describe:

1. alternatives evaluated;
2. the benefit to the F-35 program for using the noncommercial technical data, noncommercial computer software, or noncommercial computer software documentation with less than Government Purpose Rights;
3. the name of the entity asserting less than Government Purpose Rights;
4. the basis for the assertion (per DFARS 252.227-7017), to include sufficient information to enable the BUYER to provide to the Contracting Officer to evaluate any listed assertions;
5. a Rough Order of Magnitude cost estimate to obtain a Government Purpose Rights license as defined in DFARS 252.227-7013 (Rights in Technical Data – Noncommercial Items) and DFARS 252.227-7014 (Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation).

BUYER shall provide timely notice of the Government's response upon receipt from the Contracting Officer. Nothing in this clause precludes the Government from challenging any data rights assertions pursuant to DFARS 252.227-7019 or DFARS 252.227-7037.

H-5 – 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-8 – DISCLOSURE, USE, AND PROTECTION OF PROPRIETARY INFORMATION (NAVAIR 5252.227-9511) (FEB 2009)

(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. The ISC has no obligation to the prime contractor. The prime contractor is required to provide full cooperation, 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, any findings, recommendations, analyses, or conclusions of such a contractor are not those of the Government.

(d) The prime contractor 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 (other than restricted cost or pricing data), which is proprietary to the prime contractor.

(e) To protect any such proprietary information from disclosure or use, and to establish the respective rights and duties of both the ISC and prime contractor, the prime contractor agrees to enter into a direct agreement with any ISC as the Government requires. A properly executed copy (per FAR 9.505-4) of the agreement will be provided to the Procuring Contracting Officer.

H-15 – TAXES AND DUTIES

(a) The contract prices include all applicable taxes and duties, as defined in FAR 52.229-6, Taxes-Foreign Fixed-Price Contracts (FEB 2013) and FAR 52.229-8, Taxes-Foreign Cost-Reimbursement Contracts (MAR 1990), except for:

(1) Customs duties, import and export taxes, and similar charges imposed by Participants to the Joint Strike Fighter Production, Sustainment, and Follow-On Development Memorandum of Understanding (MOU) or Foreign Military Sales (FMS) customer of the F-35 Lightning II program;(2) Value Added Taxes (VAT) or consumption taxes, imposed by the Country Concerned, as defined in FAR 52.229-6 and 52.229-8, on goods or services delivered in the Country Concerned under this contract.

(b) If the Contractor is required to pay or bear any tax or duty specified in subparagraphs (a)(2) above, including any interest or penalty, the Contractor shall follow the procedures specified in FAR 52.229-6, Taxes-Foreign Fixed-Price Contracts (FEB 2013) and FAR 52.229-8, Taxes-Foreign Cost-Reimbursement Contracts (MAR 1990).

(c) Nothing outside of exceptions listed above alleviates the Contractor from the requirements of FAR 52.229-6 or 52.229-8.

H-20 – LIABILITY INSURANCE (NAVAIR 5252.228-9501) (MAR 1999)

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:

(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 Workmans Compensation and Employers Liability Insurance (or, where maritime employment is involved, Longshoremens and Harbor Workers 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 limits of \$200,000 per passenger, multiplied by the number of seats or number of passengers, whichever is greater.

H-24 NOTICE REGARDING THE DISSEMINATION OF EXPORT-CONTROLLED TECHNICAL DATA

(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-25 – SEGREGATION OF COSTS

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