

**LOCKHEED MARTIN CORPORATION**  
**PRIME SUPPLEMENTAL FLOWDOWN DOCUMENT (PSFD)**  
**ADDITIONAL TERMS AND CONDITIONS FOR SUBCONTRACTS/PURCHASE ORDERS**  
**UNDER**

Germany C-130J Digital Flight Data Record (DFDR) Data Processing

Contract Number 4534534175/PA050

**Generated Using Lockheed Martin CorpDocs 2024 Version**

The following are the supplemental terms and conditions to be incorporated, in addition to those other terms and conditions from the applicable CorpDoc 1 into subcontracts issued under the Prime Contract 4534534175 / PA050 Germany C-130J Digital Flight Data Record (DFDR) Data Processing.

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.

The following clauses are added:

## **SECTION H- SPECIAL PURCHASE ORDER REQUIREMENTS**

### **Article 1 - Contractor's Performance**

1. The Contractor shall:
  - adapt and customize APS Aerospace Software commercial software products Flight Analysis System Accident Investigation (FAS/INV) and Insight Analysis (the customized versions of the FAS/INV and Insight Analysis software collectively the "Standard Software") in accordance with the technical requirements in **Annex 1** ("Statement of Work");
  - obtain a license for the Purchaser to use the Standard Software;
  - deliver the Standard Software to Purchaser; and
  - provide Software Maintenance & Software Support for the Standard Software for a period of 5 years from the Contractor's delivery of the Standard Software to the Purchaser (the "Term").
2. Training is not part of this Contract.

3. Contractor shall obtain for the Purchaser a customized version of FAS/INV and Insight Analysis Software (collectively “Standard Software”), with the license being a non-exclusive and non-transferable right to use the Standard Software, in executable form only, unrestricted as to time and place, for the limited purposes of graphically displaying recorded data of C-130J-30 and KC-130J aircraft and allowing such recorded data to be analyzed so as to determine, for instance, the cause of an accident (“Purposes”) and for no other purpose.

The right to use the Standard Software in the original, executable form shall be transferred to the Customer. For clarification, the right to use means the following:

- For the Customer to save and load the Standard Software permanently or temporarily;
- For the Customer to display it for viewing by the Customer and run it, also insofar as this requires to copy;
- For the Customer to store it for non-commercial purposes on any known medium or in any other way to make one back-up copy of the Standard Software;
- For the Customer to operate the Standard Software;
- For the Customer to use the Standard Software for the Purposes and for the Customer to use it during joint missions with the Government of France only, so long as the joint missions with the Government of France are for graphically displaying recorded data of C-130J-30 and KC-130J aircraft and allowing such recorded data to be analyzed so as to determine, for instance, the cause of an accident.

No other license grant is provided to Customer.

Express Prohibitions. Except as expressly authorized in this Contract, Customer shall not make, sell, offer for sale, import, copy, modify, create derivative works, disclose, display, distribute, reverse assemble, reverse engineer, or decompile the Standard Software or otherwise attempt to recreate the source code of the Standard Software, nor authorize any other third party to undertake any such actions.

4. The Contract constitutes a single material, economic and legal purchase. The Contractor is responsible for meeting the terms of the Contract as set forth herein including the Annexes and is liable in accordance with § 278 German Civil Code (BGB) for the services of its subcontractors in the same way for its own services.

5. Contractor shall provide Software Maintenance and Support for the above Standard Software for five years (Period of Performance: 09/01/2024 - 08/31/2029). If the Contractor does not meet the delivery date agreed upon, because the Standard Software could not yet be accepted by the Purchaser, the beginning and the end of the Period of Performance are postponed accordingly. The terms and conditions of Article 4 apply.

## **Article 2 – Delivery Schedule and Acceptance testing**

1. Contractor shall provide

- an electronic link to make available to Purchaser the Standard Software by electronic download

- a license key to activate the Standard Software (if applicable) on October 1, 2024 by the latest.

2. If one of the contracting parties desire a Kick-Off meeting, such a meeting shall be scheduled on a mutually agreed to date, but not later than thirty (30) Calendar Days after Contract signature.

3. The Contractor shall make the Standard Software available on September 1, 2024 for acceptance testing.

The Customer shall be entitled to subject the Standard Software to functional testing within 30 days after the Standard Software has been made available for acceptance testing (functional testing period). In deviation of this, services subject to partial acceptance testing shall have a functional testing period of 14 days unless otherwise agreed.

To the extent appropriate, the Contractor shall assist the Customer in the preparation and conduct of functional testing. If deficiencies preventing and/or impeding operation are detected, the Customer may discontinue functional testing. If, however, deficiencies should be detected that only impede operation, the Customer may cancel functional testing only if the deficiencies would make a continuation seem unreasonable.

After completion or discontinuation of functional testing, the Customer shall notify the Contractor of deficiencies detected during functional testing in line with the agreed deficiency classification.

If the Customer has discontinued functional testing, he shall set an appropriate deadline for the Contractor by which the deficiencies must be remedied. After the deficiencies have been remedied, the Contractor shall make the services available again for partial or final acceptance testing. The Customer has the right to repeat functional testing. The time frame for this shall be 14 days unless otherwise agreed.

Upon expiry of the functional testing period, the Customer shall give a statement of acceptance of services if only minor deficiencies were detected which, when summarized, do not amount to deficiencies impeding operation. These will be put down as deficiencies in the statement of acceptance and shall be remedied within a reasonable time by the Contractor within the scope of his liability for material and legal deficiencies.

Acceptance testing must be carried out formally. Acceptance testing, however, shall be deemed successful even if the Customer has not carried it out within a period of 30 days after completion of functional testing.

### **Article 3 - Software and Software Licensing**

Purchaser may make copies of the Standard Software as reasonably necessary for back-up (disaster recovery) purposes, provided that such copies are used only for such purposes and are not otherwise used on an active system.

## Article 4 - Software Support Terms & Conditions

The Insight software suite developed by Flightscape, now APS Aerospace, is a comprehensive Windows based system designed to enable playback and analyses of flight data. The below Performance Description outlines the level of service that will be provided by Contractor to the Purchaser (the "End User") during the Term of this Contract. Contractor has the right to delegate these obligations to APS Aerospace at his discretion. The following applies both to FAS / Insight Analysis and to the Standard Software (which are the customized versions of the FAS/INV and Insight Analysis software).

1. The Contractor will provide professional software engineering expertise as necessary for the maintenance, enhancement and progressive development of the software.
2. The Contractor will endeavor to eliminate errors detected by the End User as quickly as possible and will implement improvements.
3. The Contractor will make every attempt to implement, on an urgent basis, enhancements or bug fixes that are required by the End User for critical flight data extraction and analysis.
4. The Contractor will, to the best of its ability, support the End User in solving problems related to the use of the software.
5. The Contractor will provide telephone hotline support during normal business hours Monday through Friday (9:00 AM – 5:00 PM, Eastern Standard Time).
6. The Contractor will provide the End User with accounts allowing secure access to the Contractor website, enabling online access to known issues, suggested workarounds, software updates and the Solutions Database, as well as the exchange of data and contact information with other RAPS and Insight/FAS users.
7. The Contractor will provide the End User with all new Insight/FAS versions and updates/upgrades, made available via download.
8. The Contractor will offer special training courses to the End User when required. The associated costs will be subject to a separate agreement.

## Article 5 - Warranty (Software)

1. The standard warranty period for the Standard Software is 12 months, beginning with the date of the successful Acceptance Testing of the Standard Software.
2. The Purchaser acknowledges that software in general is not error-free and agrees that the existence of errors does not constitute a breach of this Contract.
3. If the Purchaser discovers a material error which substantially affects the Purchaser's use of the Flight Analysis System Accident Investigation (FAS/INV) and InsightAnalysis and Standard Software and notifies Contractor of the error during the 12-month warranty period, Contractor may at its sole option:
  - (a) refund the License Fee; or
  - (b) use all reasonable endeavors to correct by patch or new release (at its option) that part of the software which does not so comply provided that such noncompliance has not been caused by any modification, variation or addition to the software not performed by Contractor or caused by its incorrect use, abuse or corruption of the software or by use of the software with other software or on equipment with which it is incompatible.
4. Contractor does not warrant that the software is free from all known viruses; however Contractor is obliged to check for the most commonly known viruses prior to providing the software to the Purchaser.
5. This Article sets forth the exclusive remedies for claims based on defects as specified herein, whether the claims is in contract, warranty, tort (including negligence) or otherwise. THE FOREGOING WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES EXPRESS OR IMPLIED, INCLUDING WARRANTY OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND IMPLIED WARRANTY OF NON- INFRINGEMENT.

#### **Article 6 – Indemnification**

Contractor will defend Purchaser from and against any claim or action commenced by a third party alleging that the Standard Software, when used in accordance with the terms of this Contract, infringes any valid patent in force in the United States or in Germany and Contractor will indemnify the Purchaser from any costs which result from the defense or settlement of and/or damages finally awarded against Customer in any such claim. Notwithstanding the foregoing, Contractor shall have no indemnification obligation to the extent the infringement or misappropriation arises based upon (i) Contractor's compliance with detailed written instructions provided to Contractor under this Contract and the infringement or misappropriation would not have occurred but for Contractor's compliance therewith, (ii) unauthorized changes or modifications made to the software by Purchaser and the infringement or misappropriation would not have occurred but for such changes or modifications, and/or (iii) combination of the software with items not provided by Contractor and the infringement would not have occurred but for such combination.