

LOCKHEED MARTIN AERONAUTICS COMPANY

PRIME SUPPLEMENTAL FLOWDOWN DOCUMENT (PSFD)

ADDITIONAL TERMS AND CONDITIONS FOR SUBCONTRACTS/PURCHASE ORDERS UNDER

PRIME CONTRACT NUMBER N00019-20-C-0037 (previously identified as N00019-19-R-0062)

F-35 Development Foundation Contract II

Generated Using the 2019 Version of the Lockheed Martin CorpDocs

Revision 4: May 13, 2020
Revision 3: February 6, 2020
Revision 2: December 4, 2019
Revision 1: October 23, 2019
Original: September 4, 2019

For all subcontracts issued under the subject Prime Contract, incorporate the following terms and conditions, applicable as noted, in addition to those other terms and conditions (CorpDocs, etc.) to be used for subcontracts issued under the Prime Contract.

In the event of a conflict between the version or date of a clause set out in this document and the version or date of a clause set out in the identified CorpDocs, the version or date of the clauses set out 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.

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

None

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:

DFARS 252.203-7004 DISPLAY OF HOTLINE POSTERS (AUG 2019) (Paragraph (d) expressly requires the clause be included in all subcontracts specified in Defense Federal Acquisition Regulation Supplement 203.1004(b)(2)(ii) except subcontracts performed entirely outside the United States.)

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:

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

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

FAR 52.215-23 ALT I – ALTERNATE I – LIMITATIONS ON PASS-THROUGH CHARGES (OCT 2009) (Applies if this is a cost-reimbursement subcontract in excess of the simplified acquisition threshold, except if the prime contract to which this Contract relates is with DoD, then the clause applies to both cost-reimbursement subcontracts and fixed-price subcontracts, except those identified in 15.408(n)(2)(i)(B)(2), that exceed the threshold for obtaining cost or pricing data in accordance with FAR 15.403-4. Not applicable to commercial items as defined by FAR 2.101.)

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

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 52.223-15 ENERGY EFFICIENCY IN ENERGY-CONSUMING PRODUCTS (DEC 2007)

FAR 52.227-1 ALT I AUTHORIZATION AND CONSENT (APR 1984) (Applies if this Contract exceeds \$25,000. Not applicable to commercial items as defined by FAR 2.101.)

FAR 52.232-17 INTEREST (MAY 2014) ("Government" means "LOCKHEED MARTIN." Not applicable to commercial items as defined by FAR 2.101.)

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

FAR 52.239-1 PRIVACY OR SECURITY SAFEGUARDS (AUG 1996) (Applies to subcontracts for information technology which require security of information technology and/or are for the design, development, or operation of a system of records using commercial information technology services or support services. Not applicable to commercial items as defined by 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 if Government furnished property is provided through LOCKHEED MARTIN to the SELLER.)

DFARS 252.209-7010 CRITICAL SAFETY ITEMS (AUG 2011) (The blanks in this clause are completed as follows: Critical Safety Items are identified elsewhere in this Contract.)

DFARS 252.211-7007 REPORTING OF GOVERNMENT-FURNISHED PROPERTY (AUG 2012) (Applies to SELLER only if SELLER will be in possession of Government property for the performance of this Contract.)

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 252.228-7001 GROUND AND FLIGHT RISK (JUN 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. Not applicable to commercial items as defined by FAR 2.101.)

DFARS 252.234-7002 EARNED VALUE MANAGEMENT SYSTEM (MAY 2011) (Applies to cost reimbursement contracts. "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 COST AND SOFTWARE DATA REPORTING SYSTEM (NOV 2014) (Applies to contracts that exceed \$50 million. 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) (Applies to all subcontracts that may require subcontractor personnel to interact with detainees in the course of their duties.)

DFARS 252.239-7001 INFORMATION ASSURANCE CONTRACTOR TRAINING AND CERTIFICATION (JAN 2008) (Applies if SELLER personnel shall access DoD information systems.)

DFARS 252.239-7016 TELECOMMUNICATIONS SECURITY EQUIPMENT, DEVICES, TECHNIQUES, AND SERVICES (DEC 1991) (Applies if this Contract requires securing telecommunications.)

DFARS 252.245-7004 REPORTING, REUTILIZATION, AND DISPOSAL (SEP 2016) (Applies if Government property may be located at supplier facilities. "Contracting Officer" means "LOCKHEED MARTIN.")

NAVAIR 5252.211- 9510 CONTRACTOR EMPLOYEES (MAY 2011)

(a) In all situations where contractor personnel status is not obvious, all contractor 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 correspondence (letter or email), through 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 contractor 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 contractor employees when in Government spaces, at a Government-sponsored event, or an event outside normal workspaces in support of the Contract/order;
 - (3) Clearly identify themselves as contractor 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, if they are a subcontractor 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, and the name of the Contracting Officer's Representative.
- (b) If wearing a badge is a risk to safety and/or security, then an alternative means of identification maybe utilized if endorsed by the Contracting Officer's Representative and approved by the Contracting Officer.
- (c) The Contracting Officer will make final determination of compliance with regulations with regard to proper identification of contractor employees.

NAVAIR 5252.227-9511 DISCLOSURE, USE, AND PROTECTION OF PROPRIETARY INFORMATION (FEB 2009) (The term “prime contractor” means “SELLER.”)

- (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 an 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.

NAVAIR 5252.228-9501 LIABILITY INSURANCE (MAR 1999) (Applies if SELLER will be performing work on a Government installation. Not applicable to commercial items as defined by FAR 2.101.)

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 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 limits of \$200,000 per passenger, multiplied by the number of seats or number of passengers, whichever is greater.

PART II. 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-2 – RIGHTS IN NONCOMMERCIAL DATA AND SOFTWARE UNDER CLINS 0001, 0002, 0009, 0010, 3001, 4001, & 0100

- (a) Noncommercial Data and Software

(1) The Government desires to obtain a minimum of Government Purpose Rights (GPR) license rights for the Block 4 Follow-On Modernization capabilities and design 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.

(2) If the Contractor believes it to be in the best interest of the F-35 program to consider incorporation of any noncommercial technical data, noncommercial computer software, or noncommercial computer software documentation into a Development Foundation Contract II (DFC II) deliverable with less than Government Purpose rights, then the Contractor shall submit a written request for approval to the Contracting Officer prior to incorporation. The request for approval shall describe all of the following: alternatives evaluated; the benefit to the F-35 program for using the noncommercial technical data, noncommercial computer software, or noncommercial computer software documentation; the name of the entity asserting less than Government Purpose Rights; the basis for the assertion, to include sufficient information to enable the Contracting Officer to evaluate any listed assertion information as defined in DFARS 252.227-7017; and a Rough Order of Magnitude 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. The Government shall respond to the request for approval within five (5) business days acknowledging approval/disapproval or requesting additional information. If the Contractor does not receive any response from the Government within five (5) business days of the initial request, the Contractor is authorized to use the noncommercial technical data, noncommercial computer software, or noncommercial computer software documentation with less than Government Purpose Rights in the performance of this Contract.

H-3 – 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, Contractor is by electronic means. The rights of the parties shall be DFARS 252.227-7013 and DFARS 252.227-7014.

H-4 – NOTIFICATION OF GOVERNMENT SECURITY ACTIVITY AND VISITOR GROUP SECURITY AGREEMENTS (OCT 2019)

Applicable if this contract contains a DD Form 254, DOD Contract Security Classification Specification, and requires performance at a government location in the U.S. or overseas. Prior to beginning operations involving classified information on an installation identified on the DD Form 254, the contractor shall take the following actions:

(a) At least thirty (30) days prior to beginning operations, notify the Information Protection Office shown in the distribution block of the DD Form 254 as to:

(1) The name, address, and telephone number of this contract company s representative and designated alternate in the U.S. or overseas area, as appropriate;

(2) The contract number and military contracting command;

(3) The highest classification category of defense information to which contractor employees will have access;

- (4) The Air Force installations in the U.S. (in overseas areas, identify only the APO number(s)) where the contract work will be performed;
- (5) The date contractor operations will begin on base in the U.S. or in the overseas area;
- (6) The estimated completion date of operations on base in the U.S. or in the overseas area; and,
- (7) Any changes to information previously provided under this clause.

This requirement is in addition to visit request procedures contained in DoDM 5220.22, National Industrial Security Program: Procedures for Government Activities Relating to Foreign Ownership, Control, or Influence (FOCI).

(b) Prior to beginning operations involving classified information on an installation identified on the DD Form 254, the contractor shall enter into a Visitor Group Security Agreement (or understanding) with the installation commander to ensure that the contractor's security procedures are properly integrated with those of the installation. As a minimum, the agreement shall identify the security actions that will be performed:

- (1) By the installation for the contractor, such as providing storage and classified reproduction facilities, guard services, security forms, security inspections, classified mail services, security badges, visitor control, and investigating security incidents; and
- (2) Jointly by the contractor and the installation, such as packaging and addressing classified transmittals, security checks, internal security controls, and implementing emergency procedures to protect classified material.

H-5 – RENT-FREE USE OF GOVERNMENT PROPERTY ACCOUNTABLE UNDER AN ALTERNATE GOVERNMENT CONTRACT (NAVAIR) (MAY 2016)

(a) Pursuant to FAR 45.301, authorization is granted to use the Government property identified below on a noninterference basis without rental charge in the performance of this Contract and subcontracts of any tier issued hereunder. Government property currently accountable and managed under the following contracts:

- N00019-02-C-3002 SDD
- N00019-14-C-0004 Development Foundation (DFC)
- N00019-14-G-0020 Delivery Order 0097 – Development Test Viability

(b) The said property shall be governed by the terms and conditions of the contract(s) under which it is accountable.

(c) The contractor is responsible for scheduling the use of the said property. The Government shall not be responsible for conflicts, delay or disruptions to any work performed by the contractor due to use of the property under this Contract or any other contracts under which use of such property is authorized.