

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

LRIP 8 F-35 JSF
Prime Contract No. N00019-13-R-0078 & N00019-15-C-0031
Non-Annualized and Annualized Sustainment

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19 February 2014 (ORIGINAL)
19 May 2014 (REVISION 1)
8 Sep. 2014 (REVISION 2)
13 Nov. 2014 (REVISION 3)

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

DFARS 252.203-7004 Display of Fraud Hotline Poster(s) (Dec 2012)

(Applicable to the Seller under all contracts in excess of \$5M except subcontracts performed entirely outside the United States.)

DFARS 252.211-7006 Passive Radio Frequency Identification (Sep 2011)

(Applicable to the Seller only if it **Dqf mntlPifad2lnt mntnf(l)-4t(f)-4.3(l)-278(P)-8o6(i)6.n c6(q)1.a7(nt)-pa7y Itl**

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 WORK SHARE AGREEMENTS (VARIATION)

The Seller shall not enter into any new F-35 work share agreements with any of its 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 has been determined to be best value to the F-35 Program by the Contracting Officer who, through LOCKHEED MARTIN, has provided written consent pursuant to FAR 52.244-2, Subcontracts (OCT 2010). The Contracting Officer, through LOCKHEED MARTIN, shall provide written response to the notice of work share agreement within 14 working (i.e. – 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, through LOCKHEED MARTIN, the Seller may proceed with the entering into the agreement.

H-5 NAVAIR 5252.204-9504 DISCLOSURE OF CONTRACT INFORMATION (JAN 2007) (VARIATION)

- (a) The Seller shall not release to anyone outside the Seller's organization any information (e.g., announcement of contract award), regardless of medium (e.g., film, tape, document), pertaining to any part of this contract or any effort directly related to the F-35 Lightning II Joint Strike Fighter (JSF) Program unless—
 - (1) The JSFPO has given prior written approval through LOCKHEED MARTIN;
 - (2) The information is otherwise in the public domain before the date of release; or
 - (3) The information is being released to associate contractors, subcontractors, suppliers, or vendors who require the information for execution of work under an F-35 Lightning II JSF contract.
- (b) Requests for approval shall identify the specific information to be released, the medium to be used,

(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 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 (other than restricted cost or pricing data), which is proprietary to LOCKHEED MARTIN or Seller.

(e) To protect any such proprietary information from disclosure or use, and to establish the respective rights and duties of both the ISC and LOCKHEED MARTIN, the Seller will agree to enter into a direct agreement with any ISC, if required by the Government or LOCKHEED MARTIN. A properly executed copy (per FAR 9.505-4) of the agreement will be provided by LOCKHEED MARTIN to the Government's Procuring Contracting Officer.

H-19 NAVAIR 5252.211-9510 CONTRACTOR EMPLOYEES (MAY 2011)

(a) In all situations where Seller personnel status is not obvious, all Seller 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 e-mail) correspondence or verbal discussions (in person or telephonic), when making presentations, or in other situations where Seller 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;

(c) LOCKHEED MARTIN will make the final determination of compliance with regulations with regard to proper identification of contractor employees.

H-27 PARTNERING WITH MILITARY SERVICE DEPOTS (MSD)

This clause is in accordance with Article 8.2 of the F-35 Lightning II Depot Partnering Agreement and applies to the Seller only if it has a Partnering Agreement under the Program with an MSD and the Seller is performing work for or on behalf of an MSD under this Contract.

1. FAR Non-Applicability. Pursuant to FAR 1.104, FAR Applicability, Partnering Agreements (PA) and Implementing Agreements (IA) between the Seller and Military Service Depots (MSD) are not subject to the FAR or any agency supplements thereto, because the FAR applies to contracts where the Government acts in its capacity as a buyer. No FAR and/or agency supplement flow down clauses shall apply to any PA/IA issued or to any other contractual vehicle placed by the Seller with an MSD providing a supply/service under this prime contract, except as may be expressly included by mutual consent of the Seller and the MSD.

a. **Non-Applicability of Advanced Payments.** Payments made by the Seller to the MSD, as required by the terms of the PA/IA, shall be considered to be incurred costs under the terms of this contract.

2. TINA Non-Applicability. The Truth in Negotiations Act, 10 USC Section 2306a, as amended, (hereinafter referred to as TINA) and its implementing regulations/clauses, do not apply to any MSD performing under this contract. Accordingly, the Government agrees:

a. The portion of the Seller's contract price that consists of costs relating to work performed by an MSD need not be sup

b. **Continued “Good Faith/Duty to Mitigate.”** This provision does not excuse the Seller from its requirement to continuously exercise good faith to effectively manage the MSD, if necessary, to perform the affected services itself or find a commercial sub-contractor to perform the services, and to fulfill its responsibilities under this contract and applicable PA/IA. Such efforts include reasonable corrective actions to mitigate the effects of the MSD’s non-compliance under this contract’s schedule and/or prices.

FAR 52.232-32 PERFORMANCE-BASED PAYMENTS (VARIATION)

APRIL 2012



(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.