

**LOCKHEED MARTIN CORPORATION**

**PRIME SUPPLEMENTAL FLOWDOWN DOCUMENT (PSFD)**

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

JSF LRIP 5  
CONTRACT NUMBER N00019-10-C-0002

**Generated using Lockheed Martin CorpDocs 2011 Version**

12 December 2011

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.

1. The dates of the following FAR and DFARS clauses are modified as follows: RESERVED
2. The following FAR and DFARS clauses are added:

**52.211-15 Defense Priority and Allocation Requirements (Apr 2008)** Subcontracts that are issued under a rated prime contract must carry the rating of the prime contract.

**52.215-21 Alt II Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data -- Modifications (Oct 1997) - Alternate II**

**52.222-39 Notification of Employee Rights Concerning Payment of Union Dues or Fees (Dec 2004)**  
Applies if this contract exceeds \$100,000.

**52.223-7 Notice of Radioactive Materials (Jan 1997)** Applies if this contract is for radioactive materials. "Contracting Officer" and "Government" means "Lockheed Martin." The blank in paragraph (a) is replaced with "180 days."

**52.227-11 Alt I Patent Rights--Ownership by the Contractor (Dec 2007) Alternate I (Jun 1989)**  
Paragraph (d)(2), insert: JSF SDD and PFSD MOUs

**52.229-8 Taxes -- Foreign Cost-Reimbursement Contracts (Mar 1990)** Paragraph (a), insert: any country in which the contractor or any of its subcontractors performs work under this contract

**52.232-16 Progress Payments (Jun 2009)** "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."

**52.242-2 Production Progress Reports (Apr 1991)** "Contracting Officer" means "Lockheed Martin." Flowdown is not expressly required by the clause, but it may be included in subcontracts where production progress reports are desired. As an alternative to using this clause, appropriate requirements for production progress reports may be included in the statement of work or subcontract data requirements list.

**52.243-2 Changes -- Cost-Reimbursement (Aug 1987) - Alternate II (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.

**52.243-7 Notification of Changes (Apr 1984)** Paragraph (b), insert 7; Paragraph (d), insert 30

**52.244-6 Subcontracts for Commercial Items (Aug 09)**

**52.245-9 Use and Charges (Jun 2007)** Applies when Government Property is provided. Communications with the Government under this clause will be made through Lockheed Martin.

**52.246-15 Certificate of Conformance (Aug 1984)** Applies if shipping is direct to the Government.

**52.247-68 Report of Shipment (REPSHIP) (Feb 2006)**

**52.252-2 Clauses Incorporate by Reference (Feb 1998)** Insert: <http://www.arnet.gov/far>

**52.252-6 Authorized Deviation In Clauses (Apr 1984)** Paragraph (b), insert: DFARS (48 CFR Chapter 2)

**252.203-7004 DISPLAY OF FRAUD HOTLINE POSTER(S) (SEP 2011)**

**252.204-7000 Disclosure of Information (Dec 1991)** In paragraph (b) "Contracting Officer" means "Lockheed Martin" and "45 days" means "60 days."

**252.211-7005 Substitutions for Military of Federal Specifications and Standards (Nov 2005)**

**252.211-7008 Use of Government - Assigned Serial Numbers (Sep 2010)** Flowdown is not expressly required, but the clause should be included in any subcontract where the supplier will be in the possession of Government property for the performance of the subcontract. If Lockheed Martin will assume responsibility for marking the property, the clause may be excluded from the subcontract. While commercial item suppliers usually do not require government property to perform, if such suppliers will be in possession of government property for the performance of the contract, include this clause in the subcontract unless Lockheed Martin will assume responsibility for marking the property, the clause may be excluded from the subcontract.

**252.215-7004 Excessive Pass-Through Charges (May 2008)** Applies unless this contract is a fixed price contract, including fixed-price subcontracts with economic price adjustment, awarded on the basis of

adequate price competition. Communications with the Contracting Officer under this clause shall be made through Lockheed Martin. In paragraph (e), the term "Contracting Officer" includes Lockheed Martin. If the Contracting Officer determines excessive pass-through charges are included in Seller's prices, Lockheed Martin shall make an adjustment to exclude such charges.

**252.219-7004 SMALL BUSINESS SUBCONTRACTING PLAN (TEST PROGRAM) (AUG 2008)** (Noncommercial) Flowdown is expressly required by subparagraph (g)(3) of this clause for participants in the DoD Test Program for the Negotiation of Comprehensive Small Business Subcontracting Plans FAR 52.219-9 is required in other subcontracts that meet the criteria specified in that clause.

**252.222-7006 Restrictions on the Use of Mandatory Arbitration Agreements (Dec 2010)** Applies if contract exceeds \$1,000,000 that will be funded in whole or part with Fiscal Year 2010 appropriated funds. The certification in paragraph (b)(2) applies to both Seller in its own capacity and to Seller's covered subcontractors.

**252.223-7008 PROHIBITION OF HEXAVALENT CHROMIUM (MAY 2011)**

**252.225-7012 Preference for Certain Domestic Commodities (Dec 2008)** Applies if Seller is furnishing any of the items covered by this clause.

**252.225-7032 Waiver of United Kingdom Levies--Evaluation of Offers (Apr 2003)** Applies if Seller is a United Kingdom firm. "Contracting Officer means "Lockheed Martin."

**252.227-7017 Identification and Assertion of Use, Release or Disclosure Restrictions (Jun 1995)** "Offeror" means "Seller." "Contracting Officer" means "Lockheed Martin or Contracting Officer." In paragraphs (a) and (b) the references to the SBIR data rights clause are deleted.

**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.

**252.234-7002 Earned Value Management System (Apr 2008)** In paragraph (e) "Government" means "Lockheed Martin and Government." Paragraphs (i) and (j) are deleted.

**252.239-7016 Telecommunications Security Equipment, Devices, Techniques, and Services (Dec 1991)** Applies if this contract requires securing telecommunications.

**252.243-7002 Requests for Equitable Adjustment (Mar 1998)** "Government" means "Lockheed Martin."

**252.244-7000 Subcontracts for Commercial Items and Commercial Components (DoD Contracts (Aug 2009)** The clause mandates flowdown of the DFARS provisions identified in the clause.

**252.245-7001 Tagging, Labeling, and Marking of Government-Furnished Property (Feb 2011)** Flowdown is not expressly required by the clause, but it should be included in subcontracts where the

items furnished by the subcontractor will be subject to serialized tracking. Note that the subcontract Statement of Work or other document will need to identify the items subject to serialized tracking.

**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.

**5352.242-9000 Contractor Access to Air Force Installations (Aug 2007)**

**5352.242-9001 Common Access Cards (CACs) for Contractor Personnel (Aug 2004)** Applies for Cost Reimbursement Contract Line Items Only

**52.215-21 Requirements for Certified Cost or Pricing Data or Information Other Than Certified Cost or Pricing Data - Modifications (Alt I - Oct2010 for FPIF line items)** "Contracting Officer" means "Lockheed Martin." Alternate I can be used if it is desired to specify a format for cost or pricing data other than the format required by FAR Part 15.

**52.243-2 Changes -- Cost-Reimbursement (AUG 1987) - Alternate II (Apr-84)** "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.

**3. The following Section H is added:**

**SECTION H – SPECIAL PURCHASE ORDER REQUIREMENTS**

For purposes of this Section H, "Government" means the United States Government.

**H-1 5252.227-9501 INVENTION DISCLOSURES AND REPORTS (NAVAIR) (MAY 1998)** (a)

In accordance with the requirements of the Patent Rights clause of this contract, the contractor shall submit "Report of Inventions and Subcontracts" (DD Form 882) along with written disclosure of inventions to the designated Contract Administrator.

(b) The Contract Administrator will forward such reports and disclosures directly to the appropriate Patent Counsel, designated below, for review and recommendations, after which the reports will be returned to the Contract Administrator.

Name and address of Patent Counsel:

Office of Counsel  
Attn: John Mills  
47123 Buse Road  
Building 2272, Suite 257  
Patuxent River, MD 20670

(c) The above designated Patent Counsel will represent the Procurement Contracting Officer with regard to invention reporting matters arising under this contract.

(d) A copy of each report and disclosure shall be forwarded to the Procuring Contracting Officer. (e) The contractor shall furnish the Contracting Officer a final report within three (3) months after completion of the contracted work listing all subject inventions or certifying that there were no such inventions, and

listing all subcontracts at any tier containing a patent rights clause or certifying that there were no such subcontracts.

**H-2 5252.232-9509 REIMBURSEMENT OF TRAVEL, PER DIEM, AND SPECIAL MATERIAL COSTS (NAVAIR) (OCT 2006)**

(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. Travel required for tasks assigned under this contract shall be governed in accordance with: 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 shown on invoices 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's invoices shall include receipts or other evidence substantiating actual costs incurred for authorized travel. 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-3 ALTERNATIVE DISPUTE RESOLUTION**

The parties entered into an agreement on 28 September 1999 entitled "Memorandum of Understanding between The Joint Strike Fighter Program Office and the JSF Team at LOCKHEED MARTIN

CORPORATION, Lockheed Martin Aeronautics Company Concerning Use of Alternative Dispute Resolution Processes.” The Agreement affirms the use of Alternative Dispute Resolution as the preferred approach in settling contract disputes. In recognition of the foregoing, the parties confirm the mutual commitment to consider the use of Alternative Dispute Resolution processes in accordance with the principles set forth in the Memorandum of Understanding to avoid/resolve disputes under this contract.

**H-4 WORK SHARE AGREEMENTS**

Subcontractors shall not enter into any new 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 as of the effective date of this contract.

**H-5 NOTICE REGARDING THE DISSEMINATION OF EXPORT-CONTROLLED TECHNICAL DATA (NAVAIR 5252.227-9507) (OCT 2005)**

(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-6 SMALL BUSINESS SUBCONTRACTING CLAUSES**

Given that the Contractor has an approved comprehensive subcontracting plan, FAR 52.219-9, Small Business Subcontracting Plan (JAN 2011), and DFARS 252.219-7003, Small Business Subcontracting Plan (DoD Contracts) (OCT 2010), are not incorporated into this contract. Nevertheless, the Contractor shall flow down both clauses to applicable subcontractors.

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

(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 seller, the ISC has no obligation to the seller. 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, 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, which is proprietary to the seller in addition to third party proprietary data that the seller 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 seller, 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 LM, 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 Procuring Contracting Officer.

**H-8 5252.228-9501 LIABILITY INSURANCE (NAVAIR) (MAR 1999)**  
**(APPLICABLE TO COST-REIMBURSEMENT CONTRACT LINE ITEMS ONLY)**

The following types of insurance are required in accordance with the clause entitled, “FAR 52.228-5, “Insurance--Work on a Government Installation”” or “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.

**H-9 DISCLOSURE OF CONTRACT INFORMATION (NAVAIR 5252.204-9504) (JAN 2007)**  
**(DEVIATION)**

- (a) The Contractor shall not release to anyone outside the Contractor’s organization any unclassified 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 Program, unless the F-35 Lightning II Program Public Affairs Officer has given prior written approval.
- (b) Requests for approval shall identify the specific information to be released, the medium to be used, and the purpose for the release. The Contractor shall submit its request to the F-35 Lightning II Program Public Affairs Officer at least fifteen (15) days before the proposed date for release.
- (c) The Contractor agrees to include a similar requirement in each subcontract under this contract. Subcontractors shall submit requests for authorization to release through the prime contractor to the F-35 Lightning II Program Public Affairs Officer.



**H-10 5252.211-9502 GOVERNMENT INSTALLATION WORK SCHEDULE (NAVAIR) (OCT 2005)**

(a) The Holidays applicable to this contract are: New Year's Day, Martin Luther King's Birthday, President's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, and Christmas Day.

(b) In the event that the contractor is prevented from performance as the result of an Executive Order or an administrative leave determination that applies to the using activity, such time may be charged to the contract as a direct cost provided such charges are consistent with the contractor's accounting practices. In the event that any of the above holidays occur on a Saturday or Sunday, then such holiday shall be observed as they are by the assigned Government employees at the using activity.

**H-11 5252.211-9510 CONTRACTOR EMPLOYEES (NAVAIR)(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 (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 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 work spaces 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.

**H-12 5352.204-9000 Notification of Government Security Activity and Visitor Group Security Agreements (APR 2003)**

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 days prior to beginning operations, notify the security police activity 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 DOD 5220.22-M, National Industrial Security Program Operating Manual.
- (b) Prior to beginning operations involving classified information on an installation identified on the DD Form 254 where the contractor is not required to have a facility security clearance, 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 under DOD 5220.22-M, 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-13 PROVISIONAL ACCEPTANCE UNDER SPECIAL CONDITIONS**

- (a) Acceptance under Special Conditions. LOCKHEED MARTIN may, at the discretion of the Authorized Procurement Representative, finally or provisionally accept any supply prior to completion of work on such supply in the following situations:
- (1) When the SELLER, despite the exercise of due diligence, encounters unavoidable delay in securing SELLER-furnished property;
  - (2) When Lockheed Martin or Government-furnished property suitable for installation in any supply to be furnished hereunder is not delivered to the SELLER in sufficient time to permit installation by the SELLER prior to the date the supply is scheduled for delivery; or,
  - (3) When defects or deficiencies are known to exist in the Item, but when correction of the defects or deficiencies is not practicable within the delivery schedule set forth in the contract.
- (b) Provisional Acceptance of WORK with Less Than Full Capability.
- (1) Notwithstanding anything to the contrary in paragraph (a) above, LOCKHEED MARTIN may provisionally accept WORK that do not meet the capabilities specified in this Contract prior to completion.
  - (2) LOCKHEED MARTIN shall withhold as consideration an amount from the Contract price that represents the estimated price of incorporating the required capabilities (e.g., for software-related capabilities, the estimated price to install compliant software) specified in this Contract. The associated withhold for each missing capability will be released after LOCKHEED MARTIN inspection and approval of the incorporated capability.

(c) Provisional Acceptance of WORK with Unverified or Deficient Requirements.

(1) Due to the concurrent nature of SDD Contract and this Contract, acceptance of WORK delineated shall not be contingent upon completion of all verification requirements under SDD Contract. All unverified requirements shall be listed on the CoC. No amounts shall be withheld at the acceptance or provisional acceptance of the Item due to the fact that the requirements listed on the Unverified Specification Requirements have yet to complete verification.

(2) Notwithstanding the above, if there is an identified deficiency against a requirement stated in this Contract or the SDD Contract, a withhold shall be taken, except in the case where LOCKHEED MARTIN has authorized a Record Variance.

a. If a Preliminary Engineering Change Proposal (PECP) to correct the deficiency has been authorized, a withhold shall be taken at the time of provisional acceptance. The withhold amount shall be negotiated between LOCKHEED MARTIN and the SELLER and shall be based on the estimated price for correction of the deficiency. The withhold amount shall be released on a monthly basis at the rate of 80% of the SELLER's incurred costs to correct the deficiency. The withhold shall be fully released after LOCKHEED MARTIN inspection and approval that the deficiency against which the withhold was taken has been corrected.

b. If a PECP to correct the deficiency has not been authorized, a withhold shall be taken at the time of provisional acceptance. The withhold amount, subject to mutual agreement, shall be negotiated between LOCKHEED MARTIN and the SELLER.

(d) Nothing in this clause shall restrict LOCKHEED MARTIN's rights to withhold acceptance or provisional acceptance of the Items due to defects or deficiencies in materials or workmanship or with non-conformances unrelated to the materials and workmanship.

**H-14 GOVERNMENT PROPERTY FOR THE PERFORMANCE OF THIS CONTRACT (COST-REIMBURSEMENT) (MAR 2008)**

Pursuant to FAR Clause 52.245-1 "Government Property (Cost-Reimbursement, Time and Material, or Labor Hour Contracts) (JUN 2007) the Seller is authorized to use the following Government property on a rent-free basis in performing this contract:

- (a) Government Property currently accountable under the following contracts: TBD
- (b) Government-Furnished Property provided under this contract: TBD

The Seller is responsible for scheduling the use of all property covered by this clause and the Government shall not be responsible for Seller caused conflicts, delays, or disruptions to any work performed by the Seller due to use of any or all such property, either under this contract or any other contracts under which use of such property is authorized.

(c) Government Furnished Property Provided "As Is": The Government Furnished Items listed in (a) or (b), above, that are provided to the Seller in an "As-Is" condition pursuant to FAR 52.245-1 may be repaired or modified, to meet contractual requirements, as a direct cost to this contract, as defined in items (1) through (4), below.

(1) If "As-Is" Government Furnished Items listed in (a) or (b), above, require refurbishment, the cost of which does not exceed 50% of acquisition cost, then Seller may proceed with refurbishment using

contract funds and without obtaining Contracting Officer approval.

(2) If refurbishment costs exceed 50% of acquisition cost, the Seller shall seek PCO authorization, through LOCKHEED MARTIN, prior to undertaking a repair.

(3) Any repair or modification of these items shall not affect the title of the Government. (4) Any refurbishment of Government Furnished Items provided As-Is shall not negate the warranty. That is, the Government does not warrant the condition of these assets provided to the Seller.

#### **H-15 ALTERNATIVE DISPUTE RESOLUTION**

Alternative Dispute Resolution is the preferred approach for settling Contract disputes. Accordingly, the parties confirm their mutual commitment to consider the use of Alternative Dispute Resolution (ADA) processes to avoid or resolve disputes under this Contract.

Notwithstanding the foregoing, nothing herein limits the Parties' rights and remedies under the "Disputes" clause in Section I of this Contract.

#### **H-16 DATA DELIVERY**

All unclassified data and information, including technical data as defined in FAR 52.227-14, generated in the performance of this Contract shall be delivered electronically to the JSF Virtual Environment (JSF Data Library (JDL) or Product Data Management System (PDM), as applicable.

#### **H-17 MANAGEMENT OF SUPPLIERS**

Notwithstanding any direction to the contrary herein, SELLER is required under this Contract to manage any and all lower tier subcontractors. SELLER shall not use a subcontractor's status as an agreed or directed source as a performance excuse or basis for equitable adjustment.

#### **H-18 INDUSTRIAL PARTICIPATION**

(a) It is anticipated that LOCKHEED MARTIN will be involved in a number of foreign industrial participation arrangements in various countries in connection with the sale of LOCKHEED MARTIN's products to foreign countries. SELLER agrees to cooperate with LOCKHEED MARTIN in fulfillment of such industrial participation obligations.

(b) LOCKHEED MARTIN encourages SELLER to develop a plan for creating industrial participation opportunities in many countries, including the following: Australia, Canada, Denmark, The State of the Netherlands, Norway, Italy, Turkey, and the United Kingdom. Any industrial participation credit value resulting from SELLER's procurements, investments or technology transfers related to work to be performed under this Contract shall accrue solely to the benefit of LOCKHEED MARTIN for its use.

(c) In addition, SELLER agrees to provide to LOCKHEED MARTIN, at no additional cost, a report every six (6) months during the performance of this Contract summarizing, by country, SELLER's lower tier industrial participation plan, investment plan, and technology transfer activity related to work to be performed under this Contract.

#### **H-19 INVESTMENT**

Any decision by SELLER at, or prior to, the date of award of this Contract or at or prior to the date of execution of any modification to this Contract to (i) incur costs, by reason of investment or otherwise, that

are not expressly included in writing in the SELLER's bid, offer, or proposal to LOCKHEED MARTIN, agreed to by LOCKHEED MARTIN, and incorporated into this Contract's price, (ii) forego profit on costs, or (iii) apply a management decrement, is made at the sole risk of SELLER. SELLER acknowledges that the price of this Contract shall not be increased by any portion of incurred costs, foregone profit, or management decrement, for any reason, including, but not limited to, a termination for convenience of this Contract, notwithstanding any provisions of this Contract or applicable regulations governing termination for convenience settlements of purchase orders under United States Government prime contracts, unless LOCKHEED MARTIN expressly agrees in writing to pay such portion. LOCKHEED MARTIN, as set forth in the clause of this Contract entitled "Termination for Convenience (Fixed Price)," or "Termination (Cost Reimbursement)" may terminate this Contract for any reason if LOCKHEED MARTIN determines that it is in the LOCKHEED MARTIN's interest to do so. The term "any reason" includes, but is not limited to, termination of the LOCKHEED MARTIN's prime contract with the U.S. Government on any basis, convenience or default. A termination for default of this Contract is justified at any time where the circumstances provided in the clause of this Contract entitled "Default" apply.