



**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)**



**DFARS 252.227-7037 Validation of Restrictive Markings on Technical Data (Jun 2013)**

**DFARS 252.246-7003 Notification of Potential Safety Issues (Jun 2013)**

**DFARS 252.247-7023 Transportation of Supplies by Sea (Jun 2013)**

**Part II. The following FAR, DFARS, and other Agency clauses are incorporated into the Contract:**

**FAR 52.216-16 Incentive Price Revision -- Firm Target (Oct 1997)**

(Applicable to the Seller only if being awarded a fixed-price incentive contract. "Contracting Officer," "contract administrative office" and "Government" mean "Lockheed Martin." Paragraph (i) is deleted. The blanks in the clause shall be deemed to be completed with the amounts specified in the 2.9(r)-.6(f)-1.9

**FAR 52.233-3 Alt I Alternate I – Protest After Award (Jun 1985)**

("Protest" means "protest under the prime contract," and "Contracting Officer" and "Government" mean "Lockheed Martin." "30 days" is changed to "20 days.")

**FAR 52.244-6 Subcontracts for Commercial Items (Dec 2010)**

**FAR 52.245-9 Use and Charges (Apr 2012)**

(Communications with the Government under this clause will be made through Lockheed Martin. This clause shall only apply to tasks under this Contract involving non-commercial items where Government furnished property shall be provided through Lockheed Martin to the Seller.)

**FAR 52.246-2 Alt I – Inspection of Supplies Fixed-Price (Jul 1985)**

(The clause is applicable to the Seller only if being awarded a fixed price incentive contract.

"Government" means "Lockheed Martin and the Government" except in paragraphs (f), (j), and (l) where it means "Lockheed Martin." "Contracting Officer" means "Lockheed Martin.")

**FAR 52.246-**



(Applicable to the Seller for contracts for supplies, maintenance and repair services, or construction materials. "Contracting officer" means "Lockheed Martin.")

**DFARS 252.225-7012 Preference for Certain Domestic Commodities (Feb 2013)**

(Applicable to the Seller only if furnishing any of the items covered by this clause.)

**DFARS 252.225-**



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**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 supported by the submission of certified cost or pricing data and,
- b. The absence of such certified data shall not form the basis, directly or indirectly, for a claim by the Government of defective pricing against the Seller.

**3. Release of Responsibility.** The Government agrees not to hold the Seller responsible, directly or indirectly, for the delay, non-performance, or other non-compliance of work required under this contract to the extent such delay, non-performance, or non-compliance is solely attributable, in accordance with the terms of the PA and IA, to the action or inaction of an MSD performing an IA related to the Seller's performance obligations under this contract.

a. **Equitable Adjustment.** Subject to the provisions of FAR 52.249-14, Excusable Delays, such delay, non-performance, or other non-compliance attributable to the MSD in performing such PA/IA, may be considered to be an excusable delay for the Seller or non-compliance for which an equitable adjustment in the performance period and/or cost/price of this contract may be provided by the Government to the Seller. Further, such delay, non-performance, or non-compliance determined to be solely attributable to the MSD under FAR 52.249-14, Excusable Delays shall not be used by the Government, in whole or in part, as the basis for termination for default or withholding of payments under this contract. Any disagreement with the Contracting Officer's final decision regarding an equitable adjustment is subject to the Disputes clause.

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.



- (a) Performance-based payments shall form the basis for contract financing payments, if such payments are provided under this contract.