

LOCKHEED MARTIN CORPORATION

PRIME SUPPLEMENTAL FLOWDOWN DOCUMENT (PSFD)

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

Emerging Capabilities And Systems Engineering (ECASE) IDIQ NAVAIR Contract –

N00019-18-D-0129

For use with the 2018 version of Lockheed Martin CorpDocs

**Original - 18 April 2019
Revision 1 – 28 October 2020
Revision 2 – 23 February 2021**

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.

PART I. The dates of the following FAR and DFARS clauses are modified as follows:

FAR 52.219-9 SMALL BUSINESS SUBCONTRACTING PLAN (AUG 2018) (Applies if this contract exceeds \$700,000. Does not apply if Seller is a small business concern.) "Contracting Officer" means "Lockheed Martin" in paragraph (c). Seller's subcontracting plan is incorporated herein by reference.)

PART II. The following FAR, DFARS, and other Agency clauses are added:

FAR 52.216-16 INCENTIVE PRICE REVISION FIRM TARGET (OCT 1997). (Applies if this is an Incentive Price Revision contract. "Contracting Officer," "contract administrative office" and "Government" mean "Lockheed Martin." Paragraph (i) is deleted. The blanks in the clause are completed with the amounts specified in the contract.)

FAR 52.217-7 OPTION FOR INCREASED QUANTITY-SEPARATELY PRICED LINE ITEM (MAR 1989) ("Contracting Officer" and "Government" mean "Lockheed Martin.")

FAR 52.222-35 EQUAL OPPORTUNITIES FOR VETERANS (JUL 2014) (Applies if this contract is for \$100,000 or more.)

FAR 52.222-42 STATEMENT OF EQUIVALENT RATES FOR FEDERAL HIRES (MAY 1989)
(Applies if this subcontract is subject to FAR 52.222-41. The information contained in the blanks of this clause is specified elsewhere in this contract.)

FAR 52.222-44 FAIR LABOR STANDARDS ACT AND SERVICE CONTRACT ACT – PRICE ADJUSTMENT (SEP 2009) (Applies if FAR 52.222-41 applies to this contract. "Contracting Officer" means "Lockheed Martin and the Contracting Officer" except in paragraph (e) where it means "Lockheed Martin." The notice period in paragraph (e) is changed to twenty (20) days. Adjustments made to this contract shall not be made unless or until the Contracting Officer make appropriate adjustments to Lockheed Martin's prime contract.)

FAR 52.227-1 ALT I AUTHORIZATION AND CONSENT ALTERNATIVE I (APR 1984).
(Applies if this contract exceeds \$25,000. Not applicable to Commercial Items as defined in FAR 2.101.)

FAR 52.227-3 ALT II PATENT INDEMNITY ALTERNATE II (APR 1984) (This patent indemnification shall apply to Commercial Items (as defined in FAR 2.101) included within the end item deliverable.)

FAR 52.227-21 TECHNICAL DATA DECLARATION, REVISION, AND WITHHOLDING OF PAYMENT--MAJOR SYSTEMS (MAY 2014). ("Contracting Officer" means "Lockheed Martin." "Government" means "Lockheed Martin" in paragraph (b)(2) and "Lockheed Martin or Government" in paragraph (d). Applicable to any subcontract which requires the delivery of technical data. Not applicable to Commercial Items as defined in FAR 2.101.)

FAR 52.228-3 WORKERS' COMPENSATION INSURANCE (DEFENSE BASE ACT) (JUL 2014).
(Applies if Seller will perform work subject to the Defense Base Act 42 U.S.C. 1651 et seq.)

FAR 52.228-4 WORKERS' COMPENSATION AND WAR-HAZARD INSURANCE OVERSEAS (APR 1984)

FAR 52.229-8 TAXES FOREIGN COST-REIMBURSEMENT CONTRACTS (MAR 1990). (In paragraph (b), "Contracting Officer" and "Government of the United States" mean "Lockheed Martin." The blank is completed with information specified elsewhere in the contract. Does not apply for Commercial Items as defined in FAR 2.101.)

FAR 52.232-17 INTEREST (OCT 2010). (Applies if this Contract contains FAR clauses which expressly refer to an Interest clause, "Government" means "Lockheed Martin.")

FAR 52.239-1 PRIVACY OR SECURITY SAFEGUARDS (AUG 1996). (Does not apply for Commercial Items as defined in FAR 2.101.)

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

FAR 52.234-4 EARNED VALUE MANAGEMENT SYSTEM (MAY 2014). (Applies to Cost or Incentive contracts valued at \$20,000,000 or more. "Government" means "Lockheed Martin and Government. Paragraphs (j) and (i) are deleted. Does not apply for Commercial Items as defined in FAR 2.101

FAR 52.243-1 ALT V CHANGES-FIXED-PRICE- ALTERNATE V (APR 1984). ("Contracting Officer" and "Government" mean "Lockheed Martin." In paragraph (a) add as subparagraph (4) "Delivery schedule." In paragraph (e) the reference to the disputes clause is deleted.)

FAR 52.243-2 ALT I CHANGES-COST-REIMBURSEMENTV- ALTERNATE I (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.)

FAR 52.243-2 ALT II CHANGES-COST-REIMBURSEMENT – ALTERNATIVE 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.)

FAR 52.245-9 USE AND CHARGES (APR 2012). (Communications with the Government under this clause will be made through Lockheed Martin.)

FAR 52.246-1 CONTRACTOR INSPECTION REQUIREMENTS (APR 1984). (Government" means "Lockheed Martin." Does not apply for Commercial Items as defined in FAR 2.101.)

FAR 52.246-2 ALT I INSPECTION OF SUPPLIES FIXED-PRICE ALTERNATE I (JUL 1985) ("Government" means "Lockheed Martin and the Government" except in paragraphs (f), (j), and (l) where it means "Lockheed Martin." "Contracting Officer" means "Lockheed Martin." Does not apply for Commercial Items as defined in FAR 2.101.)

FAR 52.246-8 INSPECTION OF RESEARCH AND DEVELOPMENT COST-REIMBURSEMENT (MAY 2001). ("Government" means "Lockheed Martin" except (1) in paragraphs (b), (c) and (d) where it means "Lockheed Martin and the Government." and (2) in paragraph (k) where the term is unchanged. Does not apply for Commercial Items as defined in FAR 2.101.)

FAR 52.247-64 ALT I PREFERENCE FOR PRIVATELY OWNED U.S.-FLAG COMMERCIAL VESSELS ALTERNATE I (APR 2003). (In the last sentence of paragraph (c) "Subcontractor" means "Seller and lower term subcontractor." "Contracting Officer" means "Lockheed Martin.")

FAR 52.249-9 DEFAULT (FIXED-PRICE RESEARCH AND DEVELOPMENT) (APR 1984). ("Government" and "Contracting Officer" mean "Lockheed Martin" except in paragraph (c) where the term "Government" is unchanged. Does not apply for Commercial Items as defined in FAR 2.101.)

DFARS 252.204-7020 NIST SP 800-171 DoD ASSESSMENT REQUIREMENTS (NOV 2020). (Applies except if this Contract is for commercial off the shelf items,)

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 252.211-7005 SUBSTITUTIONS FOR MILITARY OR FEDERAL SPECIFICATIONS AND STANDARDS (NOV 2005). (Applicable to subcontracts where subcontractor Single Process Initiative block changes have been approved for use.)

DFARS 252.211-7006 PASSIVE RADIO FREQUENCY IDENTIFICATION (SEP 2011). (Applicable to subcontracts where the subcontractor will make direct shipments meeting the criteria at FAR 211.275-2 to the Government of items covered by the clause.)

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

DFARS 252.211-7008 USE OF GOVERNMENT-ASSIGNED SERIAL NUMBERS (SEP 2010)
(Applies if items are serially managed.)

DFARS 252.217-7028 OVER AND ABOVE WORK (DEC 1991). ("Administrative Contracting Officer," "Contracting Officer," and "Government" mean Lockheed Martin. Paragraph (f) is deleted. Applicable to subcontracts where over and above work may be required and no more specific arrangement for handling such work is specified in the subcontract. Does not apply for Commercial Items as defined in FAR 2.101.)

DFARS 252.219-7004 SMALL BUSINESS SUBCONTRACTING PLAN (TEST PROGRAM) (OCT 2014). (Applicable to participants in the DoD Test Program for the Negotiation of Comprehensive Small Business Subcontracting Plans)

DFARS 252.225-7006 QUARTERLY REPORTING OF ACTUAL CONTRACT PERFORMANCE OUTSIDE OF THE UNITED STATES (OCT 2010). (Applies if this contract exceeds \$550,000. Paragraph (f) is deleted.)

DFARS 252.225-7013 DUTY-FREE ENTRY (OCT 2013) (In paragraph (c), "Government" and "Contracting Officer" means "Lockheed Martin." The prime contract number and identity of the Contracting Officer are contained elsewhere in this contract. If this information is not available, contact Lockheed Martin's procurement representative.)

DFARS 252.225-7015 RESTRICTION ON ACQUISITION OF HAND OR MEASURING TOOLS (JUN 2005). (Applicable to subcontracts that requires the delivery of hand or measuring tools)

DFARS 252.225-7027 RESTRICTION ON CONTINGENT FEES FOR FOREIGN MILITARY SALES (APR 2003). (The reference to the clause in paragraph (a) means FAR 52.203-5. The blank in paragraph (b)(1) is completed with "any Government." Subparagraph (b)(2) is deleted.)

DFARS 252.225-7028 EXCLUSIONARY POLICIES AND PRACTICES OF FOREIGN GOVERNMENTS (APR 2003). (Does not apply for Commercial Items as defined in FAR 2.101.)

DFARS 252.225-7030 RESTRICTION ON ACQUISITION OF CARBON, ALLOY, AND ARMOR STEEL PLATE (DEC 2006). (Applies if this order is if for carbon, alloy, and armor steel plate in Federal supply class 9515, or described by American Society for Testing Materials (ASTM) or American Iron and Steel Institute (AISI) specifications. The clause is not applicable to commercial items defined under FAR 2.101.)

DFARS 252.227-7038 ALT I PATENT RIGHTS OWNERSHIP BY THE CONTRACTOR ALTERNATE I (DEC 2007) (Applies if this subcontract involves experimental, developmental, or research work.)

DFARS 252.227-7038 ALT II PATENT RIGHTS OWNERSHIP BY THE CONTRACTOR ALTERNATIVE II (DEC 2007). (Applies if this subcontract involves experimental, developmental, or research work.)

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. Does not apply for Commercial Items as defined in FAR 2.101.)

DFARS 252.234-7002 EARNED VALUE MANAGEMENT SYSTEM (MAY 2011). (Applies if this is a Cost or Incentive contract equal to or greater than \$20,000,000. "Government" means "Lockheed Martin and Government." Paragraphs (i) and (j) are deleted. Does not apply for Commercial Items as defined in FAR 2.101.)

DFARS 252.234-7003 NOTICE OF COST AND SOFTWARE DATA REPORTING SYSTEM (NOV 2014). (Applies if contract value equal to or greater than \$20 million. In paragraph (b), "Government" means Lockheed Martin.)

DFARS 252.234-7004 COST AND SOFTWARE DATA REPORTING SYSTEM (NOV 2010). (Applies if contract value is greater than \$50 million. In paragraph (b), "Government" means Lockheed Martin. Does not apply for Commercial Items as defined in FAR 2.101.)

DFARS 252.234-7004 ALT I COST AND SOFTWARE DATA REPORTING SYSTEM ALTERNATIVE I (NOV 2010) (Applies if contract value is greater than \$50 million.. In paragraph (b), "Government" means Lockheed Martin. Does not apply for Commercial Items as defined in FAR 2.101.)

DFARS 252.239-7001 INFORMATION ASSURANCE CONTRACTOR TRAINING AND CERTIFICATION (JAN 2008) ("Contractor" shall mean "SELLER" in this clause.)

DFARS 252.239-7016 TELECOMMUNICATIONS SECURITY EQUIPMENT, DEVICES, TECHNIQUES, AND SERVICES (DEC 1991). (Applies if this contract requires securing telecommunications. Does not apply for Commercial Items as defined in FAR 2.101.)

DFARS 252.243-7002 REQUESTS FOR EQUITABLE ADJUSTMENT(DEC 2012). ("Government" means "Lockheed Martin." Does not apply for Commercial Items as defined in FAR 2.101.)

DFARS 252.245-7001 TAGGING, LABELING, AND MARKING OF GOVERNMENT-FURNISHED PROPERTY (APR 2012). (Applicable to subcontracts where the items furnished by the subcontractor will be subject to serialized tracking.)

DFARS 252.245-7004 REPORTING, REUTILIZATION, AND DISPOSAL (MAY 2013). ("Contracting Officer" means Lockheed Martin.)

DFARS 252.246-7000 MATERIAL INSPECTION AND RECEIVING REPORT (MAR 2008). (Applies if this contract requires delivery of Items directly to the Government.)

DFARS 252.246-7001 WARRANTY OF DATA (MAR 2014). ("Government" means "Lockheed Martin or the Government." "Contracting Officer" means "Lockheed Martin." The last sentence in paragraph (b) is changed to read as follows: The warranty period shall extend for three years after

completion of delivery of the data to Lockheed Martin, or if the data is delivered to the Government, either by Lockheed Martin or Seller, the warranty period shall extend for three years after delivery to the Government." Does not apply for Commercial Items as defined in FAR 2.101.)

NAVAIR 5252.204-9501 NATIONAL STOCK NUMBERS (MAR 2007) (Applies to items that are stock numbered under Federal Catalog System procedures "Contracting Officer" means "Lockheed Martin.")

(a) This clause applies to supplies that are stock numbered under Federal Catalog System procedures.

(b) Unless otherwise authorized by the Contracting Officer, in writing, the Contractor shall not deliver any supplies until the supplies have been marked with a National Stock Number. All available National Stock Numbers will be furnished by the Government. If National Stock Numbers are not furnished by the Government in time to meet the delivery schedule for the supplies, the Contractor may present the supplies that are scheduled for delivery to the Contracting Officer for acceptance. The Contracting Officer may accept such supplies without National Stock Numbers and the Government will pay the Contractor therefore, provided that title to the supplies is vested in the Government.

(c) The term "Federal Stock Number" (FSN), which may be referred to in the specifications of this contract or elsewhere in this contract, shall mean "National Stock Number" (NSN), and the term "Federal Item Identification Number", wherever it appears, shall mean "National Item Identification Number".

(As used in the foregoing clause, the term "Contracting Officer" shall mean the "Administrative Contracting Officer" (ACO) with respect to provisioned items and other supplies ordered by the ACO.)

NAVAIR 5252.211-9510 CONTRACTOR EMPLOYEES (MAY 2011) (Does not apply for Commercial Items as defined in FAR 2.101.)

(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.

NAVAIR 5252.227-9501 INVENTION DISCLOSURES AND REPORTS (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.

Patent Counsel
Office of Counsel/AIR-11.0
Building 2272/Suite 257
NAVAIRSYSCOMHQ
47123 Buse Road/ Unit Moffet
Patuxent River, MD 20670-1547

(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.

NAVAIR 5252.227-9507 NOTICE REGARDING THE DISSEMINATION OF EXPORT-CONTROLLED TECHNICAL DATA (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.

NAVAIR 5252.228-9501 LIABILITY INSURANCE (MAR 1999) (Applies if Seller will be performing work on a Government installation. The blanks in the clause are completed as follows: a) \$200,000 and 500,000; b) \$200,000, \$500,000, \$500,000; c) \$100,000; d) \$200,000, \$500,000, \$200,000, \$200,000. Does not apply for Commercial Items as defined in FAR 2.101.)

The following types of insurance are required in accordance with the clauses entitled, "FAR 52.228-5, "Insurance--Work on a Government Installation"" and "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.

NAVAIR 5252.247-9508 PROHIBITED PACKING MATERIALS (JUN 1998) (Applies if Seller will make shipments under this contract directly to the Government. Does not apply for Commercial Items as defined in FAR 2.101.)

The use of asbestos, excelsior, newspaper or shredded paper (all types including waxed paper, computer paper and similar hydroscopic or non-neutral material) is prohibited. In addition, loose fill polystyrene is prohibited for shipboard use.

NAVAIR 5252.247-9509 PRESERVATION, PACKAGING, PACKING AND MARKING (JUL 1998) (Applies if Seller will make shipments under this contract directly to the Government. In subparagraph (b), "Contract Number" means "Lockheed Martin's prime contract number and the number assigned to this contract.")

(a) Preservation, packaging and packing shall conform to prevailing industry standards for the type of commodity purchased under this contract.

(b) All packages will be clearly marked with applicable contract number/delivery order number, and will contain appropriate packing slip. All deliveries will be marked for and/or consigned as follows:

To Be Specified in individual purchase orders.

(c) In the event of any discrepancy in material shipped (overage, technical rejection, damage), the contractor shall, immediately upon request of the Contracting Officer, furnish disposition instructions. Normally, such disposition instruction shall be a properly completed Commercial Bill of Lading which includes, but is not limited to, the mode of shipment, routing, special handling, and so forth.

(d) If the contractor is required to install equipment upon delivery, then the contractor shall inform the Government of the date of shipment from the contractor's facilities and the anticipated date of arrival at the site. This report shall be made no later than the actual date that the shipment is made from the contractor's facilities. The report may be made by facsimile or e-mail, to the point of contact listed in Section G. All transportation, rigging, drayage, packing, unpacking, and handling necessary to accomplish the installation shall be the responsibility of the contractor.

NAVAIR 5252.247-9510 PRESERVATION, PACKAGING, PACKING AND MARKING FOR FOREIGN MILITARY SALES (FMS) REQUIREMENTS (NAVAIR) (OCT 2005). (Applies if Seller will make shipments under this contract directly to the Government.)

(a) Unless specified elsewhere in the contract, packing and packaging shall comply with MIL-STD-129. Packing and packaging materials shall provide protection from abuse during handling and from environmental, magnetic, and electrical damage during handling and subsequent future storage, possibly under less than desirable conditions.

(b) Marking: All unit and exterior containers/packs shall as a minimum be marked as follows:

- (1) FMS Case Number.
- (2) Part Number (with CAGE Code).
- (3) For - the organization/address the material is shipped to.
- (4) The applicable MILSTRIP number (identified separately for each line item of the contract/delivery order)
- (5) Project Code number.
- (6) Project Directive Line Item (PDLI) Number.
- (7) Requisition Serial Number (RSN).
- (8) Quantity.
- (9) From - the contractor's address shipped from.

- (10) Ship to - the shipping address provided in the contract.
- (11) Transportation Priority
- (12) Required Delivery Date

(c) The contractor shall affix labels to the outside of each external pack warning all handlers that fragile, delicate, etc., equipment is contained within and to warn against particular improper handling and storage procedures/conditions as may be applicable to the item(s) ordered.

PART III. The following Special Contract Requirements (H clauses) are added:

H1--PRESERVATION OF RIGHTS FOR TECHNICAL DATA, COMPUTER SOFTWARE, AND COMPUTER SOFTWARE DOCUMENTATION ACCESSED, DELIVERED, OR PROVIDED ELECTRONICALLY

Information, whether delivered pursuant to the Supplier Data Requirements List (SDRL) 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 (JUN 2014), or “computer software” and “computer software documentation” under DFARS 252.227-7014, Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation (MAY 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, delivery by the Seller, or provision by the Seller is by electronic means. The rights of the parties shall be as specified in DFARS 252.227-7013 and DFARS 252.227-7014.

H2--5252.204-9504 DISCLOSURE OF INFORMATION (JAN 2007) (VARIATION)

- (a) The Seller shall not release to anyone outside the Seller’s organization any information (e.g., announcement of contact 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 F-35 Joint Program Office (JPO) has given prior written approval;
 - (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, and the purpose for the release. “Information” includes, but is not limited to, news releases, articles, manuscripts, brochures, advertisements, still and motion pictures, speeches, trade association meetings, symposia, and professional papers to be published. The Contractor shall submit the original and 1 copy of the information proposed for release to the JPO at the following address:

F-35 Joint Program Office
Attn: Public Affairs Officer
200 12th Street South, Suite 600
Arlington, VA 22202-5402

Where practicable, requests and the specific information may be provided to the Public Affairs Officer using an electronic medium appropriate for the security level of the information being transmitted. The Contractor shall submit its request to the Public Affairs Officer at least 15 working days before the proposed date for release.

(c) The Contractor shall include a statement indicating the project or effort depicted was or is sponsored by:

F-35 Joint Program Office
Arlington, VA 22202

(d) The Contractor agrees to include a similar requirement in each subcontract or purchase order under this contract. Subcontractors, suppliers, and vendors shall submit requests for authorization to release through the prime contractor to the Public Affairs Officer.

H-7 TECHNICAL DATA AND COMPUTER SOFTWARE LICENSE REFUND

If it is determined that any technical data or computer software licensed to Lockheed Martin by Seller via a Specifically Negotiated License (SNL) or through DFARS clauses 252.227-7013 or 252.227-7014, was not developed exclusively at private expense, the price of the license shall be refunded to Lockheed Martin.

1. The term “license fee” as used in this clause refers to any costs, fees, or charges for the use of or for data rights in connection with performing this contract or any subcontract hereunder. The term also includes any costs, fees, or charges associated with the access to, use of, or any other right pertaining to the software identified as an SNL or asserted to by the Contractor under DFARS clauses 252.227-7013 or 252.227-7014.

3. If it is determined that SNLs or Identified contractor Assertions of Restriction asserted to by the Seller under DFARS clauses 252.227-7013 or 252.227-7014 were not developed exclusively at private expense, in accordance with DFARS 252.227-7019 Validation of Asserted Restrictions - Computer Software, the license fees for the asserted software line item shall be refunded to Lockheed Martin.

H-8 – RIGHTS IN NONCOMMERCIAL DATA AND SOFTWARE

If the SELLER believes it to be in the best interest of the F-35 program to consider use or incorporation of any noncommercial technical data, noncommercial computer software, or noncommercial computer software documentation with less than Government Purpose rights other than assertions previously accepted under SELLER’s F-35 contracts, the SELLER shall submit a written request for approval to the BUYER prior to use or incorporation. The request for approval shall describe:

1. alternatives evaluated;
2. the benefit to the F-35 program for using the noncommercial technical data, noncommercial computer software, or noncommercial computer software documentation with less than Government Purpose Rights;
3. the name of the entity asserting less than Government Purpose Rights;
4. the basis for the assertion (per DFARS 252.227-7017), to include sufficient information to enable the BUYER to provide to the Contracting Officer to evaluate any listed assertions;
5. a Rough Order of Magnitude cost estimate 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).

BUYER shall provide timely notice of the Government’s response upon receipt from the Contracting Officer. Nothing in this clause precludes the Government from challenging any data rights assertions pursuant to DFARS 252.227-7019 or DFARS 252.227-7037.

