

NORTHROP GRUMMAN SYSTEMS CORPORATION

ADDENDUM TO USE WITH TERMS FOR OTHER TRANSACTION AGREEMENT (OTA) FIRM FIXED-PRICE SUBCONTRACTS IN SUPPORT OF THE ROUGHRIDER PROGRAM.

All of the additional terms and conditions set forth below are incorporated in and made part of this Order. Any conflict between any of the conditions contained in this addendum and those appearing on Northrop Grumman Purchase Order Terms and Conditions shall be resolved in favor of the conditions in the addendum.

This Agreement is an Other Transaction, and is therefore not a procurement contract, cooperative agreement or grant agreement. Accordingly, the provisions of the FAR or Department of Defense Federal Acquisition Regulations Supplement (DFARS) do not apply, unless explicitly included in this agreement.

INVENTIONS AND PATENTS

(a) Allocation of Principal Rights

The Performer shall retain ownership throughout the world to each Subject Invention consistent with the provisions of this Article and 35 U.S.C. § 202, provided the Performer has timely pursued a patent application and maintained any awarded patent and has not notified the Government (in accordance with paragraph (b) below) that the Performer does not intend to retain title.

The Performer shall retain ownership throughout the world to background inventions. Any invention conceived of or first actually reduced to practice in support of a Performer's internal development milestone outside the funded effort shall be a background invention of the Performer and shall not be classified as a Subject Invention, provided that an invention conceived of in support of an internal development milestone that is first actually reduced to practice under this Agreement in support of other than internal development milestones shall be considered a Subject Invention.

The Government is granted a nonexclusive, nontransferable, irrevocable, paid-tip license to practice or have practiced for, or on behalf of the United States, the Subject Invention throughout the world.

(b) Invention Disclosure. Election of Title, and Filing of Patent Application

The Performer shall disclose each Subject Invention to Northrop Grumman within two (2) months after the inventor discloses it in writing to the Prototype Inventor's personnel responsible for patent matters.

If the Performer determines that it does not intend to retain title to any Subject Invention, the Performer shall notify Northrop Grumman, in writing, within eight (8) months of disclosure to the Government. However, in any case where publication, sale, or public use has initiated the one (1)-year statutory period, wherein valid patent protection can still be obtained in the United States, the period for such notice is shortened to at least sixty (60) calendar days prior to the end of the statutory period.

(c) Conditions When the Government May Obtain Title

Upon written request by Northrop Grumman, the Performer shall convey title to any Subject Invention to the Government under any of the following conditions:

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(1) If the Performer fails to disclose or elects not to retain title to the Subject Invention within the times specified in paragraph (b) of this Article; provided, that the Government may only request title within sixty' (60) calendar days after learning of the failure of the Consortium Manager to disclose or elect within the specified times.

(2) In those countries in which the Performer fails to file patent applications within the times specified in paragraph (b) of this Article; provided, that if the Performer has filed a patent application in a country after the times specified in paragraph (b) of this Article, but prior to its receipt of the written request by the Government, the Performer shall continue to retain title in that country; or

(3) In any country in which the Performer decides not to continue the prosecution of any application for to pay the maintenance fees on or defend in reexamination or opposition proceedings on a patent on a Subject Invention.

(d) Minimum Rights to the Performer and Protection of the Performer's Right to File

The Performer shall retain a nonexclusive, royalty-free license throughout the world in each Subject Invention to which the Government obtains title, except if the Performer fails to disclose the Subject Invention

within the times specified in paragraph (b) of this Article. The Performer's license extends to the domestic (including Canada) subsidiaries and affiliates, if any, within the corporate structure of which the Performer is a

party and includes the right to grant sublicenses of the same scope to the extent that the Performer was legally obligated to do so at the time the Prototype Award was made. The license is transferable only with the approval of the Government, except when transferred to the successor of that part of the business to which the Subject Invention pertains. The Government's approval for license transfer shall not be unreasonably withheld.

The Performer's domestic license, as described above, may be revoked or modified by the Government to the extent necessary to achieve expeditious practical application of the Subject Invention pursuant to an application for an exclusive license submitted consistent with appropriate provisions at 37 CFR Part 404. This license shall not be revoked in that field of use or the geographical areas in which the Performer has achieved practical application and continues to make the benefits of the Subject Invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of the Government to the extent the Performer, its licensees, or the subsidiaries or affiliates have failed to achieve practical application in that foreign country.

Before revocation or modification of the license, Northrop Grumman shall furnish the Performer a written notice of its intention to revoke or modify the license, and the Performer shall be allowed thirty (30) calendar days (or such other time as may be authorized for good cause shown) after the notice to show cause why the license should not be revoked or modified.

(e) Action to Protect the Government's Interest

The Performer agrees to execute or to have executed and promptly deliver to Northrop Grumman all instruments necessary to (i) establish or confirm the rights the Government has throughout the world in those Subject Inventions to which the Performer elects to retain title, and (ii) convey title to the

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Government when requested under paragraph (c) of this Article and to enable the Government to obtain patent protection throughout the world in that Subject Invention.

The Performer agrees to require, by written Agreement, its employees, other than clerical and non-technical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the Performer each Subject Invention made under this Agreement in order that the Performer can comply with the disclosure provisions of paragraph (b) of this Article. The Performer shall instruct employees, through employee Agreements or other suitable educational programs, on the importance of reporting Subject Inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.

The Performer shall notify Northrop Grumman of any decisions not to continue the prosecution of a patent application, pay maintenance fees, or defend in a reexamination or opposition proceedings on a patent, in any country not less than thirty (30) calendar days before the expiration of the response period required by the relevant patent office.

The Performer shall include, within the specification of any U.S. patent application and any patent issuing thereon covering a Subject Invention, the following statement: "This Invention was made with Government support under Agreement No. [Restricted], awarded by the Government. The Government has certain rights in the Invention."

(f) March-in Rights

The Performer agrees that, with respect to any Subject Invention in which it has retained title, the Government has the right to require the Prototype Inventor, an assignee, or exclusive licensee of a Subject Invention to grant a non-exclusive license to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the Performer, assignee, or exclusive licensee refuses such a request, the Government has the right to grant such a license itself if the AO determines that:

(1) Such action is necessary because the Performer or assignee has not taken effective steps, consistent with the intent of this Agreement, to achieve practical application of the Subject Invention:

(2) Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the Performer, assignee, or their licensees; or

(3) Such action is necessary to meet requirements or public use and such requirements are not reasonably satisfied by the Performer, assignee, or licensees.

(g) Authorization and Consent

The Government authorizes and consents to all use and manufacture of any invention described in and covered by a U.S. patent in the performance of this Agreement.

(h) Notice and Assistance

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The Performer shall report to Northrop Grumman, promptly and in reasonable written detail, each notice or claim of patent or copyright infringement based on the performance of this Agreement of which the Performer has knowledge.

In the event of any claim or suit against the Government on account of any alleged patent or copyright infringement arising out of the performance of this Agreement or out of the use of any supplies furnished or work or services performed under this Agreement, the Performer shall furnish to the Government, when requested by Northrop Grumman, all evidence and information in the Performer's possession pertaining to such claim or suit. Such evidence and information shall be furnished at the expense of the Government except where the Performer has agreed to indemnify the Government.

(i) Lower Tier Agreements

The Performer shall include this Article, suitably modified, to identify the Parties, in all subcontracts or lower tier Agreements, regardless of tier, for experimental, developmental, or research work.

(j) Survival Rights

The obligations of the Government and the Performer under this Article shall survive after the expiration or termination of this Agreement.

DATA RIGHTS

(a) Definitions. As used in this Article—

Business Data: Recorded information, regardless of the form or method of the recording, including specific business data contained in a computer database, of a financial, administrative, cost or pricing, or management nature, or other information incidental to Agreement administration or protected from disclosure under FOIA, 5 U.S.C. § 552(b)(4).

Commercial Computer Software License: The license terms under which commercial computer software is sold or offered for sale, lease, or license to the general public.

Computer Database: A collection of data recorded in a form capable of being processed and operated by a computer. The term does not include computer software.

Computer Program: A set of instructions, rules, or routines, recorded in a form that is capable of causing a computer to perform a specific operation or series of operations.

Computer Software: Computer programs, source code, source code listings, object code listings, design details, algorithms, processes, flow charts, formulae, and related material that would enable the software to be

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reproduced, recreated, or recompiled. The term does not include computer databases or computer software documentation.

Computer Software Documentation: Owner's manuals, users' manuals, installation instructions, operating instructions, and other similar items, regardless of storage medium, that explain the capabilities of computer software or provide instructions for using or maintaining the computer software.

Form, Fit, and Function Data: For technical data, it means information that describes the required overall physical, functional, and performance characteristics (along with the qualification requirements, if applicable) of an item, component, or process to the extent necessary to permit identification of physically and functionally interchangeable items. For computer software, it means information identifying source, functional characteristics, and performance requirements, but specifically excludes the source code, algorithms, processes, formulas, and flow charts of the software.

Government Purpose: Any activity in which the USG is a party, including cooperative Agreements with international or multi-national defense organizations, or sales or transfers by the USG to foreign Governments or international organizations. Government Purposes include providing technical data and computer software for use in competitive procurements and/or other transaction Agreements, but do not include the rights to use, modify, reproduce, release, perform, display, or disclose technical data and computer software for commercial purposes or the authorization of others to do so.

Government Purpose Rights: The rights of the USG to (a) use, modify, reproduce, release, perform, display, or disclose technical data or computer software within the Government without restriction; and (b) release or disclose technical data or computer software outside the Government, and to authorize persons to whom release has been made to use, modify, reproduce, perform, or display that technical data or computer software, provided that the recipient exercises such rights for Government purposes only.

Limited Rights: The rights of the USG to use, modify, reproduce, release, perform, display, or disclose technical data, in whole or in part, within the Government.

Specially Negotiated License Rights: Rights to data that have been specifically negotiated between the Government and the Performer on behalf of the Performer whose proposal is selected by the Government under a call for proposals issued under the OTA.

Technical Data: Recorded information (regardless of the form or method of the recording, including computer databases) of a scientific or technical nature (including computer software documentation). The term includes recorded information of a scientific or technical nature that is included in computer databases (See 41 U.S.C. § 403(8)). This term does not include computer software or business data.

Unlimited Rights: Rights to use, duplicate, release, or disclose, data in whole or in part, in any manner and for any purposes whatsoever, and to have or permit others to do so.

(b) Data Category Definitions

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Category A: Data developed and paid for totally by private funds, or the IR&D Funds of the Performer, or its subcontractor(s). Category A data shall include, but not be limited to:

(1) Data or other material provided by the Performer used in performance of this Agreement which was not developed in the performance of work under that project, and for which the Performer retains all rights.

(2) Any initial data or technical, marketing, or financial data provided at the onset of the project by the Performer that was used in preparation of proposals or other items prior to Agreement award, including the proposal itself

Category B: Data developed under this Agreement that was accomplished partially with funding attributable to the USG under this Agreement as well as other private sources (mixed funding). This does not include any data developed under a previous Government Agreement, contract, or subcontract, in whole or in part.

Category C: Data developed exclusively with Government funds under this Agreement.

Category D: Data that is otherwise publicly available or that has been released or disclosed by the Performer without restrictions on further use, release or disclosure, other than a release or disclosure resulting from the sale, transfer, or other assignment of interest in the data to another party or the sale or transfer of some or all of a business entity or its assets to another party. This also includes data in which the Government has obtained unlimited rights under another Government contract or Agreement or as a result of negotiations.

U) The parties to this Agreement understand and agree that the Performer shall stamp all documents in accordance with this Article and that the FOIA and Trade Secrets Act (TSA) apply to such Data.

(c) Allocation of Principal Rights

Any data developed outside of this Agreement whether or not developed with any Government funding, in whole or in part, under a Government Agreement, contract, or subcontract shall have the rights negotiated under such prior Agreement, contract, or subcontract; the Government shall get no additional rights in such data under this Agreement.

The Performer grants the Government no rights to Category A data, unless rights are specifically negotiated into this Agreement on a per-item basis, such as a commercial computer software license, and set forth therein.

The Performer grants the Government a Government Purpose Rights license to all Category B and C data that is also:

(1) Technical data pertaining to an item, component, or process;

(2) Computer software developed for direct performance of the Agreement that is required to be delivered under this Agreement;

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- (3) Studies, analyses, test data, or similar data produced for this Agreement, when the study analysis, test, or similar work was specified as an element of performance;
- (4) Technical data created in the performance of the Agreement that does not require the development, manufacture, construction, or production of items, components, or processes;
- (5) Form, fit, and function data;
- (6) Data necessary for installation, operation, maintenance, or training purposes (other than detailed manufacturing or process data);
- (7) Computer software documentation required to be delivered under this Agreement;
- (8) Corrections or changes to technical data furnished to the Performer by the Government;

The Performer grants the Government an Unlimited Rights License to all Category D data.

The Government's rights to Category B, C, and Data vest upon provision of the data item or project/Agreement completion (whichever is earlier), except that the Performer may request a delay of the start of Government Purpose Rights in Category B data for a period not to exceed five (5) years from project or Agreement completion (whichever is earlier). Such requests will only be made in those cases where the Performer has provided information from the affected actual or prospective Performer demonstrating the need for this additional restriction on Government use and shall be submitted to Northrop Grumman for approval, as applicable, which approval shall not be unreasonably withheld. In the event of any dispute regarding approval of this request, the parties agree to treat this as a dispute and shall follow the provisions of Article IX.

Under this Agreement, the period of a Government Purpose Rights license shall be no less than five (5) years. In the event that the data subject to this Government Purpose Rights license is used to perform an additional Agreement during this five (5) year period, the Government Purpose Rights license shall be extended an additional five (5) years, starting from completion of the subsequent project.

Data that will be delivered, furnished, or otherwise provided to the Government as specified in a specific project award funded under this Agreement, in which the Government has previously obtained rights, shall be delivered, furnished, or provided with the pre-existing rights, unless (a) the Parties have agreed otherwise, or (b) any restrictions on the Government's rights to use, modify, reproduce, release, perform, display, or disclose the data have expired or no longer apply.

The Performer shall maintain a list of the Category A, B, and C developed under this Agreement and shall regularly update the list to identify any additional or previously unidentified data if such data will be used or generated in the performance of the funded work. Rights in such data shall be as established under the terms of this Agreement, unless otherwise asserted in a supplemental listing and agreed to by the Government.

Marking of Data

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The parties to this Agreement understand and agree that the Performer shall stamp all documents in accordance with this Article and that the FOIA and TSA apply to such data. Data provided under this Agreement shall be marked in accordance with the following legends:

(1) Category A Data: The Performer must use a company proprietary statement for items where the Government has no rights. For items where rights have been negotiated, the Performer shall use Special License markings as specifically negotiated between the parties in lieu of a company proprietary statement.

(2) Category B and C Data: The Performer must use the following mark: "This data item is provided to the Government under the Government Purpose Rights license as stated in Agreement [Insert Agreement #] with the Government. . The Governments rights to use, modify, reproduce, release, perform, display, or disclose this data is restricted. Any reproduction of this data item, or portions thereof, must also reproduce this marking in whole."

(3) Category D Data: The Performer shall leave all data in this category unmarked. Unmarked also means that the data item is devoid of any marking that may resemble markings appropriate for Category' A, B, and C data.

The Government shall presume that all unmarked data provided to the Government by' the Performer during performance is Category D data. In the event that a Performer learns of a release to the Government of its unmarked data that should have contained a restricted legend, the Performer will have the opportunity to cure such omission going forward by providing written notice to the Government within three (3) months of the erroneous release.

(e) Copyright

The Performer reserves the right to protect by copyright original works developed under this Agreement. All such copyrights will be in the name of the individual Performer. The Performer hereby grants to the U.S. Government a non-exclusive, non-transferable, royalty-free, fully paid-up license to reproduce, prepare derivative works, distribute copies to the public, and perform and/or display publicly, for Governmental purposes, any copyrighted materials developed under this Agreement, and to authorize others to do so.

In the event data is exchanged with a notice indicating that the data is protected under copyright as a published, copyrighted work, and it is also indicated on the data that such data existed prior to, or was produced outside of this Agreement, the Party receiving the data, and others acting on its behalf, may reproduce, distribute, and prepare derivative works for the sole purpose of carrying out that Party's responsibilities under this Agreement with the written permission of the Copyright holder.

Copyrighted data that existed or was produced outside of this Agreement and is unpublished - having only been provided under licensing Agreement with restrictions on its use and disclosure - and is provided under this Agreement shall be marked as unpublished copyright in addition to the appropriate license rights legend restricting its use and treated in accordance with such license rights legend markings restricting its use.

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The Performer is responsible for affixing appropriate markings indicating the rights of the Government on all data provided under this Agreement.

The Government agrees not to remove any copyright notices placed on data and to include such notices on all reproductions of the data.

(t) Data First Produced by the Government:

As to data first produced by the Government in carrying out the Government's responsibilities under this Agreement and which data is privileged or confidential if obtained from the Performer, such data will, to the extent permitted by law, be appropriately marked with a suitable notice or legend and maintained in confidence by the Performer to whom disclosed for three (3) years after the development of the information, with the express understanding that during the aforesaid period such data may be disclosed and used by Performer, including its respective employees or subcontractors of any tier, (under suitable protective conditions) by or on behalf of the Government for Government purposes only.

(g) Prior Technology

In the event it is necessary for the Government to furnish the Performer, including their respective employees or their subcontractors of any tier, with data which existed prior to, or was produced outside of this Agreement, and such data is so identified with a suitable notice or legend, the data will be maintained in confidence and disclosed and used only for the purpose of carrying out their responsibilities under this Agreement. Data protection will include proprietary markings and handling, and the signing of Non-Disclosure Agreements (NDAs) by the Performer and the Performers subcontractors of any tier and their respective employees) to whom such data is provided for use under the Agreement. Upon completion of activities under this Agreement, such data will be disposed of as requested by the Government.

In the event it is necessary for the Performer to furnish the Government with data which existed prior to, or was produced outside of this Agreement, and such data embodies trade secrets or comprises commercial or financial information which is privileged or confidential, and such data is so identified with a suitable notice or legend, the data will be maintained in confidence and disclosed and used by the Government and such Government Contractors or contract employees that the Government may hire on a temporary or periodic basis only for the purpose of carrying out the Government's responsibilities under this Agreement. Data protection will include proprietary markings and handling, and the signing of NDAs by such Government Contractors or contract employees. The Performer shall not be obligated to provide data that existed prior to or was developed outside of this Agreement to the Government. Upon completion of activities under this Agreement, such data will be disposed of as requested by the Performer.

Oral and Visual Information: If information which the Performer (or their subcontractors of any tier and their respective employees) considers to embody trade secrets or to comprise commercial or financial information which is privileged or confidential is expressly disclosed orally or visually directly to the Government, the exchange of such information must be memorialized in tangible, recorded form and marked with a suitable notice or legend and furnished to the Government within thirty (30) calendar days after such oral or visual disclosure, or the Government shall have no duty to limit or restrict, and shall not incur any liability for any disclosure and use of such information. Upon Government request, additional detailed information about the exchange will be provided subject to restrictions on use and disclosure.

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(h) Disclaimer of Liability

Notwithstanding the above, the Government shall not be restricted in, nor incur any liability for, the disclosure and use of:

(1) Data not identified with a suitable notice or legend as set forth in this Article; nor

(2) Information contained in any data for which disclosure and use is restricted under Article X, if such information is or becomes generally known without breach of the above, is properly known to the Government or is generated by the Government independent of carrying out responsibilities under this Agreement, is rightfully received from a third party without restriction, or is included in data which the Performer has furnished, or is required to furnish to the Government without restriction on disclosure and use.

(i) Ordering of Additional Data Beyond Agreement Completion

The Government may require the delivery of data first produced under this Agreement where the request is made within two (2) years following the Agreement completion date. In the event the Government orders such data, it shall pay the Performer the reasonable costs for all efforts to deliver such requested data, including but not limited to costs of locating such data, formatting, reproducing, shipping, and associated administrative costs.

(j) Lower Tier Agreements

The Performer shall include this Article, suitably modified to identify the Parties, in all subcontracts or lower tier Agreements, regardless of tier or work type.

(k) Survival Rights

The obligations of the Government and the Performer under this Article shall survive after the expiration or termination of this Agreement

COMPLIANCE WITH LAWS OF GENERAL APPLICABILITY

(a) Civil Rights Act

This Agreement is subject to the compliance requirements of Title VI of the Civil Rights Act of 1964 as amended, 42 U.S.C. § 2000-d, et seq., relating to nondiscrimination in Federally assisted programs. By signing this Agreement, the Performer assures its compliance with the nondiscriminatory provisions of the Act.

(b) Procurement Integrity Act

This Agreement is subject to the compliance requirements of Chapter 21 of Title 41, 41 USC 2101, et seq. (i.e., the Procurement Integrity Act), relating to the prohibitions on obtaining and disclosing procurement information. By signing this Agreement, the Performer assures its compliance to the Act.

(c) Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment

(1) Definitions. As used in this Article—

(i) Backhaul means intermediate links between the core network, or backbone network, and

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the small subnetworks at the edge of the network (e.g., connecting cell phones/towers to the core telephone network). Backhaul can be wireless (e.g., microwave) or wired (e.g., fiber optic, coaxial cable, Ethernet).

(ii) Covered foreign country means The People's Republic of China.

(iii) Covered telecommunications equipment or services means—

(A) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities);

(B) For the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);

(C) Telecommunications or video surveillance services provided by such entities or using such equipment; or

(D) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence (DNI) or the Director of the federal Bureau of Investigation (FBI), reasonably believes to be an entity owned or controlled by, or otherwise connected to, the Government of a covered foreign country.

(iv) Critical technology means—

(A) Defense articles or defense services included on the United States Munitions List set forth in the International Traffic in Arms Regulations (ITAR) under subchapter M of chapter I of title 22, Code of Federal Regulations (CFR);

(B) Items included on the Commerce Control List set forth in Supplement No. 1 to part 774 of the Export Administration Regulations under subchapter C of chapter VII of title 15, CFR, and controlled-

(C) Pursuant to multilateral regimes, including for reasons relating to national security, chemical and biological weapons proliferation, nuclear nonproliferation, or missile technology; or

a. For reasons relating to regional stability or surreptitious listening;

b. Specially designed and prepared nuclear equipment, parts and components, materials, software, and technology covered by part §10 of title 10, CFR (relating to assistance to foreign atomic energy activities);

(D) Nuclear facilities, equipment, and material covered by part 110 of title 10, CFR (relating to export and import of nuclear equipment and material);

(E) Select agents and toxins covered by part 331 of title 7, CFR, part 121 of title 9 of such Code, or part 73 of title 42 of such Code; or

(f) Emerging and foundational technologies controlled pursuant to section 1758 of the Export Control Reform Act of 2018 (50 U.S.C. 4817).

(v) Interconnection arrangements means arrangements governing the physical connection of two or more networks to allow the use of another's network to hand off traffic where it is ultimately delivered (e.g., connection of a customer of telephone provider A to a customer of telephone company B) or sharing data and other information resources.

(vi) Partner Entity means any organization that, through contractual or other agreement with the Performer, contributes to the performance of this Agreement in any capacity.

(vii) Reasonable inquiry means an inquiry designed to uncover any information in the entity's possession about the identity of the producer or provider of covered telecommunications

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equipment or services used by the entity that excludes the need to include an internal or third party audit.

(viii) Roaming means cellular communications services (e.g., voice, video, data) received from a visited network when unable to connect to the facilities of the home network either because signal coverage is too weak or because traffic is too high.

(ix) Substantial or essential component means any component necessary for the proper function or performance of a piece of equipment, system, or service.

(2) Prohibition. (1) Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115—232) prohibits the head of an executive agency on or after August 13, 2019, from procuring or obtaining, or extending or renewing an Agreement to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. The Performer is prohibited from providing to the Government any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

(3) Section 889(a)(1)(B) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115—232) prohibits the head of an executive agency on or after August 13, 2020, from entering into an Agreement, or extending or renewing an Agreement, with an entity that uses any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. This prohibition applies to the use of covered telecommunications equipment or services, regardless of whether that use is in performance of work under a Federal contract or Agreement.

(4) Exceptions. This clause does not prohibit the Performer from providing—

(i) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(ii) Telecommunications equipment that cannot route, redirect user data traffic, or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(5) Reporting requirement.

(i) In the event the Performer identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during Agreement performance, or the Performer is notified of such by a subcontractor at any tier or by any other source, the Performer shall report the information to Northrop Grumman.

(ii) The Performer shall report the following information pursuant to this Article:

(A) Within one business day from the date of such identification or notification: the Agreement number; the order number(s), if applicable; supplier name; supplier Unique Entity Identifier (UEI) (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.

(B) Within ten (10) business days of submitting the information in paragraph (c) (5) (ii) (A) of this Article: any further available information about mitigation actions undertaken or recommended. In addition, the Performer shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications

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equipment or services.

(6) The Performer agrees to flow down the requirements set forth in this Article to any partner entities.

OBLIGATION AND PAYMENT

The Performer agrees to perform the Agreement up to the point at which the total amount payable by the Government, including reimbursement in the event of termination of those items for the Government's convenience, is no more than the total amount currently allotted to the Agreement. The Performer will not be obligated to continue work on those items beyond that point. The Government will not be obligated in any event to reimburse the Performer in excess of the amount allotted to the Agreement for those items.

(b) Payments

Payments shall be made for successful completion of Agreement milestones in the amounts set forth in the TDD, after the Government verifies accomplishment of the milestones.

The Performer shall document for acceptance by the Government the accomplishments of each milestone and shall submit such documentation to Northrop Grumman for approval. After written verification of the accomplishment of the milestone by the Government within 7 calendar days, the Performer may submit their invoice pursuant to this Article.

(c) Payment Terms

Payment terms are NET 30 days from receipt of an acceptable invoice from the Performer.

(d) Incremental Funding

The Government may obligate funds to the Agreement incrementally at the discretion of the AO. In instances where a program is not fully funded at the time of award, the Government's obligation will at all times be limited to the amount obligated for each OT Agreement. The Government will not reimburse the Performer for any expenditure in excess of the total funds obligated to each prototype.

Funds allotted for a specific prototype cannot be used for any purpose other than the expressly stated purpose of that specific prototype.

(e) Invoicing Requirements

Performers with access to the Contractor Wide-Area Network (CWAN) or Industry Partner Access (IPA) shall submit all invoices using USG Electronic Invoicing. Performers without access to USG Electronic Invoicing shall submit a Standard Form 1034 (SF-1034), Public Voucher for Purchases and Services Other Than Personal, or a commercial invoice via e-mail to the Northrop Grumman, who will then submit approved invoices to the Government Billing Office. The Government may ask for additional details on commercial invoices to facilitate the internal processing of the invoice. Commercial invoices must contain substantially the same information as found on an SF-1034.

Supporting Documentation. The Performer shall submit documentation supporting all amounts billed with each invoice. Upon request, the Performer will also submit any additional documentation reasonably requested by Northrop Grumman as necessary to support the Agreement invoice process.

The Government will notify the Performer of any apparent error, defect, or impropriety in an invoice within seven (7) days of receipt by the Billing Office. Inquiries regarding vouchers/invoices submitted to the billing office should be directed to Northrop Grumman. The Performer shall promptly notify Northrop Grumman of any changes to electronic funds transfer (EFT) information, taxpayer identification number (TIN), or any other relevant banking and/or tax information by submitting revised information to Northrop Grumman in writing as necessary.

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(f) Accounting System Requirements

The following applies only if this Agreement provides for cost sharing between the Parties:

The Performer agrees to establish and maintain an acceptable accounting system which complies with Generally Accepted Accounting Principles and the requirements of this Agreement and shall ensure that appropriate arrangements have been made for receiving, distributing, and accounting for all funding under the Agreement. An acceptable accounting system is one in which all cash receipts and disbursements are controlled and documented properly.

The Performer shall provide to the Government independent verification from a third-party auditor that their accounting system is appropriate for tracking cost share contributions made by the Performer. The Performer shall maintain the tracking ability throughout the term of this Agreement.

(g) Access to Financial Records and Reports

The Performer shall maintain adequate records to account for all funding under this Agreement. Upon completion or termination of this Agreement, whichever occurs earlier, the Performer shall furnish the Final Report to Northrop Grumman required by the TDD. The Performer's relevant financial records are subject to examination or audit on behalf of the Government for a period not to exceed three (3) years after expiration of the term of this Agreement. Northrop Grumman shall have direct access to sufficient records and information of the Performer to ensure full accountability for all funding under this Agreement. Such audit, examination, or access shall be performed during business hours on business days upon prior written notice and shall be subject to the security requirements of the audited party.

To the extent that the total Government payments under the Agreement exceed \$5,000,000, the Comptroller General of the United States, in its discretion, shall have access to and the right to examine records of any party to the Agreement or any entity that participates in the performance of this Agreement that directly pertain, to and involve transactions relating to, the Agreement for a period of three (3) years after final payment is made. This requirement shall not apply with respect to any party to this Agreement or any entity that participates in the performance of the Agreement, or any subordinate element of such party or entity, that, in the year prior to the date of the Agreement, has not entered into any other contract, grant, cooperative Agreement, or other transaction Agreement that provides for audit access to its records by a Government entity in the year prior to the date of this Agreement. This paragraph only applies to any record that is created or maintained in the ordinary course of business or pursuant to a provision of law. The terms of this paragraph shall be included in all sub Agreements/contracts to the Agreement.

PROTECTION OF NON-PUBLIC INFORMATION

(a) Definitions. As used in this Article—

Confidential Information: All material, non-public, business-related information, written or oral, whether or not it is marked as such, that is disclosed or made available to the receiving party, directly or indirectly, through any means of communication or observation.

Disclosing Party: The Performer, to include their subcontractors or suppliers, or the Government who discloses Non-Public Information as contemplated by the subsequent paragraphs.

Receiving Party: The Performer, to include their subcontractors or suppliers, or the Government who receives Non-Public Information disclosed by a Disclosing Party.

Non-Public Information: Information and materials of a Disclosing Party which are

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designated as Confidential Information or as a Trade Secret, in writing, by such Disclosing Party, whether by letter or by use of an appropriate stamp or legend, prior to or at the same time any such information or materials are disclosed by such Disclosing Party to the Receiving Party.

“Non-Public Information” includes any information and materials considered a Trade Secret by the Performer on its own behalf or on behalf of their subcontractors or suppliers.

Trade Secret: All forms and types of financial, business, scientific, technical, economic, engineering or otherwise proprietary information, including, but not limited to, patterns, plans, compilations, program devices, formulas, designs, prototypes, methods, techniques, processes, procedures, programs, or codes, whether tangible or intangible, and whether or how stored, compiled, or memorialized physically, electronically, graphically, photographically, or in writing if (a) The owner thereof has taken reasonable measures to keep such information secret; and (b) The information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable through proper means by, the public.

(b) Exchange of Information

The Government may, from time to time, disclose Government Non-Public Information to the Performer and its subcontractors or suppliers, in connection with a particular project, and the Performer and its subcontractors or suppliers, may from time to time disclose information that is a Trade Secret or Confidential Information to the Government in connection with the Agreement or performance thereunder. Neither the Government nor the Performer or their subcontractors or suppliers shall be obligated to transfer Non-Public Information independently developed by the Parties, absent an express written Agreement between the Parties providing the terms and conditions for such disclosure.

Notwithstanding the foregoing, materials and other information which are orally, visually, or electronically disclosed by a Disclosing Party, or are disclosed in writing without an appropriate letter, stamp, or legend, shall constitute Non-Public Information if such Disclosing Party, within thirty (30) calendar days after such disclosure, delivers to the Receiving Party a written document or documents describing the material or information and indicating that it is Non Public Information, provided that any disclosure of information by the Receiving Party prior to receipt of such notice shall not constitute a breach by the Receiving Party of its obligations under this Article.

(c) Confidentiality and Authorized Disclosure

The Receiving Party agrees, to the extent permitted by law, that Non-Public Information shall remain the intellectual property of the Disclosing Party (no one shall disclose unless they have the right to do so), and that, unless otherwise agreed to by the Disclosing Party, Non-Public Information and Trade Secrets shall not be disclosed, divulged, or otherwise communicated by it to third parties or used by it for any purposes other than in connection with specified project efforts and the licenses granted in Article XI and Article XII, provided that the duty to protect such “Non-Public Information” and “Trade Secrets” shall not extend to materials or information that:

- (1) Are received or become available without restriction to the Receiving Party under a proper, separate Agreement;
- (2) Are not identified with a suitable notice or legend per Article entitled “Non-Public Information” herein;
- (3) Are lawfully in possession of the Receiving Party without such restriction to the Receiving Party at the time of disclosure thereof, as demonstrated by prior written records;
- (4) Are or later become part of the public domain through no fault of the Receiving Party;
- (5) Are received by the Receiving Party from a third party having no obligation of

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confidentiality to the Disclosing Party that made the disclosure;

(6) Are developed independently by the Receiving Party without use of Confidential Information or Trade Secrets, as evidenced by written records; and/or

(7) Are required by law or regulation to be disclosed; provided, however, that the Receiving Party has provided written notice to the Disclosing Party promptly to enable such Disclosing Party to seek a protective order or otherwise prevent disclosure of such information.

(d) Return of Proprietary Information

Upon the request of the Performer, the Government shall promptly return all copies and other tangible manifestations of the Non-Public Information or Trade Secrets disclosed. Upon request by the Government, Performer shall promptly return all copies and other tangible manifestations of the Non-Public Information disclosed by the Government. As used in this section, tangible manifestations include human readable media as well as magnetic and digital storage media. In the event the return of all tangible manifestations is not practicable within 3 years after the end of the period of performance, a Party may propose an alternative process to ensure the verifiable destruction of such tangible manifestations. Both Parties must agree upon such alternative process, in writing, prior to implementation.

(e) Protection of Certain Information from Disclosure

Disclosure by the Government of the following information is not required and may not be compelled under 5 U.S.C. § 552 (commonly known as the Freedom of Information Act (FOIA)) for five (5) years after the date on which the information is received by the Government. Such information is a proposal, proposal abstract, and supporting documents; a business plan submitted on a confidential basis; or technical information submitted on a confidential basis. In any case, this provision applies to information that is in the records of the Government if the information was submitted by Performer in a competitive or noncompetitive process having the potential for resulting in an award authorized under 10 U.S.C. § 4022.

(f) Term

Except to the extent covered by and subject to other provisions of this Agreement or the specific Project Agreement, the obligations of the Receiving Party under this Article shall continue for a period of five (5) years after the expiration or termination of this Agreement. The Government and the Performer shall flow down the requirements of this Article to their respective personnel, agents, partners, team members, subcontractors, and suppliers receiving such Non-Public Information under this Agreement.

INVENTIONS AND PATENTS

(a) Allocation of Principal Rights

The Performer shall retain ownership throughout the world to each Subject Invention consistent with the provisions of this Article and 35 U.S.C. §202, provided the Performer has timely pursued a patent application and maintained any awarded patent and has not notified the Government (in accordance with paragraph (b) below) that the Performer does not intend to retain title.

The Performer shall retain ownership throughout the world to background inventions. Any invention conceived of or first actually reduced to practice in support of a Performer's internal development milestone outside the funded effort shall be a background invention of the Performer and shall not be classified as a Subject Invention, provided that an invention conceived of in support of an internal development milestone that is first actually reduced to

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practice under this Agreement in support of other than internal development milestones shall be considered a Subject Invention.

The Government is granted a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for, or on behalf of the United States, the Subject Invention throughout the world.

(b) Invention Disclosure, Election of Title, and Filing of Patent Application

The Performer shall disclose each Subject Invention to Northrop Grumman within two (2) months after the inventor discloses it in writing to the Prototype Inventor's personnel responsible for patent matters.

If the Performer determines that it does not intend to retain title to any Subject Invention, the Performer shall notify Northrop Grumman, in writing, within eight (8) months of disclosure to the Government. However, in any case where publication, sale, or public use has initiated the one (1)-year statutory period, wherein valid patent protection can still be obtained in the United States, the period for such notice is shortened to at least sixty (60) calendar days prior to the end of the statutory period.

(c) Conditions When the Government May Obtain Title

Upon written request by the AO or AS, the Performer shall convey title to any Subject Invention to the Government under any of the following conditions:

(1) If the Performer fails to disclose or elects not to retain title to the Subject Invention within the times specified in paragraph (b) of this Article; provided, that the Government may only request title within sixty (60) calendar days after learning of the failure of the Performer to disclose or elect within the specified times.

(2) In those countries in which the Performer fails to file patent applications within the times specified in paragraph (b) of this Article; provided, that if the Performer has filed a patent application in a country after the times specified in paragraph (b) of this Article, but prior to its receipt of the written request by the Government, the Performer shall continue to retain title in that country: or

(3) In any country in which the Performer decides not to continue the prosecution of any application for, to pay the maintenance fees on, or defend in reexamination or opposition proceedings on, a patent on a Subject Invention.

(d) Minimum Rights to the Performer and Protection of the Performer's Right to file

The Performer shall retain a nonexclusive, royalty-free license throughout the world in each Subject Invention to which the Government obtains title, except if the Performer fails to disclose the Subject Invention within the times specified in paragraph (b) of this Article. The Performer's license extends to the domestic (including Canada) subsidiaries and affiliates, if any, within the corporate structure of which the Performer is a party and includes the right to grant sublicenses of the same scope to the extent that the Performer was legally obligated to do so at the time the Prototype Award was made. The license is transferable only with the approval of the Government, except when transferred to the successor of that part of the business to which the Subject Invention pertains. The Government's approval for license transfer shall not be unreasonably withheld.

The Performer's domestic license, as described above, may be revoked or modified by the Government to the extent necessary to achieve expeditious practical application of the Subject Invention pursuant to an application for an exclusive license submitted consistent with appropriate provisions at 37 CFR Part 404. This license shall not be revoked in that field of use or the geographical areas in which the Performer has achieved practical application and continues to make the benefits of the Subject Invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of the Government to

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the extent the Performer, its licensees, or the subsidiaries or affiliates have failed to achieve practical application in that foreign country.

Before revocation or modification of the license, Northrop Grumman shall furnish the Performer a written notice of the Government's intention to revoke or modify the license, and the Performer shall be allowed thirty (30) calendar days (or such other time as may be authorized for good cause shown) after the notice to show cause why the license should not be revoked or modified.

(e) Action to Protect the Government's Interest

The Performer agrees to execute or to have executed and promptly deliver to Northrop Grumman all instruments necessary to (i) establish or confirm the rights the Government has throughout the world in those Subject Inventions to which the Performer elects to retain title, and (ii) convey title to the Government when requested under paragraph (c) of this Article and to enable the Government to obtain patent protection throughout the world in that Subject Invention.

The Performer agrees to require, by written Agreement, its employees, other than clerical and non-technical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the Performer each Subject Invention made under this Agreement in order that the Performer can comply with the disclosure provisions of paragraph (5) of this Article. The Performer shall instruct employees, through employee Agreements or other suitable educational programs, on the importance of reporting Subject Inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.

The Performer shall notify Northrop Grumman of any decisions not to continue the prosecution of a patent application, pay maintenance fees, or defend in a reexamination or opposition proceedings on a patent, in any country, not less than thirty (30) calendar days before the expiration of the response period required by the relevant patent office.

The Performer shall include, within the specification of any U.S. patent application and any patent issuing thereon covering a Subject Invention, the following statement: "This Invention was made with Government support under Agreement No. [Insert Agreement Number Here], awarded by the Government. The Government has certain rights in the Invention.

(f) March-in Rights

The Performer agrees that, with respect to any Subject Invention in which it has retained title, the Government has the right to require the Prototype Inventor, an assignee, or exclusive licensee of a Subject Invention to grant a non-exclusive license to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the Performer, assignee, or exclusive licensee refuses such a request, the Government has the right to grant such a license itself if the AO determines that:

(1) Such action is necessary because the Performer or assignee has not taken effective steps, consistent with the intent of this Agreement, to achieve practical application of the Subject Invention;

(2) Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the Performer, assignee, or their licensees; or

(3) Such action is necessary to meet requirements for public use and such requirements are not reasonably satisfied by the Performer, assignee, or licensees.

(g) Authorization and Consent

The Government authorizes and consents to all use and manufacture of any invention described in and covered by a U.S. patent in the performance of this Agreement.

(h) Notice and Assistance

The Performer shall report to Northrop Grumman, promptly and in reasonable written detail, each

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notice or claim of patent or copyright infringement based on the performance of this Agreement of which the Performer has knowledge.

In the event of any claim or suit against the Government on account of any alleged patent or copyright infringement arising out of the performance of this Agreement or out of the use of any supplies furnished or work or services performed under this Agreement, the Performer shall furnish to the Government, when requested by Northrop Grumman, all evidence and information in the Performer's possession pertaining to such claim or suit. Such evidence and information shall be furnished at the expense of the Government except where the Performer has agreed to indemnify the Government.

(i) Lower Tier Agreements

The Performer shall include this Article, suitably modified, to identify the Parties, in all subcontracts or lower tier Agreements, regardless of tier, for experimental, developmental, or research work.

(j) Survival Rights

The obligations of the Government and the Performer under this Article shall survive after the expiration or termination of this Agreement.

PUBLICATION AND PUBLICITY

(a) Non-Publicity

Public announcement of the award of this Agreement and subsequent modifications is prohibited. The Performer shall not use or allow to be used any aspect of this Agreement for publicity, advertisement, or any other public relations purpose without express permission of the AO or AS. This obligation shall not expire upon completion or termination of this Agreement and shall continue until rescinded by the U.S. Government.

(b) Use of Information

There shall be no dissemination or publication, except within and between the Performer and any subcontractors, of information developed under this Agreement, or contained in the reports to be furnished pursuant to this Agreement, without prior written approval of the Government AO or AS. All technical reports will be given proper review by appropriate Government authority to determine which Distribution Statement is to be applied prior to the initial distribution of these reports by the Performer. Unclassified patent related documents are exempt from prepublication controls and this review requirement. There shall be no dissemination or publication, except within and between the Performer and any subcontractor(s), of information developed under this effort without first obtaining approval for public release from the Government Information Management Services Office.

(c) Lower Tier Agreements

The Performer shall flow down these requirements to its partners and team members at all tiers.

FOREIGN OWNERSHIP, CONTROL, INFLUENCE, ACCESS TO TECHNOLOGY & EXPORT CONTROL

(a) Definitions. As used in this Article—

Effectively Owned or Controlled: A foreign Government or any entity controlled by a foreign Government has the power, either directly or indirectly, whether exercised or exercisable, to control the election, appointment, or tenure of the Performer's officers or a majority of the Performer's board of directors by any means, e.g., ownership, contract, or operation of law (or equivalent power for unincorporated organizations).

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Entity Controlled by a Foreign Government: Any domestic or foreign organization or corporation that is effectively owned or controlled by a foreign Government, or any individual acting on behalf of a foreign Government. It does not include an organization or corporation that is owned, but is not controlled, directly or indirectly, by a foreign Government if the ownership of that organization or corporation by that foreign Government was effective before 23 October 1992.

Foreign Firm or Institution: A firm or institution organized or existing under the laws of a country other than the United States, its territories, or possessions. The term includes, for purposes of this Agreement, any agency or instrumentality of a foreign Government; and firms, institutions, or business organizations which are owned or substantially controlled by foreign Governments, firms, institutions, or individuals.

Foreign Government: The state and the Government of any country (other than the United States and its outlying areas) as well as any political subdivision, agency, or instrumentality thereof.

Know-How: All information including, but not limited to, discoveries, formulas, materials, inventions, processes, ideas, approaches, concepts, techniques, methods, software, programs, documentation, procedures, firmware, hardware, technical data, specifications, devices, apparatus, and machines.

Proscribed Information:

(1) Top Secret (TS) information:

(2) Communications Security (COMSEC) material, excluding controlled cryptographic items when un-keyed or utilized with unclassified keys;

(3) Restricted Data as defined in the U.S. Atomic Energy Act of 1954, as amended;

(4) Special Access Program (SAP) information; or

(5) Sensitive Compartmented Information (Sd).

Technology: Discoveries, innovations, Know-How and inventions, whether patentable or not, including computer software, recognized under U.S. law as intellectual creations to which rights of ownership accrue, including, but not limited to, patents, trade secrets, mask works, and copyrights developed under this Agreement.

(b) General

The Parties agree that research findings and technology developments arising under this Agreement may constitute a significant enhancement to the national defense, and to the economic vitality of the U.S. Accordingly, access to important technology developments under this Agreement by Foreign Firms or Institutions must be carefully controlled. The controls contemplated in this Article are in addition to, and are not intended to change or supersede, the provisions of the International Traffic in Arms Regulation (ITAR) (22 CFR Part 121 et seq.), the Department of Commerce Export Regulation (15 CFR Part 770 et seq.), and Article XV of this Agreement.

If this Agreement requires access to proscribed information to perform the Agreement, the Performer shall disclose any interests a foreign Government has in itself, its immediate parent, intermediate parent, and any ultimate parent corporation. This Agreement shall not be performed by entities controlled by a foreign Government, unless the Director, The Government, or a designee, has waived application of 10 U.S.C. §2536(a).

(c) Disclosure of Foreign Government Control

The Performer shall disclose any interest a foreign Government has in the Performer when that interest constitutes control by a foreign Government as defined in this Article. If the

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Performer is a subsidiary, it shall also disclose any reportable interest a foreign Government has in any entity that owns or controls the subsidiary, including reportable interest concerning the Performer's immediate parent, intermediate parent, and the ultimate parent.

The Performer shall submit a current SF 328, Certificate Pertaining to Foreign Interests, prior to Agreement award. The SF 328 must include the following information:

- (1) Performer's point of contact for questions about disclosure (name and phone number with country/city/area codes, as applicable);
- (2) Name and address of the Performer;
- (3) Name and address of entity controlled by a foreign Government; and
- (4) Description of interest, ownership percentage, and identification of foreign Government.

If during performance of the Agreement, foreign Government ownership or control status of the Performer changes, the Performer shall submit an updated SF 328 to Northrop Grumman within one (1) week of the change.

(d) Restrictions on Sale or Transfer of Technology to Foreign Firms or Institutions

In order to promote the national security interests of the U.S. and to effectuate the policies that underlie the regulations cited above, the procedures stated in paragraphs (d)(2), (d)(3), and (d)(4) below shall apply to any transfer of technology. For purposes of this paragraph, a transfer includes a sale of the company, and sales or licensing of technology. Transfers do not include:

- (1) Sales of products or components, or
- (2) Licenses of software or documentation related to sales of products or components, or
- (3) Transfer to foreign subsidiaries of the Performer member entities for purposes related to this Agreement, or
- (4) Transfer which provides access to technology to a foreign firm or institution which is an approved source of supply or source for the conduct of research under this Agreement if such transfer shall be limited to that necessary to allow the firm or institution to perform its approved role under this Agreement, or
- (5) Releases pursuant to Article XIII.

The Performer shall provide timely notice to the Government of any proposed transfers of technology developed under this Agreement to foreign firms or institutions. If the Government determines that the transfer may have adverse consequences to the national security interests of the U.S., the Performer and the Government shall jointly endeavor to find alternatives to the proposed transfer which obviate or mitigate potential adverse consequences of the transfer but which provide substantially equivalent benefits to the Performer.

In any event, the Performer shall provide written notice to the Government of any proposed transfer to a foreign firm or institution at least sixty (60) calendar days prior to the proposed date of transfer. Such notice shall cite this Article and shall state specifically what is to be transferred and the general terms of the transfer. Within thirty (30) calendar days of receipt of the Performer's written notification, Northrop Grumman shall advise the Performer whether it consents to the proposed transfer. In cases where the Government does not concur or if within sixty (60) calendar days after its receipt the Government has provided no decision, the Performer may utilize the procedures under Article IX. No transfer shall take place until a decision is rendered.

In the event a transfer of technology to foreign firms or institutions which is NOT approved by the Government takes place, the Performer shall:

- (1) Refund to the Government those funds paid under this Agreement for the development of the technology; and
- (2) Provide to the Government a non-exclusive, nontransferable, irrevocable, paid-up license to practice or have practiced on behalf of the U.S. the technology throughout the world for

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Government and any and all other purposes, particularly to effectuate the intent of this Agreement.

Upon request of the Government, the Performer shall obtain and provide written confirmation of such licenses described in paragraph (d).

(e) Export Compliance

Information subject to the Arms Export Control Act, 22 U.S.C. § 2751, et seq., the ITAR, 22 C.F.R. § 120, et seq., and the Export Administration Act, 50 U.S.C. app. § 2401, et seq., requires that all unclassified technical data with military application may not be exported lawfully without an approval, authorization, or license under Executive Order (E.O.) 12470 or the Arms Export Control Act, and that such data requires an approval, authorization, or license under E.O. 12470 or the Arms Export Control Act. The Performer shall not export, directly or indirectly, any products and/or technology, confidential information, trade secrets, or classified and unclassified technical data in violation of any U.S. export laws or regulations. All documents determined to contain export-controlled technical data shall be marked with the following notice:

WARNING - this document contains technical data whose export is restricted by the Arms Export Control Act (Title 22, U.S.C., and Sec 2751, et seq.) or the Export Administration Act of 1979, as amended, Title 50, U.S.C., App. 2401 et seq. Violations of these export laws are subject to severe criminal penalties. Disseminate in accordance with provision of DOD Directive 5230.25.

(f) Lower Tier Agreements

The Performer shall include this Article, suitably modified to identify all Parties, in all lower tier Agreements. This Article shall, in turn, be included in all sub-tier subcontracts or other forms of lower tier Agreements, regardless of tier.

SECURITY REQUIREMENTS

(a) Applicability

This Article applies to the extent that this Agreement involves access to national security information, up to and including Sensitive Compartmented Information (Sd).

(b) Definitions. As used in this Article—

Partner Entity: Any organization that, through contractual or other agreement with the Performer, contributes to the performance of this Agreement in any capacity.

(b) Requirements

Security requirements are a material condition of this Agreement. Failure of the Performer to maintain and administer a security program compliant with the security requirements of this Agreement constitutes grounds for termination.

The Performer shall maintain a comprehensive security program in accordance with the requirements of:

- (1) Security Manual; (SM)
- (2) National Industrial Security Program Operating Manual (NISPOM);
- (3) Personnel Security Instruction (PSI);
- (4) Intelligence Community Directive (ICD) 704, Personnel Security;
- (5) Committee for National Security Systems (CNSS) Directive 504, Directive on Protection of National Security Systems from Insider Threat;
- (6) For Agreements requiring SCI access, NISPOM Supplement I (NISPOMSUP); ICD 705, Sensitive Compartmented Information Facilities (SCIF); ICD 710, Classification and Control Markings System; and the Integrated USG Classification Guide (INCG);

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(7) Additional IC and USG directives, instructions, policy guidance, standards, and SAP classification and program security guides as specified in the attached DD Form 254 (Attachment 3 to this Agreement); and

(8) The latest revision to each document listed above, notice of which has been furnished to the Performer, by the Government.

If, subsequent to the award of this Agreement, the security classification or security requirements of this Agreement are changed by the Government, and if the changes cause an increase or decrease in security costs or otherwise affect any other term or condition of this Agreement, the changes will be subject to the Modifications Article IV listed above.

The Performer shall submit a Standard Operating Procedures (SOP) document to the cognizant USG Program Security Officer (P50) within thirty (30) days of Agreement award unless otherwise specified in the Agreement. The SOP must be prepared in accordance with the SM, NISPOM, and the requirements specified in the DD Form 254 and the IT-IA-TM CRD, if it is included in the Agreement.

The Performer shall report security and compliance status to Northrop Grumman as directed by the Government.

Classification levels of the association, work, hardware, and reports under this Agreement and associated security requirements are set forth in the DD Form 254, attached to this Agreement. The Performer shall maintain all modified and/or fabricated hardware at the proper classification level(s) and physical security environment(s).

The Performer agrees to permit the necessary polygraph interview of Performer and subcontractor personnel requiring access to SCI information. It is understood that the polygraph interview will be limited to counter-intelligence (CI) issues.

The Government shall be afforded full, free, and uninhibited access to all facilities, installations, technical capabilities, operations, documentation, records, and databases for the purpose of assessing the efficacy and efficiency of the Performer's safeguards against threats and hazards to the availability, integrity, and confidentiality of USG information.

The Performer is responsible for providing security oversight and ensuring an effective security program for all subcontractor relationships that are formed as the result of this Agreement. The Performer shall include provisions in all subcontracts that substantially conform to the requirements of this Article.

If any provision of the Agreement conflicts with the security instructions issued by the AO or its representatives, the Performer shall notify Northrop Grumman who will resolve the conflicts. When security regulations are in conflict, the Performer shall follow the most restrictive guidance and immediately refer the matter to Northrop Grumman for resolution.

The Performer shall not disseminate, in any manner, technology or other program information prior to Government evaluation and determination of appropriate security classification and control. Dissemination of classified program information to other Government agencies or to Performer's personnel other than those specifically assigned to this Agreement is prohibited unless approved in writing by the AO or AS.

If a change in security requirements results in a change in the security classification of this Agreement or any of its elements from an unclassified status or a lower classification to a higher classification, or in more restrictive area controls than previously required, the Performer shall exert every reasonable effort compatible with the Performer's established policies to continue the performance of work under the Agreement in compliance with the change in security classification or requirements.

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If, despite reasonable efforts, the Performer determines that the continuation of work under this Agreement is not practicable because of the change in security classification or requirements, the Performer shall notify Northrop Grumman in writing. Until the AO resolves the problem, the Performer shall continue safeguarding all classified material as required by this Agreement. After receiving the written notification, the AO and AS shall analyze the circumstances surrounding the proposed change in security classification or requirements and shall endeavor to work out a mutually satisfactory method whereby the Performer can continue performance of the work under this Agreement. If, fifteen (15) days after receipt by the AO or AS of the notification of the Performer's stated inability to proceed, the application to this Agreement of the change in security classification or requirements has not been withdrawn, or a mutually satisfactory method for continuing performance of work under this Agreement has not been agreed upon, the AO may terminate the Agreement, in part or in whole.

The Performer agrees to flow down the requirements set forth in this Article to any partner entities.

(c) Term and Survival Rights

Obligations to protect classified information continue indefinitely after the term of the Agreement is completed. Provisions of this Article shall survive termination of this Agreement.

INFORMATION TECHNOLOGY, ASSURANCE, AND MANAGEMENT REQUIREMENTS

(a) Definitions. The terms used in this Article are defined in Committee on National Security Systems Instruction (CNSSI) 4009, Committee on National Security Systems Glossary.

(b) Applicability

This Article shall apply to any aspect of this Agreement involving access to or processing of national security information, up to and including Sd.

(c) Requirements

The Performer shall comply with the requirements of:

- (1) Information Technology-Information Assurance-Information Management Contract Requirements Document (CRD) which is incorporated in the OTSD;
- (2) for Agreements involving IT system development and production, and/or requiring access to classified networks, ICD 503, Intelligence Community Information Technology Systems Security Risk Management, and CNSSI 1253, Security Categorization and Control Selection for National Security Systems;
- (3) SAP classification and program security guidance specified in the Agreement; and
- (4) The latest revision to each document listed above, notice of which has been furnished to the Performer by the Government.

If, subsequent to the award date of this Agreement, the CRD requirements of this Agreement are changed by the Government, and if the changes cause an increase or decrease in price or schedule or otherwise affect any other term or condition of this Agreement, the Agreement may be subject to an equitable adjustment.

The Performer is responsible for providing CRD oversight for all subcontractor relationships that are formed as the result of this Agreement. The Performer shall include provisions in all subcontracts that substantially conform to the requirements of this clause.

If any provision of the Agreement conflicts with instructions issued by the AO or AS, the Performer shall notify Northrop Grumman who will resolve the conflict. When CRD regulations are in conflict, the Performer shall follow the most restrictive guidance and immediately refer the matter to Northrop Grumman for resolution.

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The Performer shall report security and compliance status and reconfigure national security systems as directed by the Government.

The requirements specified in this clause are a material condition of this Agreement. Failure of the Performer to maintain and administer an information security program compliant with the CRD requirements of this Agreement constitutes grounds for termination.

NOTICE OF LITIGATION

With respect to litigation to which the Performer is a party relating to this Agreement:

(1) The Performer shall, within five (5) business days, notify Northrop Grumman of any litigation filed by a third party (including individuals, organizations, and federal, state, or local Governmental entities) or subpoena involving or in any way relating to this Agreement and/or related subcontracts. Said notice shall include a copy of all documents filed with the court in connection with the litigation or subpoena to the extent such documents are not covered by a court-ordered seal or protective order.

(2) The AO and AS shall have the right to examine any pertinent documents filed with the court during the conduct of the litigation and any documents and records provided to the third party in response to the subpoena. The AO and AS shall be given an opportunity to review any filing contemplated by Performer in advance to such filing, to include any coordination that might be required to accomplish a security review before filing.

The Performer agrees to insert this clause in any subcontract under this Agreement.

DISCLOSURE OF ASSOCIATION

(a) Definitions. As used in this Article—

Partner Entity: Any organization that, through contractual or other agreement with the Performer, contributes to the performance of this Agreement in any capacity.

(b) Acknowledgement and Approval

The Government requires that all Agreements with educational institutions, to include Federally Funded Research and Development Centers (FFRDCs) and University Affiliated Research Centers (UARCs) managed by an educational institution, require written acknowledgement and approval by a responsible official (e.g., president, chancellor, provost, director, or equivalent senior official) authorized to approve such Agreements on behalf of the educational institution. This Agreement shall acknowledge the involvement of USG or IC with the educational institution and approve the proposed Agreement relationship.

(c) Requirements

If the Performer is of a type described in paragraph (b) of this Article, then the Performer shall submit a signed letter to Northrop Grumman prior to execution of this Agreement. The signed letter shall be addressed to the AO and AS and include at least the following required language: “Pursuant to Executive Order 12333, this letter acknowledges that I am an official of [name of educational institution] authorized to approve any Agreement that may be awarded by USG in response to this educational institution’s proposal [insert proposal number or title and date]. I further acknowledge that I am aware that the USG will be involved in any resulting Agreement and do hereby, on behalf of [name of educational institution], approve such a contractual relationship.”

(d) Subcontracts and Sub-Agreements

Prior to execution of any subcontracts or sub-Agreements from third parties that are described in paragraph (b), the Performer shall obtain a signed letter from the prospective third party and submit it to Northrop Grumman prior to the execution of the sub-Agreement. The signed

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letter shall be addressed to the AO and AS and include at least the following required language:
“Pursuant to Executive Order 12333, this letter acknowledges that I am an official of name of educational institution] authorized to approve any Agreement issued by [name of Performer] in support of USG. I further acknowledge that I am aware that the USG will be involved in any resulting Agreement and do hereby, on behalf of [name of educational institution], approve such a contractual relationship.”

The Performer agrees to flow down the requirements set forth in this Article to any partner entities.