Where necessary, to identify the applicable parties under the following clauses, “Contractor” shall mean “Seller,” “Contracting Officer” shall mean “Lockheed Martin Procurement Representative,” “Contract” means this purchase order/subcontract and “Government” means “Lockheed Martin.”

**PRIME CLAUSES**

C. Accounting System Requirements

3. Comptroller General Access to Information for Records Examination in support of Audits The Agreements Officer or representative and 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 this Agreement This requirement does not apply to entities (1) participating in the performance of Prototype Projects with payments totaling less than five million dollars ($5,000,000), and (2) who have not performed under another Agreement that exceeds five million dollars ($5,000,000) within the previous year of this PERFORMER AGREEMENT’s effective date.

D. Applicable Laws to this Other Transaction Agreement under 10 U.S.C. § 2371b

This PERFORMER AGREEMENT is issued and governed under common law, and as such, it’s generally not subject to the Federal Acquisition Regulations (or any other supplements), nor shall any associated regulatory clauses be read-in or implied unless otherwise expressly defined in this agreement. The SELLER represents and warrants that the SELLER is made aware of and will comply with these statutes below as applicable law for performance under any Federally funded activity. These statutes below are specifically enumerated to clearly state to all Parties which laws fully apply to all OTA Performers and their subperformers. The Seller is defined as the Seller or Lockheed Martin. Laws applicable to receive Federal Funds a. Title V, Whistleblower Protection Act of 1989 b. Environmental, Safety, and Health Responsibility: The SELLER shall comply with all applicable Federal, State, and local environmental, safety, and health laws and regulations. The SELLER is responsible for assuring all Government Facilities procedures are followed and necessary permits for performing projects under this OT Agreement are in place before performing activities requiring such permits. Any cost resulting from the failure of the SELLER to perform this duty shall be borne by the SELLER.

Laws Restricting Certain Activities

c. 22 U.S.C. Chapter 78, Combating Trafficking in Persons

d. 48 CFR 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment (Aug 2020) excluding para. (b)(2))

 e. 49 U.S.C. § 41102 & 49 U.S.C. § 40118, Government-financed air transportation

f. 42 U.S.C. §2000-d, Civil Rights Act of 1969

g. 41 U.S.C Chapter 21, Procurement Ethics

h. U.S. Antitrust Laws

(Applicable to Purchase Orders for which subperformer performance will involve covered defense information, including subagreements for commercial items.)

E. Cybersecurity and Information Protection

1. SELLERS shall:

a. Protect controlled unclassified information (CUI) and implement all of the security requirements specified in National Institute of Standards and Technology (NIST) Special Publication (SP) 800-171 Rev 1 “Protecting Controlled Unclassified Information in Nonfederal Systems and Organizations” within 30 days of awarded Performer’s Agreement. The Government reserves the right to implement other Cybersecurity guidance on a PLP by PLP award.

b. Establish maintain, resource, and provide a plan demonstrating the management of activities to implement NIST 800-171 Rev 1 on PLP IT infrastructure and report to the Government program office in the quarterly cybersecurity report. The Government reserves the right to implement other Cybersecurity guidance on a PLP by PLP award basis.

c. Include 48 CFR 52.204-21 “Basic Safeguarding of Covered Contractor Information Systems” and any additional Government program office selected cyber security requirements must be flowed down from the PLP into their subcontracts.

d. Shall ensure the Government’s ability to perform assessment through DCMA DIBCAC in accordance with NIST 800-171 or a mutually agreed upon third-party assessor.

2. The Government intends to make use of a DCMA DIBCAC in accordance with NIST 800-171 or a mutually agreed upon third-party assessor, in order to ensure compliance with cybersecurity requirements. The SELLER may be subject to this assessment. The Government will provide a written notification at least 30 days prior to performing an assessment. At receipt of a notice, the SELLER may respond to the Government (via BUYER) identifying their preferred party to perform the assessment. The Government will make the final decision as to the assessment type.

3. Following completion of the cybersecurity assessment, the Government or third-party assessor will generate a notice of completion, along with any recommended corrective actions that must be taken and transmit it to the assessed. If corrective actions are recommended, the assessed must implement the recommended corrective actions within 6 months of the notice of completion date and notify the Government that corrective action has been completed. The Government reserves the right to verify compliance. Additionally, the Government reserves the right to terminate an agreement with the PLP if the results of an initial or subsequent cybersecurity assessment show that the party has not implemented the specific cybersecurity standards as outlined in this agreement or Cybersecurity guidance as implemented.

4. For any project that involves a covered contractor information system that processes, stores or transmits Covered Defense Information(CDI) as determined by the AO, the SELLER represents that it will implement the security requirements specified by National Institute of Standards and Technology (NIST) Special Publication (SP) 800-171 Revision 1 "Protecting Controlled Unclassified Information in Nonfederal Information Systems and Organizations" or Cybersecurity guidance as implemented that are in effect at the time the award is issued or as authorized by the Agreements Officer (AO).

5. The SELLER shall provide adequate security on all covered contractor information systems. To provide adequate security, the PLP shall implement, at a minimum, the following safeguarding and information security protections as outlined in 48 CFR 52.204-21 “Basic Safeguarding of Covered Contractor Information Systems:

a. Limit information access to authorized users, processes acting on behalf of authorized users, or devices (including other information systems).

 b. Limit information system access to the types of transactions and functions that authorized users are permitted to execute.

 c. Verify and control/limit connections to and use of external information systems.

d. Control information posted or processed on publicly accessible information systems

e. Identify information system users, processes acting on behalf of users, and devices.

f. Authenticate (or verify) the identities of those users, processes, and devices, as a prerequisite to allowing access to organizational information systems.

g. Sanitize or destroy information system media containing Federal Contract Information before disposal or release for reuse

h. Limit physical access to organizational information systems, equipment, and the respective operating environments to authorized individuals.

i. Escort visitors and monitor visitor activity; maintain audit logs or physical access; and control and manage physical access devices.

 j. Monitor, control, and protect organizational communications (i.e., information transmitted or received by organizational information systems) at the external boundaries and key internal boundaries of the information systems.

k. Implement subnetworks for publicly accessible system components that are physically or logically separated from internal networks.

l. Identify, report, and correct information and information system flaws in a timely manner.

m. Provide protection from malicious code at appropriate locations within organizational information systems.

n. Update malicious code protection mechanisms when new releases are available.

o. Perform periodic scans of the information system and real-time scans of files from external sources as files are downloaded, opened, or executed.

6. The covered PLP information system shall be subject to the security requirements in National Institute of Standards and Technology (NIST) Special Publication (SP) 800-171, "Protecting Controlled Unclassified Information in Nonfederal Information Systems and Organizations" (available via the internet at http://dx.doi.org/10.6028/NIST.SP.800-171) within 30 days of agreement award, of any security requirements specified by NIST SP800- 171 not implemented at the time of agreement award.

7. Apply additional information systems security measures when the SELLER reasonably determines that information systems security measures may be required to provide adequate security in a dynamic environment or to accommodate special circumstances (e.g., medical devices) and any individual, isolated, or temporary deficiencies based on an assessed risk or vulnerability.

8. The SELLER shall notify the DoD Chief Information Officer (CIO) and the respective Agreement Officer via email at osd.dibcsia@mail.mil and angela.walker.15@spaceforce.mil within 30 days of agreement award of any security requirements specified by NIST SP 800- 171 not implemented at the time of agreement award.

a. The SELLER shall submit requests to vary from NIST SP 800-171 in writing to the AO, for consideration by the DoD CIO. The PLP need not implement any security requirement adjudicated by an authorized representative of the DoD CIO to be nonapplicable or to have an alternative, but equally effective, security measure that may be implemented in its place.

b. If the DoD CIO has previously adjudicated the PLP's requests indicating that a requirement is not applicable or that an alternative security measure is equally effective, a copy of that approval shall be provided to the AO when requesting its recognition under this agreement.

c. If the SELLER intends to use an external cloud service provider to store, process, or transmit any covered defense information in performance of this agreement, the PLP shall require and ensure that the cloud service provider meets security requirements equivalent to those established by the Government for the Federal Risk and Authorization Management Program (FedRAMP) Moderate baseline and that the cloud service provider complies with requirements of this Article for cyber incident reporting, malicious software, media preservation and protection, access to additional information and equipment necessary for forensic analysis, and cyber incident damage assessment.

9. If the SELLER proposes to use cloud computing services in the performance of the agreement at any level, the PLP shall obtain approval from the AO prior to utilizing cloud computing services.

10. When the SELLER discovers incident that affects a covered contractor information system (including internal or external cloud computing services) or the covered defense information residing therein, or that affects the PLP's ability to perform the requirements of the agreement that are designated as operationally critical support and identified in the agreement, the PLP shall

a. Conduct a review for evidence of compromise of covered defense information, including, but not limited to, identifying compromised computers, servers, specific data, and user accounts. This review shall also include analyzing covered contractor information system(s) that were part of the cyber incident, as well as other information systems on the PLP's network(s), that may have been accessed as a result of the incident in order to identify compromised covered defense information, or that affect the PLP's ability to provide operationally critical support; and

b. Rapidly report cyber incidents to DoD at http://dibnet.dod.mil/. The cyber incident report shall be treated as information created by or for DoD and shall include, at a minimum, the required elements at http://dibnet.dod.mil. In order to report cyber incidents in accordance with this article, the PLP or subperformer shall have or acquire a DoD-approved medium assurance certificate to report cyber incidents.

c. For information on obtaining a DoD-approved medium assurance certificate, see <http://iase.disa.mil/pki/eca/Pages/index.aspx>

11. When the SELLER (or their vendors or subcontractors) discovers and isolate malicious software in connection with a reported cyber incident, submit the malicious software to DoD Cyber Crime Center (DC3) in accordance with instructions provided by DC3 or the AO. Do not send the malicious software to the AO

12. When a SELLER discovers a cyber incident has occurred, the PLP shall preserve and protect images of all known affected information systems and all relevant monitoring/packet capture data for at least 90 days from the submission of the cyber incident report to allow DoD to request the media or decline interest.

13. Upon request by DoD, the SELLER shall provide DoD with access to additional information or equipment that is necessary to conduct a forensic analysis.

14. If DoD elects to conduct a damage assessment, the AO will request that the PLP provide all of the damage assessment information gathered in accordance with paragraph (1.c.) of this clause.

15. The Government shall protect against the unauthorized use or release of information obtained from the PLP (or derived from information obtained from the PLP) under this Article that includes PLP attributional/proprietary information. To the maximum extent practicable, the PLP shall identify and mark attributional/proprietary information. In making an authorized release of such information, the Government will implement appropriate procedures to minimize the PLP attributional/proprietary information that is included in such authorized release, seeking to include only that information that is necessary for the authorized purpose(s) for which the information is being released. 16. Information that is obtained from the SELLER (or derived from information obtained from the PLP) under this article that is not created by or for DoD is authorized to be released outside of DoD

a. To entities with missions that may be affected by such information;

b. To entities that may be called upon to assist in the diagnosis, detection, or mitigation of cyber incidents;

c. To Government entities that conduct counterintelligence or law enforcement investigations;

d. For national security purposes, including cyber situational awareness and defense purposes (including with Defense Industrial Base (DIB) participants in the program at 32 CFR part 236); or

e. To a support services contract ("recipient") that is directly supporting Government activities under a contract that includes the clause at DFARS 252.204-7009.

17. Information that is obtained from the PLP (or derived from information obtained from the PLP) under this clause that is created by or for DoD (including the information submitted pursuant to paragraph (f) of this clause) is authorized to be used and released outside of DoD for purposes and activities authorized by paragraph (l) of this clause, and for any other lawful Government purpose or activity, subject to all applicable statutory, regulatory, and policy based restrictions on the Government's use and release of such information.

18. The SELLER shall conduct activities under this article in accordance with applicable laws and regulations on the interception, monitoring, access, use, and disclosure of electronic communications and data.

19. The safeguarding and cyber incident reporting required by this article in no way abrogates the PLP's responsibility for other safeguarding or cyber incident reporting pertaining to its unclassified information systems as required by other applicable articles of this agreement, or as a result of other applicable U.S. Government statutory or regulatory requirements.

20. The SELLER shall include this Article, in subagreements, or agreements for which subperformer performance will involve covered defense information, including subagreements for commercial items, without alteration, except to identify the parties. The PLP shall determine if the information required for subperformer performance retains its identity as covered defense information and will require protection under this article, and, if necessary, consult with the AO; and require subperformers to notify the prime PLP (or next higher-tier subperformer) when submitting a request to vary from a NIST SP 800-171 security requirement to the AO, in accordance with paragraph (c)(2) of this clause; and provide the incident report number, automatically assigned by DoD, to the prime PLP (or next higher-tier subperformer) as soon as practicable, when reporting a cyber incident to DoD as required in paragraph (f) of this Article.

F. Export Control and Foreign Access to Technology

1. General

a. BUYER and SELLER 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 United States. Accordingly, access to important technology developments under this Agreement by Foreign Firms or Institutions must be carefully controlled.

b. When applicable, the Seller shall comply with the International Traffic in Arms Regulation (22 CFR pt. 121 et seq.) the DoD Industrial Security Regulation (DoD 5220.22-R) and the Department of Commerce Export Regulation (15 CFR pt. 770 et seq.).

2. In addition to meeting NISPOM reporting requirements to report changed conditions impacting Facility Security Clearance (FCL) that may result in Foreign Ownership, Control or Influence (FOCI), in the event of such a changed condition the Seller must also promptly report that information to BUYER and Agreement’s Officer. 3. This article shall be included in all lower tier agreements with the respective parties suitably identified.

(9) Conflict Minerals

If Seller is providing goods to buyer under this purchase order, seller shall use commercially

Reasonable efforts to:

(a) identify whether such goods contain tantalum, tin, tungsten or gold;

(b) conduct a reasonable country of origin inquiry regarding the origin of such minerals in such goods to determine whether such minerals originated in covered countries, as defined in section 1502 of the dodd-frank wall street reform and consumer protection act;and

(c) conduct due diligence on the chain of custody of the source of any minerals originating in

Covered countries to identify the smelter of said minerals; and

(d) assist buyer in conducting reasonable due diligence concerning the smelters of such minerals. Seller shall include the substance of this section conflict minerals in any agreement between seller and its lower tier suppliers. Seller shall provide buyer with reasonable documentation of seller’s and its lower tier suppliers’ due diligence efforts, in a Format prescribed by buyer, when requested by buyer to enable disclosure to the securities

And exchange commission.

(11) This Contractor (also known as buyer) and subcontractor (also known as seller) shall

Abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations

Prohibit discrimination against qualified individuals based on their status as protected

Veterans or individuals with disabilities, and prohibit discrimination against all individuals

Based on their race, color, religion, sex, sexual orientation, gender identity, or national

Origin. Moreover, these regulations require that covered prime contractors and

Subcontractors take affirmative action to employ and advance in employment individuals

Without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability. Also, to the extent applicable, the employee

Notice requirements set forth in 29 CFR, part 471, appendix a to subpart a, are hereby

Incorporated by reference into this contract, subcontract or purchase order

Far clauses

(13) In accordance with DFARS 252.204-7008 “compliance with safeguarding covered defense

Information controls” seller shall indicate whether deviation from any of the security

Requirements in the national institute of standards and technology (NIST) special publication

(SP) 800-171, “protecting controlled unclassified information in nonfederal information

Systems and organizations, http://dx.doi.org/10.6028/nist.sp.800-171 that is in effect at the time

The prime contract solicitation is issued is anticipated in the performance of the purchase order by seller or contractors at any tier

(15) Prohibited Telecom

(a) Seller recognizes that buyer and its respective affiliates are subject to section 889 of the

National defense authorization act for fiscal year 2019 (“section 889”), which prohibits prime

Contractors to the U.S. Government from using (regardless of end use) “covered

Telecommunications equipment or services”, as such term is defined in section 889 (“prohibited

Telecom”).

(b) Seller represents that it 1) has not, at any time in the past, and 2) shall not furnish to buyer

Any goods or services that use or contain prohibited telecom.

(c) Seller agrees (i) it has processes in place, which include reasonable diligence of its supply

Chain, to accurately provide the above representation; (ii) to immediately notify buyer if the

Above representation is no longer true (a “prohibited telecom use notice”), and (iii) within ten

(10) business days of seller’s submission of a prohibited telecom use notice, to provide buyer

With any additional available information as buyer may reasonably request about such

Seller’s use of prohibited telecom in the goods and/or services it furnishes, or has furnished,

To buyer, in order for buyer to comply with section 889, and to confirm the measures seller

Has taken, or will take, to prevent future use of prohibited telecom in the goods it furnishes

To buyer.

(16) To the extent supplier is subject to NIST SP 800-171 security requirements in accordance

With DFARS 252.204-7012, supplier represents that it has (1) completed within the last 3 years

And will maintain at least a current basic NIST SP 800-171 DOD assessment for all covered

Contractor information systems related to its business with Raytheon company that are

Not part of an information technology service or system operated on behalf of the

Government and (2) submitted or will submit to the government for posting to the USG’s

Supplier performance risk system (SPRS), the information required by paragraph (d) of DFARS

252.204-7020 prior to accepting this order from Raytheon company.

H. Enabling Support Contractors

1. The Air Force has or may enter into contracts with one or more of the following companies, or successor(s), to provide Advisory and Assistance Services (A&AS) or Systems Engineering and Technical Assistance (SETA), or Systems Engineering and Integration (SE&I), under SpEC. Non-Disclosure Agreements (NDAs) shall be executed within thirty (30) days after signature of the Agreement or the award of a contract to a successor of the contractor listed below: a. Tecolote Research, Inc.

2. During the performance of this Agreement, the SELLER agrees to cooperate with the companies listed above (hereafter referred to as A&AS/SETA/SE&I). Cooperation includes allowing observation of technical activities by appropriate A&AS/SETA/SE&I technical personnel, discussing technical matters related to this Agreement; delivering Data as specified in the Agreement, providing access to PLP facilities utilized in the performance of this Agreement, responding to invitations from authorized A&AS/SETA/SE&I personnel to attend meetings, and providing access to technical and development planning data. The PLP shall provide A&AS/SETA/SE&I personnel access to data such as, but not limited to, design and development analyses; test data and results; equipment and process specifications; test and test equipment specifications; procedures, parts and quality control procedures; records and data; manufacturing and assembly procedures; and schedule and milestone data, needed by such personnel in order to perform their required Agreement related support activities.

3. The SELLER agrees to include in all subagreements (executed with vendors, suppliers, subcontractors) a clause requiring compliance by the subagreement holder and supplier and succeeding levels of subagreement holders and suppliers with the response and access and disclosure provisions of paragraph (2) above, subject to coordination with BUYER, except for subagreements or subcontracts for commercial items or commercial services.

4. This Agreement does not relieve the SELLER of its responsibility to manage its subagreements (executed with vendors, suppliers, subcontractors) under this Agreement effectively and efficiently nor is it intended to establish privity of contract or agreement between the Government or A&AS/SETA/SE&I and such PLPs, subagreement holders, subcontractors or suppliers. A&AS/SETA/SE&I personnel are not authorized to direct the Consortium, its Manager, or PLPs in any manner. Consortium Management, or PLP personnel are not authorized to direct A&AS/SETA/SE&I personnel.

5. A&AS/SETA/SE&I shall make the technical information (including Proprietary Information) available only to its trustees, officers, employees, contractor labor, consultants, and attorneys who have a need to know, and A&AS/SETA/SE&I shall maintain between itself and the foregoing binding agreements of general application as may be necessary to fulfill their obligations under the Non- Disclosure Agreement established under paragraph (a) above, and A&AS/SETA/SE&I agree that it will inform BUYER and its PLPs, subagreement holders, subcontractors, and suppliers if it plans to use consultants, or contract labor personnel and, upon the request of BUYER, PLP, subagreement holder, subcontractor, or supplier, to have its consultants and contract labor personnel execute nondisclosure agreements directly therewith. 6. Enabling Aerospace Support a. Under this section “Cost data” is defined as information associated with the programmatic elements of life cycle (concept, development, production, operations, and retirement) of the system/program. As defined, cost data differs from "financial" data, which is defined as information associated with the internal workings of a company or contractor that is not specific to a project or program. The Air Force has entered into a contract with The Aerospace Corporation, a California nonprofit corporation operating a Federally Funded Research and Development Center (FFRDC), for the services of a technical group that will support the DoD/U.S. Government program office by performing General Systems Engineering and Integration, Technical Review, and/or Technical Support including informing the commander or director of the various Department of Defense ("DoD") organizations it supports and any U.S. Government program office of product or process defects and other relevant information, which, if not disclosed to the U.S. Government, could have adverse effects on the reliability and mission success of a U.S. Government program. b. In the performance of this Agreement, the SELLER agrees to cooperate with The Aerospace Corporation by 1) responding to invitations from authorized U. S. Government personnel to attend meetings; 2) by providing access to technical information and research, development planning data such as, but not limited to, design and development analyses, test data and results, equipment and process specifications, test and test equipment specifications and procedures, parts and quality control procedures, records and data, manufacturing and assembly procedures, and schedule and milestone data, all in their original form or reproduced form and including top-level life cycle cost data, where available; 3) by delivering data as specified in the Contract Data Requirements List in the PA; 4) by discussing technical matters relating to this program; 5) by providing access to consortium and/or prototype- level performer facilities utilized in the performance of this agreement; 6) and by allowing observation of technical activities by appropriate technical personnel of The Aerospace Corporation. The Aerospace Corporation personnel engaged in GSE&I, TR, and/or TS efforts: (i) are authorized access to all such technical information (including proprietary information) pertaining to this agreement and may discuss and disclose it to the applicable DoD personnel in a program office; (ii) are authorized to discuss and disclose such technical information (including proprietary information) to the commander or director of the various DoD organizations it supports and any U.S. Government personnel in a program office which, if not disclosed to the U.S. Government, could have adverse effects on the reliability and mission success of a U.S. Government program; and (iii) Aerospace shall make the technical information (including proprietary information) available only to its Trustees, officers, employees, contract labor, consultants, and attorneys who have a need to know. c. The SELLER further agrees to include in all subagreements (executed with vendors, suppliers, subcontractors) a clause requiring compliance by performers and supplier and succeeding levels of performers and suppliers with the response and access and disclosure provisions, except for commercial items or commercial services. d. This Agreement does not relieve the SELLER of its responsibilities to manage the subagreements (executed with vendors, suppliers, subcontractors) effectively and efficiently nor is it intended to establish privity of contract between the Government or The Aerospace Corporation and such subcontractors or suppliers, except as indicated below. e. The Aerospace Corporation shall protect the proprietary information of prototype-level performers, and suppliers in accordance with the Master Non-disclosure Agreement. The Aerospace Corporation entered into with the Air Force. This Master Non-Disclosure Agreement satisfies the Nondisclosure Agreement requirements set forth in 10 U.S.C. §2320 (f)(2)(B), and provides that prototype-level performers, and suppliers are intended third-party beneficiaries under the Master Non-disclosure Agreement and shall have the full rights to enforce the term and conditions of the Master Non-disclosure Agreement directly against The Aerospace Corporation, as if they had been signatory party hereto. The PLP hereby waives any requirement for The Aerospace Corporation to enter into any separate company- to-company confidentiality or other non-disclosure agreements. f. Aerospace shall make the technical information (including proprietary information) available only to its Trustees, officers, employees, contract labor, consultants, and attorneys who have a need to know, and Aerospace shall maintain between itself and the foregoing binding agreements of general application as may be necessary to fulfill their obligations under the Master Non-disclosure Agreement referred to herein, and Aerospace agrees that it will inform BUYER and/or prototype- level performer if it plans to use consultants, or contract labor personnel and, upon the request of the PLP, to have its consultants and contract labor personnel execute non-disclosure agreements directly therewith. g. The Aerospace Corporation personnel are not authorized to direct BUYER or the SELLER in any manner. The PLP agrees to accept technical direction as follows: i. Technical direction under this Agreement will be given to the SELLER solely by Buyer, or the Government Prototype end user. ii. Whenever it becomes necessary to modify the Agreement and redirect the effort, a modification signed by the Agreements Officer will initiate the change.

A. Government Furnished Property

48 CFR 52.245 in affect at the time of Prototype Award shall apply to this Agreement.

A. Modifications and Changes 7. The Air Force Space Contractor Responsibility Watch List (CRWL) applies to this agreement. Accordingly, if at any time during the performance of this agreement the PLP is placed on the CRWL, before executing a modification resulting from an engineering change proposal or exercising an option on this agreement, the Agreement Officer must determine whether to recommend proceeding with the modification or option exercise and if so, obtain approval to proceed from the SMC Commander. To support the Agreement Officer’s determination on whether to proceed with the modification or option, the PLP must submit documentation to the Agreement Officer via BUYER, describing how it has addressed the conditions that resulted in its inclusion on the CRWL and why those conditions will not impact performance on this agreement. The Agreement Officer will consider this information as well as other viable information in making a determination. The PLP must receive written consent of the Agreement Officer, via BUYER, prior to subcontracting with proposed subcontractors included on the CRWL when the subcontract are valued in excess of $3M or 5% of the Prototype Award value, whichever is lesser. Before providing this consent the Agreement Officer must determine whether to recommend granting consent and if so, obtain approval to proceed from the SMC commander. The PLP must inform proposed subcontractors that they must notify the offeror if they have been notified by the SMC Commander that they have been included on the CRWL. The PLP must submit a written consent to subcontractor request to the Agreement Officer, via the CM, as well as the PLP’s determination of subcontractor responsibility in accordance with FAR 9.104-4(a), and documentation describing how the proposed subcontractor has addressed the conditions that resulted in its inclusion on the CRWL and why those conditions will not impact its performance on a subcontract to this Prototype Award. The proposed subcontractor may submit information related to its CRWL inclusion through the PLP to BUYER, who will then provide it to the Agreement’s Officer, or directly to the Agreement’s Officer. The Agreement’s Officer will consider information provided by the PLP, through the BUYER, and the proposed subcontractor as well as other available information in making a determination. The PLP is encouraged to inform the Agreement Officer, via BUYER, or any subcontractor concerns or issues that may jeopardize successful agreement performance

(Applicable to Purchase Orders for experimental, developmental, or research work.)

B. Data Categories Category A is the Data developed and paid for totally by private funds, or the IR&D funds of the SpEC Member Entity, PLP, or its subcontractor. A PLP (or its subcontractor) retains all rights to Category A Data. Category A Data shall include, but not be limited to: a. Data or other material provided by the SpEC member entity or PLP for a Prototype Project under this Agreement which was not developed in the performance of work under that project, and for which the SpEC member entity or PLP retains all rights. b. Any initial Data or technical, marketing, or financial Data provided at the onset of the project by any of the SpEC member entities or PLPs. Such Data shall be marked "Category A" and any rights to be provided to the Government for such Data under a specific Prototype Project shall be as identified in the proposal submitted to the Government and included into the PM and BUYER issued Prototype Awards. 2. Category B is any Data developed under this OTA with mixed funding, i.e., development was accomplished partially with costs charged to a SpEC member entity(ies) or PLPs indirect cost pools and/or costs not allocated to a SpEC member entity(ies) or PLPs Prototype Award under this OTA, and partially with Government funding under this OTA. Any Data developed outside of this OTA 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. 3. Category C is any Data developed exclusively with Government funds under this OTA. Research and Development performed was not accomplished exclusively or partially at private expense. Under this categorya. The Government will have Government Purpose Rights in Data developed exclusively with Government funds under a Prototype Project funded by the Government under this OTA that is: i. Data pertaining to an item, component, or process which has been or will be developed exclusively with Government funds; ii. Studies, analyses, test data, or similar data produced for this contract, when the study, analysis, test, or similar work was specified as an element of performance; iii. Data created in the performance of the OTA that does not require the development, manufacture, construction, or production of items, components, or processes; iv. Form, fit, and function data; v. Data necessary for installation, operation, maintenance, or training purposes (other than detailed manufacturing or process data); vi. Corrections or changes to technical data furnished to the Contractor by the Government; b. The Government shall have unlimited rights in Data that is: i. Otherwise publicly available or that has been released or disclosed by SpEC's PLP 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; ii. Data in which the Government has obtained unlimited rights under another Government contract or as a result of negotiations; or iii. Data furnished to the Government, under this OTA or any other Government contract or subcontract thereunder, withA. Government Purpose Rights or limited rights and the restrictive condition(s) has/have expired; or B. Government purpose rights and the SpEC PLP’s exclusive right to use such Data for commercial purposes under such contract or subcontract has expired. c. However, 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. d. Further, the Government's rights to Commercial Computer Software and Data licensed under a Commercial Computer Software License under this Agreement, and the treatment of Data relating thereto, shall be as set forth in the Commercial Computer Software License. 4. The parties to this Agreement understand and agree that PLPs will stamp all documents in accordance with this Article and that the Freedom of Information Act (FOIA) and Trade Secrets Act (TSA) apply to Data. A.Allocation of Principal Rights 1. The Government shall have no rights to Category A Data 2. The Government shall have immediate Government Purpose Rights to Category B or C Data upon delivery or project or Agreement completion (whichever is earlier), except that— a. BUYER at the request of a small business PLP, may request on such PLP's behalf a delay of the start of Government Purpose Rights in Category B or C Data for a period not to exceed five (5) years from project completion. Such requests will only be made in those cases where BUYER has provided information from the affected actual PLP demonstrating the need for this additional restriction on Government use and shall be submitted to the SMC/DC Agreements Officer for approval, 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 24, Disputes and Liability. i. For Category C Data, the Government shall have only the rights established under prior agreements. ii. For Category C Data, the Government shall only have the rights set forth in the Commercial Computer Software Data license agreement. B.Marking of Data Except for Data delivered with unlimited rights, Data to be delivered under this Agreement subject to restrictions on use, duplication or disclosure shall be marked with the following legend: Category A use company proprietary statement. Category B and C use legend at DFARS 252.227-7013 (f)(2). It is not anticipated that any Category A Data will be delivered to the Government under this Agreement. In the event commercial computer software and Data is licensed under a commercial computer software license under this OTA, a Special License rights marking legend shall be used as agreed to by the parties. The Government shall have unlimited rights in all unmarked Data. In the event that the PLP learns of a release to the Government of its unmarked Data that should have contained a restricted legend, BUYER, in coordination with the PLP, will have the opportunity to cure such omission going forward by providing written notice to the AO within three (3) months of the erroneous release. C. Copyright The PLPs reserve the right to protect by copyright original works developed under this Agreement. All such copyrights will be in the name of the individual PLP. The PLP hereby grants to the U.S. Government a nonexclusive, non- transferable, royalty-free, fully paid-up license to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and 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. The PLP is responsible for affixing appropriate markings indicating the rights of the Government on all Data delivered 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. D. Data First Produced by the Government As to Data first produced by the Government in carrying out the Government's responsibilities under this project and which Data is privileged or confidential if obtained from the PLP, such Data will, to the extent permitted by law, be appropriately marked with a suitable notice or legend and maintained in confidence by the PLP 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 the PLP, including its respective employees or subcontractors of any tier, (under suitable protective conditions) by or on behalf of the Government for Government purposes only. E. Prior Technology 1. Government Prior Technology: In the event it is necessary for the Government to furnish the PLP, 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, compliance with Article 26, Proprietary Information, and the signing of non-disclosure agreements by the PLP and PLP subcontractors of any tier and their respective employees to whom such Data is provided for use under this Agreement Upon completion of activities under this Agreement, such Data will be disposed of as requested by the Government. 2. SpEC and SpEC Member Entity Prior Technology: In the event it is necessary for the PLP 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 the project. Data protection will include proprietary markings and handling, and the signing of nondisclosure agreements by such Government Contractors or contract employees. Neither the Consortium Manger nor PLP shall 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 PLP (or Consortium Manager at the PLP’s request). 3. Oral and Visual Information: If information which the PLPs, 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. 4. Disclaimer of Liability: Notwithstanding the above, the Government shall not be restricted in, nor incur any liability for, the disclosure and use of: i. Data not identified with a suitable notice or legend as set forth in this Article; nor ii. Information contained in any Data for which disclosure and use is restricted under the Proprietary Information Article in the Performer’s Agreement, 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 PLP has furnished, or is required to furnish to the Government without restriction on disclosure and use. 5. Marking of Data: Any Data delivered under this Agreement shall be marked with a suitable notice or legend. F. Notwithstanding the Paragraphs in this Article, differing rights in Data may be negotiated among the Parties to each individual project on a case-bycase basis. G. Lower Tier Agreements: The PLP shall include this Article, suitably modified to identify the parties, in all subcontracts or lower tier agreements, regardless of tier, or experimental, developmental, or research work. H. Ordering of Data: The Government can only order such Data as is developed under the project where the order request is made within one (1) year following project completion or for an alternate duration specified in the prototype award. In the event the Government orders such Data, it shall pay 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. I. Government Purpose Rights – Duration: 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 Prototype Project during this five (5) year period, the Government Purpose Rights license shall be extended an additional five (5) years starting from completion of the additional Prototype project

(Applicable to Purchase Orders for experimental, developmental, or research work.)

The PERFORMER agrees to be bound by the following rights and responsibilities with respect to any Subject Invention (i.e. any Invention made in the performance of the Statement of Work or TDD) or Prototype which is the principal objective of the Prototype Project executed under the Performer Agreement.

A. Allocation of principal rights 1. The SELLER shall retain ownership throughout the world to each Subject Invention consistent with the provisions of this section 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 subclause (B) below the PLP does not intend to retain title. 2. The SELLER shall retain ownership throughout the world to background inventions. Any invention related to, conceived of, or first reduced to practice in support of a PLP’s internal development milestone shall be a background invention of the PLP 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 reduced to practice under this Agreement in support of other than internal development milestones shall be considered a Subject Invention. 3. 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 1. The SELLER shall disclose each Subject Invention to the Agreements Officer on a DD Form 882 within eight (8) months after the inventor discloses in writing to the Prototype Inventor’s personnel responsible for patent matters. 2. If the SELLER determines that it does not intend to retain title to any Subject Invention, the PLP shall notify the Agreements Officer, 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 the Agreements Officer’s written request, the PERFORMER shall convey title to any Subject Invention to the Government under any of the following conditions: 1. If the SELLER fails to disclose or elects not to retain title to the Subject Invention within the times specified in paragraph (B); provided, that the Government may only request title within sixty (60) calendar days after learning of the failure of the PLP to disclose or elect within the specified times. 2. In those countries in which the SELLER fails to file patent applications within the times specified within paragraph (B); provided, that if the PLP has filed a patent application in a country after the times specified in this paragraph (B) of this Article, but prior to its receipt of the written request by the Government, the PLP shall continue to retain title in that country; or; 3. In any country in which the SELLER 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. 1. The SELLER shall retain a nonexclusive, royalty free license throughout the world in each Subject Invention to which the Government obtains title, except if the PLP fails to disclose the Subject Invention within the times specified within this Article. The PLP’s license extends to the U.S. (including Canada) subsidiaries and affiliates, if any, within the corporate structure of which the PLP is a party and includes the right to grant licenses of the same scope to the extent that the PLP was legally obligated to do so at the time the prototype project was awarded. The license is transferable only with the approval of the Government, except when transferred to a 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. 2. The SELLER’s license, as immediately described above in (D)(1), 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 C.F.R. Part 404. However, the license shall not be revoked in that field of use or the geographical areas in which the PLP 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 PLP, its licensees, or its subsidiaries or affiliates have failed to achieve practical application in that foreign country. 3. Before revocation or modification of the license, the Agreements Officer shall furnish the SELLER 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. 4. Action to protect the Government’s interest a. The SELLER agrees to execute or to have executed and promptly deliver to the Agreements Officer all instruments necessary to (1) establish or confirm the rights the Government has throughout the world in those Subject Inventions to which the PLP elects to retain title, and (2) convey title to the Government when requested, and to enable the Government to obtain patent protection throughout the world in that Subject Invention. b. The SELLER 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 PLP each Subject Invention made under this Agreement in order that the PLP can comply with the disclosure provisions of paragraph (B) of this Article. The PLP 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. c. The SELLER shall include within the specification of any United States patent application and any patent issuing thereon covering a Subject Invention, the following statement: "This Invention was made with Government support under Agreement No. FA8814-21-9-0001, awarded by SMC/PKT. The Government has certain rights in the Invention."

E. March in Rights The SELLER 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 PLP, assignee, or exclusive licensee refuses such a request, the Government has the right to grant such a license itself if the Agreements Officer determines that: 1. Such action is necessary because the PLP 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 PLP, assignee, or their licenses; or 3. Such action is necessary to meet requirements for public use and such requirements are not reasonably satisfied by the PLP, assignee, or licensees.

F. Authorization and Consent The Government authorizes and consents to all use and manufacture of any invention described in and covered by a United States patent in the performance of this Agreement. G. Notice and Issuance 1. The SELLER shall report to the Agreements Officer, 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 PLP has knowledge 2. 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 PLP shall furnish to the Government, when requested by the Agreements Officer, all evidence and information in the PLP’s possession pertaining to such claim or suit. Such evidence and information shall be furnished at the expense of the Government except where the PLP has agreed to indemnify the Government.

H. Lower Tier Agreements The SELLER 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. I. Survival Rights The obligations of the Government, BUYER, and the SELLER under this Article shall survive after the expiration or termination of this Agreement

**FAR CLAUSES**

52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (Sep 2007)

52.204-24 Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment (AUG 2020)

52.209-05 Certification Regarding Responsibility Matters (Aug 2020)

52.222-22 Previous Contracts and Compliance Reports (Feb 1999)

**DFARS CLAUSES**

252.204-7008 Compliance with Safeguarding Covered Defense Information Controls (Oct 2016)

252.204-7012 Safeguarding Covered Defense Information and Cyber Incident Reporting (Dec 2019)

252.204-7020 NIST SP 800-171 DOD Assessment Requirements (Nov 2020)