

**CUSTOMER CONTRACT REQUIREMENTS  
NECC SYSTEMS ENGINEERING  
CUSTOMER CONTRACT N66001-08-R-0115**

CUSTOMER CONTRACT REQUIREMENTS

The following customer contract requirements apply to this contract to the extent indicated below. If this contract is for the procurement of commercial items under a Government prime contract, as defined in FAR Part 2.101, see Section 3 below.

**1. FAR Clauses.** The following contract clauses are incorporated by reference from the Federal Acquisition Regulation and apply to the extent indicated. In all of the following clauses, "Contractor" and "Offeror" mean Seller.

**52.203-6 Restrictions on Subcontractor Sales to the Government (Sep 2006) .**

This clause applies only if this contract exceeds \$100,000.

**52.203-7 Anti-Kickback Procedures (excluding subparagraph (c)(1)) (Jul 1995) .**

Buyer may withhold from sums owed Seller the amount of any kickback paid by Seller or its subcontractors at any tier if (a) the Contracting Officer so directs, or (b) the Contracting Officer has offset the amount of such kickback against money owed Buyer under the prime contract. This clause applies only if this contract exceeds \$100,000.

**52.203-8 Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity (Jan 1997) .** This clause applies to this contract if the Seller, its employees, officers, directors or agents participated personally and substantially in any part of the preparation of a proposal for this contract. The Seller shall indemnify Buyer for any and all losses suffered by the Buyer due to violations of the Act (as set forth in this clause) by Seller or its subcontractors at any tier.

**52.203-10 Price or Fee Adjustment for Illegal or Improper Activity (Jan 1997) .**

This clause applies only if this contract exceeds \$100,000. If the Government reduces Buyer's price or fee for violations of the Act by Seller or its subcontractors at any tier, Buyer may withhold from sums owed Seller the amount of the reduction.

**52.203-12 Limitation on Payments to Influence Certain Federal Transactions**

(Sep 2007) . This clause applies only if this contract exceeds \$100,000. Paragraph (g)(2) is modified to read as follows: "(g)(2) Seller will promptly submit any disclosure required (with written notice to Boeing) directly to the PCO for the prime contract. Boeing will identify the cognizant Government PCO at Seller's request. Each subcontractor certification will be retained in the subcontract file of the awarding contractor."

**52.203-13 Contractor Code of Business Ethics and Conduct** (Dec 2007) . This clause applies only if this contract is in excess of \$5,000,000, has a period of performance of more than 120 days, and is not for a commercial item or performed entirely outside the United States. For the purposes of this clause, the United States is defined as the 50 states, the District of Columbia, and outlying areas.

**52.203-14 Display of Hotline Poster(s)** (Dec 2007) . This clause applies only if this contract is in excess of \$5,000,000 and is not for a commercial item or performed entirely outside the United States. For the purposes of this clause, the United States is defined as the 50 states, the District of Columbia, and outlying areas.

**52.204-2 Security Requirements** (Aug 1996) . Changes clause means the changes clause of this contract. This clause applies only if access to classified material is required.

**52.204-9 Personal Identity Verification of Contractor Personnel** (Sep 2007) . This clause applies only if performance under this contract requires Seller to have routine physical access to a Federally-controlled facility and/or routine access to a Federally-controlled information system..

**52.215-2 Audit and Records - Negotiation** (Jun 1999) . This clause applies only if this contract exceeds \$100,000 and (i) is cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable type or any combination of these types: (ii) Seller was required to provide cost or pricing data, or (iii) Seller is required to furnish reports as discussed in paragraph (e) of the referenced clause.

**52.215-15 Pension Adjustments and Asset Reversions** (Oct 2004) . This Clause applies to this contract if it meets the requirements of FAR 15.408(g).

**52.215-18 Reversion or Adjustment of Plans for Postretirement Benefits Other Than Pensions (PRB)** (Jul 2005) . This Clause applies to this contract if it meets the requirements of FAR 15.408(j).

**52.215-19 Notification of Ownership Changes** (Oct 1997) . This Clause applies to this contract if it meets the requirements of FAR 15.408(k).

**52.219-8 Utilization of Small Business Concerns** (May 2004) .

**52.219-9 Small Business Subcontracting Plan** (Nov 2007) . In paragraph (c), "Contracting Officer" shall mean Buyer. This clause applies only if this contract exceeds \$550,000 and Seller is not a small business concern.

**52.222-21 Prohibition of Segregated Facilities** (Feb 1999) .

**52.222-26 Equal Opportunity** (Mar 2007) .

**52.222-35 Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans** (Sep 2006) . This clause applies only if this contract exceeds \$100,000.

**52.222-36 Affirmative Action for Workers With Disabilities** (Jun 1998) . This clause applies only if this contract exceeds \$ 10,000.

**52.222-37 Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans** (Sep 2006) . This clause applies only if this contract exceeds \$100,000.

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

**52.222-50 Combating Trafficking in Persons** (Aug 2007) . In paragraph (d), the term "Contracting Officer" means Buyer, and in paragraph (e), the term "the Government" means Buyer..

**52.225-13 Restrictions on Certain Foreign Purchases** (Feb 2006) .

**52.227-1 Authorization and Consent** (Dec 2007) .

**52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement** (Dec 2007) . A copy of each notice sent to the Government will be sent to Buyer.

**52.230-6 Administration of Cost Accounting Standards** (Mar 2008) . Add "Buyer and the" before "CFAO" in paragraph (m). This provision applies if clause H001, H002, or H004 is included in this contract.

**52.234-4 Earned Value Management System** (Jul 2006) . This clause applies to those subcontractors specified elsewhere in this contract.

**52.237-2 Protection of Government Buildings, Equipment, and Vegetation** (Apr 1984) . This clause applies only if work will be performed on a Government installation. "Contracting Officer" shall mean Buyer.

**52.244-5 Competition in Subcontracting** (Dec 1996) .

**52.244-6 Subcontracts for Commercial Items** (Mar 2007) .

**52.245-1 Government Property** (Jun 2007) . This clause applies only if Government property is acquired or furnished for contract performance.

**52.247-63 Preference for U.S.-Flag Air Carriers** (Jun 2003) . This clause only applies if this contract involves international air transportation.

**52.248-1 Value Engineering (excluding subparagraph (f))** (Feb 2000) . The term "Contracting Officer" means Buyer. This clause applies only if this contract is for \$100,000 or more. If Value Engineering Change Proposal is accepted by the Government, Seller's share will be 50% of the instant, concurrent and future contract net acquisition savings and collateral savings that Buyer receives from the Government. Seller's negotiated share of the net acquisition savings and collateral savings shall not reduce the Government's share of concurrent or future savings or collateral savings. Buyer's payments to Seller under this clause are conditioned upon Buyer's receipt of authorization for such payments from the Government.

**2. DoD FAR Supplement Clauses.** DoD Contracts. The following contract clauses are incorporated by reference from the Department of Defense Federal Acquisition Regulation Supplement and apply to the extent indicated. In all of the following clauses, \"Contractor\" and \"Offeror\" mean Seller except as otherwise noted.

**252.203-7001 Prohibition on Persons Convicted of Fraud or Other Defense-Contract Related Felonies (excluding paragraph (g))** (Dec 2004) . This clause applies only if this contract exceeds \$100,000 and does not apply to the purchase of commercial items or commercial components. "Contractor" and "contract" are not changed in paragraphs (a) and (b). In paragraph (e), "Government" shall mean Government or Buyer. In paragraph (f), "through the Buyer" is inserted after "Contracting Officer". Paragraph (g) is deleted and "Contracting Officer" shall mean Contracting Officer.

**252.204-7000 Disclosure of Information** (Dec 1991) . Seller will submit requests for authorization to release through Buyer.

**252.219-7003 Small Business Subcontracting Plan (DoD Contracts)** (Apr 2007) .

Except paragraph (g) which is hereby deleted.

**252.223-7006 Prohibition on Storage and Disposal of Toxic and Hazardous Materials (APR 1993) - Alternate I (NOV 1995)** (Nov 1995) - **Alternate Alt I** . This clause applies to this contract if it requires, may require, or permits Seller to treat or dispose of non-DoD-owned toxic or hazardous materials as defined in this clause.

**252.225-7004 Report of Intended Performance Outside the United States and Canada - Submission After Award** (May 2007) . The term "Contractor" in paragraph (b) and the term "Contracting Officer" in paragraphs (c) and (d) means "Buyer." This clause applies only if this contract exceeds \$550,000.

**252.225-7006 Quarterly Reporting of Actual Contract Performance Outside the United States** (May 2007) . This clause applies only if this contract exceeds \$550,000 and is not for commercial items, construction, ores, natural gases, utilities, petroleum products and crudes, timber (logs), or subsistence.

**252.225-7012 Preference for Certain Domestic Commodities** (Mar 2008) .

**252.225-7043 Antiterrorism/Force Protection for Defense Contractors Outside the United States** (Mar 2006) . This clause applies only if this contract requires Seller to perform or travel outside the United States and Seller is not (i) a foreign government, (ii) a representative of a foreign government, or (iii) a foreign corporation wholly owned by a foreign government..

**252.226-7001 Utilization of Indian Organizations, Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns** (Sep 2004) . This clause applies only if this contract exceeds \$500,000.

**252.227-7013 Rights in Technical Data - Noncommercial Items** (Nov 1995) . This clause applies only if the delivery of data is required for noncommercial items under this contract.

**252.227-7015 Technical Data - Commercial Items** (Nov 1995) . This clause applies only if the delivery of data is required for commercial items under this contract.

**252.227-7016 Rights in Bid or Proposal Information** (Jun 1995) .

**252.227-7019 Validation of Asserted Restrictions - Computer Software** (Jun 1995) . This clause applies only if computer software may be originated, developed, or delivered under this contract.

**252.227-7027 Deferred Ordering of Technical Data or Computer Software** (Apr 1988) . This clause applies only if technical data or computer software may be generated as part of the performance of this contract.

**252.227-7030 Technical Data - Withholding of Payment** (Mar 2000) . In this clause, "Government" and "Contracting Officer" shall mean Buyer. This clause applies only if the delivery of technical data is required under this contract.

**252.227-7037 Validation of Restrictive Markings on Technical Data** (Sep 1999) . This clause applies only if the delivery of data is required by this contract.

**252.231-7000 Supplemental Cost Principles** (Dec 1991) .

**252.234-7001 Earned Value Management System** (Mar 1998) . This clause is applicable only if this contract states that the Earned Value Management System criteria applies to Seller.

**252.244-7000 Subcontracts for Commercial Items and Commercial Components (DoD Contracts) (Jan 2007) .**

**3. Commercial Items.** If goods or services being procured under this contract are commercial items and Clause H203 is set forth in the purchase order, the foregoing Government clauses in Sections 1 and 2 above are deleted and the following FAR/DFARS clauses are inserted in lieu thereof:

**52.219-8 Utilization of Small Business Concerns (May 2004) .**

This clause applies only if this contract offers further subcontracting opportunities. If this contract exceeds \$550,000 (\$1,000,000 for construction of any public facility) and Seller is not a small business concern, Seller must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

**52.222-26 Equal Opportunity (Mar 2007) .**

**52.222-35 Affirmative Action for Special Disabled and Vietnam Era Veterans (Dec 2001) .** This clause applies only if this contract exceeds \$25,000.

**52.222-36 Affirmative Action for Workers With Disabilities (Jun 1998) .** This clause applies only if this contract exceeds \$10,000.

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

**52.247-64 Preference for Privately-Owned U.S. Flag Commercial Vessels (Feb 2006) .** In paragraph (C)(2) "20" and "30" are changed to 10 and 20 respectively.

**252.225-7012 Preference for Certain Domestic Commodities (Jan 2007) .**

**252.225-7014 Preference for Domestic Specialty Metals (June 2005), Alternate I (APR 2003) (DEVIATION) (Jan 2008) .** See Section 5 for the full-text of the deviation.

**252.246-7003 Notification of Potential Safety Issues (Jan 2007) .**

This clause applies only if this subcontract is for (i) parts identified as critical safety items; (ii) systems and subsystems, assemblies and subassemblies integral to a system; or (iii) repair, maintenance, logistics support, or overhaul services for systems and subsystems, assemblies, subassemblies and parts integral to a system. The notification required by paragraph (c) of this clause will be provided to Buyer and to the administrative contracting officer (ACO) and the procuring contracting officer (PCO) if Seller is aware of the ACO and PCO for the prime contract.

**252.247-7023 Transportation of Supplies by Sea (May 2002) .**

This clause applies only if the supplies are of a type described in paragraph (b)(2) of this clause. In paragraph (d), "45 days" is changed to "60 days." In paragraph (g) "Government" means Buyer. If this contract is at or below \$100,000, paragraphs (f) and (g) are excluded.

**252.247-7024 Notification of Transportation of Supplies by Sea (Mar 2000) .**

"Contracting Officer" and, in the first sentence of paragraph (a), "Contractor" mean Buyer. This clause applies only if the supplies being transported are noncommercial items or commercial items that (i) Seller is reselling or distributing to the Government without adding value (generally, Seller does not add value to items that it contracts for f.o.b. destination shipment); (ii) are shipped in direct support of U.S. military contingency operations, exercises, or forces deployed in humanitarian or peacekeeping operations; or (iii) are commissary or exchange cargoes transported outside the Defense Transportation System in accordance with 10 U.S.C. 2643.

**4. Cost Accounting Standards.**

(1) (Applicable if this contract incorporates clause H001). The version of FAR 52.230-2, Cost Accounting Standards, incorporated by clause H001 is the version dated April 1998..

(2) (Applicable if this contract incorporates clause H002). The version of FAR 52.230-3, Disclosure and Consistency of Cost Accounting Practices, incorporated by clause H002 is the version dated April 1998. .

**5. The following prime contract special provisions apply to this purchase order:****A. 52.227-14 Rights in Data-General (DEC 2007)**

This clause only applies if data, as defined in paragraph (a) of the clause, will be produced, furnished, or acquired under this contract.

**B. ELIMINATION OF USE OF CLASS I OZONE DEPLETING SUBSTANCES (ODS)**

(1) It is Air Force policy to preserve mission readiness while minimizing dependency on Class I Ozone Depleting Substances (ODS), and their release into the environment, to help protect the Earth's stratospheric ozone layer.

(2) Unless a specific waiver has been authorized, Air Force procurements:

(A) May not include any specification, standard, drawing, or other document that requires the use of a Class I ODS in the design, manufacture, test, operation, or maintenance of any system, subsystem, item, component, or process;

(B) May not include any specification, standard, drawing or other document that establishes a requirement that can only be met by use of a Class I ODS; and

(C) May not require the delivery of any item of supply that contains a Class I ODS or any service that includes the use of a Class I ODS.

(3) For the purposes of the Air Force policy, the following are Class I ODS:

(A) Halons: 1011, 1202, 1211, 1301, and 2402

(B) Chlorofluorocarbons (CFC): CFC-11, CFC-12, CFC-13, CFC-111, CFC-112, CFC-113, CFC-114, CFC-115, CFC-211, CFC-212, CFC-213, CFC-214, CFC-215, CFC-216, CFC-217, and the blends R-500, R-501, R-502, and R-503.

(C) Other controlled substances: carbon tetrachloride, methyl chloroform, and methyl bromide.

(4) The Air Force has reviewed the requirements specified in this contract to reflect this policy. Where considered essential, specific approval has been obtained to require use of the following substances: NONE.

(5) To assist the Air Force in implementing this policy, Seller is required to notify Buyer if any Class I ODS not specifically listed above is required in the performance of this contract.

### **C. EXPORT CONTROLLED DATA RESTRICTIONS**

(1) For the purpose of this clause,

(A) Foreign person is any person who is not a citizen of the or lawfully admitted to the for permanent residence under the Immigration and Nationality Act, and includes foreign corporations, foreign organizations, and foreign governments;

(B) Foreign representative is anyone, regardless of nationality or citizenship, acting as an agent, representative, official, or employee of a foreign government, a foreign-owned or influenced firm, corporation, or person; and

(C) Foreign sources are those sources (vendors, subcontractors, and suppliers) owned and controlled by a foreign person.

(2) Seller shall place a clause in subcontracts containing appropriate export control restrictions, set forth in this clause.

(3) Nothing in this clause waives any requirement imposed by any other U.S. Government agency with respect to employment of foreign nationals or export-controlled data and information.



(4) Equipment and technical data generated or delivered in the performance of this contract are controlled by the International Traffic in Arms Regulation (ITAR), 22 CFR Sections 121 through 128. An export license is required before assigning any foreign source to perform work under this contract or before granting access to foreign persons to any equipment and technical data generated or delivered during performance (see 22 CFR Section 125). Seller shall notify Buyer and obtain the written approval of Buyer prior to assigning or granting access to any work, equipment, or technical data generated or delivered in the performance of this contract to foreign persons or their representatives. This notification shall include the name and country of origin of the foreign person or representative, the specific work, equipment, or data to which the person will have access, and whether the foreign person is cleared to have access to technical data (DoD 5220.22-M, National Industrial Security Program Operating Manual (NISPO)).

#### **D. LIMITED RELEASE OF CONTRACTOR CONFIDENTIAL BUSINESS INFORMATION**

(a) Definition.

“Confidential business information,” as used in this clause, is defined as all forms and types of financial, business, scientific, technical, economic, or engineering information, including 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 -- (1) the owner thereof has taken reasonable measures to keep such information secret, and (2) 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. Confidential business information may include technical data as that term is defined in DFARS §§ 252.227-7013(a)(14), 252.227-7015(a)(4), and 252.227-7018(a)(19). It may also include computer software as that term is defined in DFARS §§ 252.227-7014(a)(4) and 252.227-7018(a)(4).

(b) The Space and Naval Warfare Systems Command (SPAWAR) may release to individuals employed by SPAWAR support contractors and their subcontractors confidential business information submitted by the contractor or its subcontractors pursuant to the provisions of this contract. Business information that would ordinarily be entitled to confidential treatment may be included in the information released to these individuals. Accordingly, by submission of a proposal or execution of this contract, the offeror or contractor and its subcontractors consent to a limited release of its confidential business information.

(c) Circumstances where SPAWAR may release the contractor's or subcontractors' confidential business information include the following:

- (1) To other SPAWAR contractors and subcontractors, and their employees tasked with assisting SPAWAR in handling and processing information and documents in the administration of SPAWAR contracts, such as file room management and contract closeout.
- (2) To SPAWAR contractors and subcontractors, and their employees tasked with assisting SPAWAR in accounting support services, including access to cost-reimbursement vouchers.

(d) SPAWAR recognizes its obligation to protect the contractor and its subcontractors from competitive harm that could result from the release of such information. SPAWAR will permit the limited release of confidential business information under paragraphs (c)(1) and (c)(2) only under the following conditions:

- (1) SPAWAR determines that access is required by other SPAWAR contractors and their subcontractors to perform the tasks described in paragraphs (c)(1) and (c)(2),
- (2) Access to confidential business information is restricted to individuals with a bona fide need to possess,
- (3) Contractors, their subcontractors, and their employees who are granted access to confidential business information have signed an appropriate non-disclosure agreement requiring them to provide the same level of protection to confidential business information that would be provided by SPAWAR employees,
- (4) Contractors and their subcontractors having access to confidential business information have agreed under their contract or a separate corporate non-disclosure agreement to provide the same level of protection to confidential business information that would be provided by SPAWAR employees, and
- (5) SPAWAR contractors and their subcontractors performing the tasks described in paragraphs (c)(1) or (c)(2) have agreed under their contract or a separate non-disclosure agreement to not use confidential business information for any purpose other than performing the tasks described in paragraphs (c)(1) and (c)(2).

(e) SPAWAR's responsibilities under the Freedom of Information Act are not affected by this clause.

(f) If SPAWAR satisfies the conditions listed in paragraph (d), the contractor and its subcontractors agree to indemnify and hold harmless the Government, its agents, and employees from every claim or liability, including attorneys fees, court costs, and expenses, arising out of, or in any way related to, the misuse or unauthorized modification, reproduction, release, display, or disclosure of confidential business information provided by the contractor to the Government.

(g) The contractor agrees to include, and require inclusion of, this clause in all subcontracts at any tier that requires the furnishing of confidential business information.

## **E. NOTIFICATION OF DEBARMENT/SUSPENSION STATUS**

Seller shall provide immediate notice to Buyer in the event of being debarred suspended, or proposed for debarment by any Federal Agency during the performance of this contract.

## **F. ORGANIZATIONAL CONFLICT OF INTEREST (ACCESS TO PROPRIETARY INFORMATION)**

(a) This contract provides for the Contractor to provide technical evaluation and/or advisory and assistance services in support of Net-Enabled Command Capability (NECC). The parties recognize that by the Contractor providing this support a potential conflict of interest arises as described by FAR 9.505-3 and FAR 9.505-4.

(b) For the purpose of this clause, the term "contractor" means the contractor, its subsidiaries and affiliates, joint ventures involving the contractor, any entity with which the contractor may hereafter merge or affiliate, and any other successor or assignee of the contractor.

(c) The Contractor agrees to execute agreements with companies furnishing proprietary data in connection with work performed under this contract, which obligates the Contractor to protect such data from unauthorized use or disclosure so long as such data remains proprietary, and to furnish copies of such agreements to the Contracting Officer. The Contractor further agrees that such proprietary data shall not be used in performing additional work for the Department of Defense in the same field as work performed under this contract whether as a prime, consultant or subcontractor at any tier.

(d) The contractor shall, within 15 days after the effective date of this contract, provide, in writing, to the Contracting Officer, a representation that all employees, agents and subcontractors involved in the performance of this contract have been informed of the provisions of this clause. Any subcontractor that performs any work relative to this contract shall be subject to this clause. The contractor agrees to place in each subcontract affected by these provisions the necessary language contained in this clause.

(e) The Contractor further agrees that it will not perform technical evaluations as described in the SOW for any product it has designed, developed, or manufactured in whole or in part. The Contractor further agrees to notify the Contracting Officer should it be tasked to conduct such technical evaluations on such products and to take no action unless directed to do so by the Contracting Officer.

(f) The Contractor acknowledges the full force and effect of this clause. It agrees to be bound by its terms and conditions and understands that violation of this clause may, in the judgment of the Contracting Officer, be cause for Termination for Default under FAR 52.249-6. The Contractor also acknowledges that this does not represent the sole and exclusive remedy available to the government in the event the Contractor breaches this or any other Organizational Conflict of Interest clause.

## **G. ORGANIZATIONAL CONFLICT OF INTEREST (SPECIFICATION PREPARATION)**

(a) This contract, in whole or in part, provides for the Contractor to draft and/or furnish specifications in support of Net-Enabled Command Capability (NECC). Further, this contract may task the Contractor to prepare or assist in preparing work statements that directly, predictably and without delay are used in future competitive acquisitions in support of Net-Enabled Command Capability (NECC). The parties recognize that by the Contractor providing this support a potential conflict of interest arises as defined by FAR 9.505-2.

(b) During the term of this contract and for a period of two after completion of this contract, the Contractor agrees that it will not supply as a prime contractor, subcontractor at any tier, or consultant to a supplier to the Department of Defense, any product, item or major component of an item or product, which was the subject of the specifications and/or work statements furnished under this contract. The contractor shall, within 15 days after the effective date of this contract, provide, in writing, to the Contracting Officer, a representation that all employees, agents and subcontractors involved in the performance of this contract have been informed of the provisions of this clause. Any subcontractor that performs any work relative to this contract shall be subject to this clause. The contractor agrees to place in each subcontract affected by these provisions the necessary language contained in this clause.

(c) For the purposes of this clause, the term “contractor” means the contractor, its subsidiaries and affiliates, joint ventures involving the contractor, any entity with which the contractor may hereafter merge or affiliate and any other successor or assignee of the contractor.

(d) The Contractor acknowledges the full force and effect of this clause. It agrees to be bound by its terms and conditions and understands that violation of this clause may, in the judgment of the Contracting Officer, be cause for Termination for Default under FAR 52.249-6. The Contractor also acknowledges that this does not represent the sole and exclusive remedy available to the Government in the event the Contractor breaches this or any other Organizational Conflict of Interest clause.

## **H. PATENT RIGHTS - OWNERSHIP BY THE CONTRACTOR**

### **FAR 52.227-11 (DEC 2007): PATENT RIGHTS - OWNERSHIP BY THE CONTRACTOR**

## **I. RIGHTS IN MASK WORKS**

(a) Definitions.

As defined in 17 U.S.C. §901--

“Semiconductor chip product” is the final or intermediate form of any product--

(A) having two or more layers of metallic, insulating, or semiconductor material, deposited or otherwise placed on, or etched away or otherwise removed from, a piece of semiconductor material in accordance with a predetermined pattern; and

(B) intended to perform electronic circuit functions.

“Mask work” is a series of related images, however fixed or encoded--

(A) having, or representing the predetermined, three-dimensional pattern of metallic, insulating, or semiconductor material present or removed from the layers of a semiconductor chip product; and

(B) in which series the relation of the images to one another is that each image has the pattern of the surface of one form of the semiconductor chip product.

(b) For any and every mask work generated in the performance of work under this contract, the contractor grants to the Government a non-exclusive, irrevocable, royalty free, worldwide license to:

(1) reproduce or have reproduced the mask work by optical, electronic, or any other means; and

(2) import or distribute or have imported or distributed a semiconductor chip product in which the mask work is embodied.

(c) The contractor shall include this clause, suitably modified to replace “contractor” with “subcontractor” in all subcontracts, regardless of tier, in which a mask work is likely to be created in the performance of the work under the subcontract. The contractor shall not obtain rights in the subcontractor’s mask works as any part of the consideration for awarding the subcontract,.

(d) This license is specific to mask work rights and shall not be construed to broaden any proprietary rights to technical data or computer software.