

**CUSTOMER CONTRACT REQUIREMENTS**  
**ASTRO-E**  
**CUSTOMER CONTRACT W911W6-15-2-0001**

**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. Prime Contract Special Provisions** The following prime contract special provisions apply to this purchase order

**Special Provisions .**

**ARTICLE XII: PATENT RIGHTS**

A. Definitions.

1. All references to "Seller", as it applies to Article XII, Patent Rights, shall be deemed to be reference to Seller and any team member. Use of the name "Seller" is not intended to exclude any team member.
2. "Invention" means any invention or discovery, which is or may be patentable or otherwise protectable under Title 35 of The United States Code.
3. "Made" when used in relation to any invention means the conception or first actual reduction to practice of such invention.
4. "Practical application" means to manufacture, in the case of a composition of matter or product; to practice, in the case of a process or method, or to operate, in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is capable of being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the Public on reasonable terms.
5. "Subject Invention" means any invention made, or improvement to any invention conceived or first reduced to practice in the performance of work under this Agreement. Any invention both conceived and first actually reduced to practice at private expense outside this Agreement, including reduction to practice by simulation if the technology is sufficiently mature to reasonably ensure workability, is not a Subject Invention.

B. Allocation of Principal Rights. Unless Seller will have notified the Government (in accordance with subparagraph C.2 below) that Seller does not intend to retain title, Seller will retain the entire right, title, and interest throughout the world to each Subject Invention consistent with the provisions of this Article, and 35 U.S.C. 203. With respect to any Subject Invention in which Seller retains title, the Government will have a nonexclusive, nontransferable, irrevocable, paid-up license for Government to practice or have practiced on behalf of the United States the Subject Invention throughout the world. Notwithstanding the above, Seller may elect to provide full or partial rights to other parties.

C. Invention Disclosure, Election of Title, and Filing of Patent Application.

1. Seller will disclose each Subject Invention to the Government (through the Buyer) within six (6) months after the inventor discloses it in writing to his company personnel responsible for patent matters. The disclosure to the Government, through the Buyer, will be in the form of a written report and will identify the Agreement under which the invention was made and the identity of the inventor(s). It will be sufficiently complete in technical detail to convey a clear understanding to the extent known at the time of the disclosure, of the nature, purpose, operation, and the physical, optical, chemical, biological, or electrical characteristics of the invention. The disclosure will also identify any publication, sale, or public use of the invention and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In the event there are no Subject Inventions, Seller will submit a negative report as part of Agreement closeout.
2. If Seller determines that it does not intend to retain title to any such invention, Seller will notify the Buyer, in writing, within eight (8) months of disclosure to the Buyer. 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 may be shortened by the Buyer to a date that is no more than sixty (60) calendar days prior to the end of the statutory period.

3. Seller will file its initial patent application on a Subject Invention to which it elects to retain title within one (1) year after election of title or, if earlier, prior to the end of the statutory period wherein valid patent protection can be obtained in the United States after a publication, or sale, or public use. Seller may elect to file patent applications in additional countries (or regional Patent Office or pursuant to the Patent Cooperation Treaty) within either twelve (12) months of the corresponding initial patent application or six (6) months from the date permission is granted by the Commissioner of Patents and Trademarks to file foreign patent applications, where such filing has been prohibited by a Secrecy Order.

4. Any Subject Inventions, jointly made by employees of the Government of the United States of America and Seller, will be jointly owned by those parties. With respect to jointly owned Subject Inventions, the parties will agree, on a case-by-case basis, as to which party will file patent applications, if any. Each party will bear its own patent filing expenses in filing patent applications on joint Subject Inventions. Requests for extension of the time for disclosure, election, and filing under Article XII, subparagraph C. may, at the discretion of the Government, and after considering the position of Seller, be granted and will normally be granted unless the Agreements Officer has reason to believe that a particular extension would prejudice the Government's interest.

D. Conditions When the Government May Obtain Title. Upon the Buyer's written request, Seller will convey title to any Subject Invention to the Government under any of the following conditions:

1. If Seller fails to disclose or elects not to retain title to the Subject Invention within the times specified in paragraph C of this Article, provided, that the Government may only request title within sixty (60) days after learning of the failure of Seller to disclose or elect within the specified times.
2. In those countries in which Seller fails to file patent applications within the times specified in paragraph C of this Article, provided that, if Seller has filed a patent application in a country after the times specified in paragraph C of this Article, but prior to its receipt of the written request by the Government, Seller will continue to retain title in that country; or
3. In any country in which 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, if the Government, at its expense, is going to continue to retain title in that country.

E. Minimum Rights to Seller and Protection of Seller's Right to File.

1. Seller will retain a nonexclusive, royalty free sub-licensable license throughout the world in each Subject Invention to which the Government obtains title, except if Seller fails to disclose the Subject Invention within the times specified in paragraph C of this Article. The Seller license extends to the domestic subsidiaries and affiliates, if any, of Seller within the corporate structure of which Seller is a party and includes the right to grant licenses of the same scope to the extent that Seller was legally obligated to do so at the time the Agreement was awarded.

The license is transferable only with the approval of the Government, except when transferred to the successor of that part of the business to which the invention pertains. Government approval for license transfer will not be unreasonably withheld.

2. The Seller domestic license may be revoked or modified by the Government to the extent necessary to achieve expeditious practical application of Subject Invention pursuant to an application for an exclusive license submitted consistent with appropriate provisions at 37 CFR Part 404, provided that such revocation or modification will not take place less than ten (10) years after the end of the term of the Agreement. This license will not be revoked in that field of use or the geographical areas in which Seller has achieved practical application and continues to make the benefits of the 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 Seller, its licensees, or the subsidiaries or affiliates have failed to achieve practical application in that foreign country.

3. Before revocation or modification of the license, the Government, through the Buyer, will furnish Seller a written notice of its intention to revoke or modify the license, and Seller will 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.

F. Action to Protect the Government's Interest.

1. Seller agrees to execute or to have executed and promptly provide to the Agreements Administrator, through the Buyer, all instruments necessary to: (a) establish or confirm the rights the Government has throughout the world in those Subject Inventions to which Seller elects to retain title, and (b) convey title to the Government when requested under paragraph D. of this Article and to enable the Government to obtain patent protection throughout the world in that Subject Invention.

2. Seller agrees to require, by written Agreement, that employees of Seller, other than clerical and non-technical employees, agree to disclose promptly in writing, to personnel identified as responsible for the administration of patent matters and in a format acceptable to Seller, each Subject Invention made under this Agreement in order that Seller can comply with the disclosure provisions of paragraph C. of this Article. Seller will instruct employees, through employee Agreements or other suitable educational programs, on the

importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.

3. Seller will notify the Government of any decisions not to continue the prosecution of a patent application, pay maintenance fees, or defend in a re-examination or opposition proceedings on a patent, in any country, not less than thirty (30) calendar days before the expiration of the response period required by the relevant patent office.

4. Seller will 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. W911W6-15-2-0001 for the Autonomous Sustainment Technologies for Rotorcraft Operations – Electrical (ASTRO-E) program. The Government has certain rights in the invention."

#### G. Lower Tier Agreements.

1. The Seller shall include the obligations of the Seller under this Article, suitably amended to identify the Parties, in all subcontracts or lower tier agreements, regardless of tier, for experimental, developmental, or research work.

2. In the case of a lower tier agreement with a vendor, at any tier, the Government, the vendor, and the Seller agree that the mutual obligations of the parties created by this Article flow down to the vendor and constitute an agreement between the vendor and the Government with respect to such obligations.

3. The foregoing flow down requirements shall pertain only to the obligations created by this Article. For purposes of clarity, the Parties agree that the Seller has the right to freely negotiate the ownership and other allocation of intellectual property rights as between the Seller and its vendors.

#### H. Reporting on Utilization of Subject Inventions.

1. Seller agrees to submit to the Agreement Administrator, through the Buyer, during the term of the Agreement, periodic reports no more frequently than annually on the utilization of a Subject Invention or on efforts at obtaining such utilization that are being made by Seller or licensees or assignees of the inventor. Such reports will include information regarding the status of development, date of first commercial sale or use, gross royalties received by Seller's subcontractor(s), and such other data and information as the agency may reasonably specify.

2. Seller also agrees to provide additional reports as may be requested by the Government in connection with any march-in proceedings undertaken by the Government in accordance with paragraph J of this Article. Consistent with 35 U.S.C. 202(c)(5), the Government agrees it will not disclose such information to persons outside the Government without permission of Seller.

I. Preference for American Industry. Notwithstanding any other provision of this clause, Seller agrees that it will not grant to any person the exclusive right to use or sell any Subject Invention in the United States unless such person agrees that any product embodying the Subject Invention or produced through the use of the Subject Invention will be manufactured substantially in the United States. However, in individual cases, the requirements for such an agreement may be waived by the Government upon a showing by Seller that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that, under the circumstances, domestic manufacture is not commercially feasible.

J. March-In Rights. Seller agrees that, with respect to any Subject Invention in which it has retained title, the Government has the right to require Seller, an assignee, or exclusive licensee of a Subject Invention to grant a nonexclusive license to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if Seller, assignee or exclusive licensee refuses such a request, the Government has the right to grant such a license itself if the Government determines that:

1. Such action is necessary because Seller or assignee has not taken effective steps, or is not expected to take within a reasonable time, effective steps to achieve practical application of the Subject Invention, a reasonable time being no less than ten (10) years from the end of the term of the Agreement;

2. Such action is necessary to alleviate health or safety needs, which are not reasonably satisfied by Seller, assignee, or their licensees;

3. Such action is necessary to meet requirements for public use; and such requirements are not reasonably satisfied by Seller, assignee, or licensees; or

4. Such action is necessary because the Agreement required by paragraph (1) of this Article has not been obtained or waived or because a licensee of the exclusive right to use or sell any Subject Invention in the United States is in breach of such Agreement.

K. Opportunity to Cure. Certain provisions of this Article provide that the Government may gain title or license to a Subject Invention by reason of Seller's action or failure to act within the times required by this Article. Prior to claiming such rights (including any rights under Article XII. J., "March-In Rights"), the Government, through the buyer, will give written notice to Seller of the Government's

intent and afford Seller a reasonable period of time to cure such action or failure to act. The length of the cure period will depend on the circumstances, but in no event will be less than sixty (60) days. Seller may also use the cure period to show good cause why the claiming of such title or right would be inconsistent with the intent of this Agreement, in light of the appropriate timing for introduction of the technology in question, the relative funding and participation of the parties in the development and other factors.

L. Notification of Background Inventions, Disclosures or Patents. In no event shall the provisions set forth in this Article apply to any Background Inventions or Patents obtained thereon by Seller. Seller shall retain the entire right, title, and interest throughout the world to each such invention and patents, and the Government shall not acquire any rights to such Invention and Patents under this Agreement except for Subject Inventions. Such Intellectual Property, including but not limited to, Background Inventions, Disclosures, or Patents are identified in Attachment 6. The listing of Seller's Background Inventions, Disclosures, or Patents is subject to revision based upon new information or inadvertent omission, or otherwise by mutual agreement of the Parties, evidenced by a bi-lateral modification to this Agreement.

### **ARTICLE XIII. OTHER INTELLECTUAL PROPERTY RIGHTS**

A. Definitions. For the purposes of this Agreement, the following terms have the meanings indicated:

1. "Background Data" means Technical Data produced by Seller at private expense prior to performance of or outside the scope of this Agreement and is considered by Seller to be proprietary. Such Background Data may include any modifications, derivatives to previously conceived, designed, developed, and resultant revisions to software, processes, qualification data, and manufacturing plans.
2. "Background Software" means any Software developed by Seller prior to the performance of this Agreement or outside the scope of work performed under this Agreement and is considered by Seller to be proprietary.
3. "Government Data" means Data that has been delivered to the Government prior to or outside the terms of this Agreement. The Government's pre-existing rights in that Data govern disclosure and use of such Government Data.
4. "Government Purpose" means any activity in which the United States Government is a party, including cooperative agreements with international or multi-national defense organizations, or sales or transfers by the United States Government to foreign governments or international organizations. Government purposes include competitive procurement, but do not include the rights to use, modify, reproduce, release, perform, display, or disclose technical data for commercial purposes or authorize others to do so.
5. "Government Purpose Rights" means the rights to-
  - a. Use, modify, reproduce, release, perform, display, or disclose technical data within the Government without restriction; and
  - b. Release or disclose technical data outside the Government and authorize persons to whom release or disclosure has been made to use, modify, reproduce, release, perform, display, or disclose that data for United States government purposes.
  - c. Upon expiration of any stated period for the duration of Government Purpose Rights, the Government shall obtain Unlimited Rights in such technical data or computer software.
6. "Limited Rights" as defined in (a)(14) of DFARS 252.227-7013, Rights in Technical Data-Noncommercial Items (FEB 2014).
7. "Proprietary Information" means information which embodies trade secrets or which is privileged or confidential technical, business or financial information provided that such information:
  - a. is not generally known, or is not available from other sources without obligations concerning its confidentiality;
  - b. has not been made available by the owners to others without obligation concerning its confidentiality;
  - c. is not described in an issued patent or a published copyrighted work or is not otherwise available to the public without obligation concerning its confidentiality; or
  - d. can be withheld from disclosure under 15 U.S.C. § 3710a(c)(7)(A) & (B) and the Freedom of Information Act, 5 U.S.C. § 552 et seq; and
  - e. is identified as such by labels or markings designating the information as proprietary.
8. "Restricted Rights" shall have the same definition as that contained in DFARS clause 252.227-7014 (FEB 2014).
9. "Subject Technical Data", "Subject Computer Software", and "Computer Software Documentation", as used in this article, means any Technical Data, Computer Software, or Computer Software Documentation first developed during performance of this Agreement.

10. "Technical Data" means recorded information, regardless of the form or method of the recording, of a scientific or technical nature (including computer software documentation). The term does not include computer software or data incidental to contract administration, such as financial and/or management information.

11. "Unlimited Rights" means rights to use, modify, reproduce, perform, display, release, or disclose technical data in whole or in part, in any manner, and for any purpose whatsoever, and to have or authorize others to do so.

**B. Allocation of Principal Rights.** This Agreement shall be performed with a mix of Government and Seller funding. Any technical data and computer software developed with agreement funding shall be considered as "Subject Technical Data" and "Subject Computer Software" and are "Developed with mixed funding" as defined in DFARS clause 252.227-7013(a)(10) and 252.227-7014(a)(10). In consideration of Government funding and Attachment 6, the Parties agree as follows:

1. Background Data provided to the Government shall be limited to that information normally shared with commercial customers or that information specifically negotiated under this Agreement and shall be subject to Limited Rights. Seller retains all right, title, and interest in such Background Data. Certain deliverable reports/documentation may, by necessity, incorporate Background Data. If so, such report/documentation will be supplied with Limited Rights for Technical Data and Restricted Rights for non-commercial software and software documentation. Furnishing of "Background Data" by incorporating it into a deliverable report/documentation shall not affect any preexisting Government Rights in such Technical Data and Software/Software Documentation. Seller's Background Data is identified in Attachment 6.

The Government shall obtain Government Purpose Rights in "Subject Technical Data", "Subject Computer Software", and "Computer Software Documentation" based upon its development with mixed funding under the Agreement.

In addition to the items identified in Attachment 6, other assertions meeting the definition of Background Data/Background Software may be identified after award. Such identification shall be submitted to the Grants/Agreements Officer as soon as practical, but in no case shall the additional Background Data be included in any data deliverable until the Agreement is bilaterally amended to reflect such addition. Attachment 2 includes a description of all technical data deliverables under this agreement.

2. The following reports are administrative/management documentation and not considered technical data. They contain Seller proprietary information and may be marked "Proprietary": Business/Financial Status Report and Program Management Plan.

3. The Government shall obtain a Government Purpose Rights version of the Final Report.

4. Reports/documentation may include background data and the Government shall have rights as defined in Attachment 2. When Background Data is included and subject to Limited Rights, that Background Data shall be submitted in an appendix to the report/document such that the Government may have Government Purpose Rights in the primary portion of the report/document.

5. To the extent that Government Data is used in the performance of this Agreement, the Government shall retain its preexisting rights in such Data, including modifications or changes made to such Data as part of the performance under this Agreement.

**C. Seller shall include the obligations of the Seller under this Article,** suitably modified to identify the Parties, in all subcontracts or lower-tier agreements, regardless of tier, for experimental, developmental, or research work.

**D. Marking of Data**

1. Pursuant to paragraph B above:

a. Technical data required to be delivered under this Agreement shall be marked appropriately with the following appropriate legend:

**Government Purpose Rights**

Agreement Number: W911W6-15-2-0001

Seller Name: Seller Name

Seller Address: Seller Address

Expiration Date: 10 years after Agreement Term end date (as indicated in Article III or any modification thereto)

The Government's rights to use, modify, reproduce, release, perform, display or disclose these Technical Data are restricted as stated in Agreement W911W6-15-2-0001 between the Government and Seller. Any reproduction of technical data or portions thereof marked with this legend must also reproduce the markings. Any person other than the Government, who has been provided access to such Technical Data, must promptly notify Seller.

**Limited Rights**

Agreement Number: W911W6-15-2-0001

Seller Name: Seller Name

Seller Address: Seller Address

The Government's rights to use, modify, reproduce, release, perform, display, or disclose these technical data are restricted as stated in Agreement W911W6-15-2-0001 between the Government and Seller. Any reproduction of technical data or portions thereof marked with this legend must also reproduce the markings. Any person, other than the Government, who has been provided access to such data, must promptly notify the above named Seller.

b. Software required to be delivered under this Agreement shall be marked appropriately with the following appropriate legend:

**Government Purpose Rights**

Agreement Number: W911W6-15-2-0001

Seller Name: Seller Name

Seller Address: Seller Address

Expiration Date: 10 years after Agreement Term end date (as indicated in Article III or any modification thereto)

The Government's rights to use, modify, reproduce, release, perform, display, or disclose this software are restricted as stated in Agreement W911W6-15-2-0001 between the Government and Seller. No restrictions apply after the expiration date shown above. Any reproduction of the software or portions thereof marked with this legend must also reproduce the markings.

**Restricted Rights**

Agreement Number: W911W6-15-2-0001

Seller Name: Seller Name

Seller Address: Seller Address

The Government's rights to use, modify, reproduce, release, perform, display, or disclose this software are restricted as stated in Agreement W911W6-15-2-0001 between the Government and Seller. Any reproduction of computer software or portions thereof marked with this legend must also reproduce the markings. Any person, other than the Government, who has been provided access to such software must promptly notify the above named Seller.

(End of legend)

2. Further, the deliverable proprietary non-technical data information (namely the Business Status Report and Program Management Plan) not subject to Unlimited Rights, Government Purpose Rights or Limited Rights, shall be marked with the proprietary notice customarily used by Seller to identify data and information that is subject to restrictions regarding disclosure and/or use. The proprietary notice shall however, also include notation of this Agreement Number "W911W6-15-2-0001" and a right for the Government to use the report for purpose of administration of this Agreement.

3. Except for Technical Data, Computer Software, Computer Software Documentation or Proprietary Information delivered under this Agreement, the parties agree that Seller will appropriately advise the Government regarding any limitation or restriction to Technical Data or Computer Software to which the Government may have access. Limitations and restrictions will be subject to the appropriate Seller or third party markings and legends including a copyright notice to assure proper handling and shall bear notation to this Agreement Number "W911W6-15-2-0001".

E. Disclosure to Government Support Contractors. The Government may utilize contractor support, as required, for the duration of the Agreement. Information, including business sensitive/confidential or proprietary data, the Seller provides to the Government with restrictions may be viewed and utilized by the support contractor in the course of its contract performance. The Seller and its subcontractors/ contractors consent to a release of their business sensitive/confidential, proprietary, and/or restricted data to the Government's support contractor. The Government will require the support contractor to protect Seller information and to enter into a nondisclosure agreement with Seller.

The Seller may execute its own Non-Disclosure Agreement with the Government support contractor(s) listed below:

Company: USFalcon

The Government utilizes USFalcon for IT support services. This contract with USFalcon contains DFARS clause 252.227-7025, Limitations on the Use or Disclosure of Government Furnished Information Marked with Restrictive Legends, in addition to clause H-

20, Access to Confidential Information. The Government requires USFalcon to provide non-disclosure agreements. The employees performing these services completed non-disclosure agreements and the Government has obtained these forms.

F. Disclosure of Unmarked Data. The United States Government is not responsible for any disclosure or transfer of proprietary data or software that was not marked by the data owner in accordance with this Agreement.

G. Ownership to copyrights for original works of authorship created by employees of Seller or for hire by Seller in the course of performance of work under this Agreement is retained by Seller. Seller grants to the Government a royalty-free, nonexclusive, irrevocable license to use, modify, prepare derivative works, reproduce, distribute, perform, and display worldwide copyrighted works delivered under this Agreement, by or on behalf of the Government for Government purposes. Notwithstanding the foregoing, for works prepared and delivered pursuant to this Article and the attachments referenced therein, the Government does not obtain any greater rights than the rights described in this Article.

#### **ARTICLE XXVI: NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT.**

A. Seller shall report to the Buyer, promptly and in reasonable written detail, each notice or claim of patent or copyright infringement based on the performance of this agreement of which Seller has knowledge.

B. 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, Seller shall furnish to the Government, through the Buyer, when requested by the Buyer, all evidence and information in possession of Seller pertaining to such suit or claim. Such evidence and information shall be furnished at the expense of the Government except where Seller has agreed to indemnify the Government.

C. Seller agrees to include, and require inclusion of, this Article (suitably modified to identify the parties) in all sub-awards at any tier.

#### **ARTICLE XV: PUBLIC RELEASE OR DISSEMINATION OF INFORMATION**

A. Notwithstanding the reporting requirements of this Agreement, Parties to this Agreement favor an open-publication policy to promote the commercial acceptance of the technology developed under this Agreement, but simultaneously recognize the necessity to protect proprietary, privileged, or confidential information of the Agreement because successful commercialization of aspects of the technology by Recipient may depend on the proprietary nature of the information.

B. Seller is encouraged to publish results of the research projects, unless subject to export controls, in appropriate journals. One advance copy of each release of information to be publicized will be submitted to the Agreement Administrator, through the Buyer, who will staff request for release. Approval by the Grants/Agreements Officer is required prior to any release. Submit request at least forty-five (45) days prior to the anticipated release date. The Government reserves the right to deny approval of any publication submitted less than forty-five (45) days prior to anticipated release date.

Publications include, but are not limited to—

- \* reports presented at scientific and technical meetings, conferences, workshops, or other information exchange meetings;
- \* publications in scientific and technical journals or proceedings of information exchange meetings;
- \* news releases and newsletters; and articles in trade publications

C. Seller shall assure that an acknowledgment of Government support will appear on each publication or presentation of any material based upon or developed under this Program. A statement shall appear on the title page worded substantially as follows:

“This research was partially funded by the Government under Technology Investment Agreement No. W911W6-15-2-0001. The U.S. Government is authorized to reproduce and distribute reprints for Government purposes notwithstanding any copyright notation thereon.”

Seller is responsible for assuring that every publication of material based on or developed under this Program contains the following disclaimer:

“The views and conclusions contained in this document are those of the authors and should not be interpreted as representing the official policies, either expressed or implied, of the Aviation Applied Technology Directorate or the U.S. Government.”

D. An electronic copy of all publications resulting from the project shall be forwarded to the Government Technical Agent, through the Buyer, upon release. An original copy shall be provided upon Government request.

**ARTICLE XXVIII: TRAFFICKING IN PERSONS**

A. Seller, its employees, subcontractors under this Agreement, and subcontractors' employees shall not:

1. Engage in severe forms of trafficking in persons during the period of time that this Agreement is in effect;
2. Procure a commercial sex act during the period of time that this Agreement is in effect; or
3. Use forced labor in the performance of the Agreement or sub awards under this Agreement.

B. The Government may unilaterally terminate the Agreement in its entirety, without penalty, if Seller or subcontractor that is a private entity –

1. Is determined to have violated a prohibition in paragraph A of this Article; or
2. Has an employee who is determined by the Grants/Agreement Officer to have violated a prohibition in paragraph A of this Article through conduct that is either—

a. Associated with performance under this Agreement; or

b. Imputed to Seller or the subcontractor using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, “OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement),” as implemented by our agency at DoD Grant and Agreement Regulations, DOD 3210.6 – R# Part 1125 – Nonprocurement Debarment and Suspension.

C. Seller shall inform the Government, through the Buyer, immediately of any information received from any source alleging a violation of a prohibition in paragraph A of this Agreement.

D. The Government’s right to terminate unilaterally that is described in paragraph B of this Article:

- a. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and
- b. Is in addition to all other remedies for noncompliance that are available to the Government under this Agreement.

E. Seller agrees to include the requirements of paragraph A of this Article in any subaward made to a private entity.

**F. Definitions.**

1. “Employee” means either:

a. An individual employed by you or a subcontractor who is engaged in the performance of the project or program under this award; or

b. Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.

2. “Forced labor” means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

3. “Private entity”:

a. Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25.

b. Includes:

(1) A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).

(2) A for-profit organization.

4. “Severe forms of trafficking in persons,” “commercial sex act,” and “coercion” have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102).

