

CUSTOMER CONTRACT REQUIREMENTS
HiCAM P1.RIW.S
CUSTOMER CONTRACT NASA ACC-80NSSC22M0152 PWP RIW S&S

CUSTOMER CONTRACT REQUIREMENTS

The following customer contract requirements apply to this Contract to the extent indicated below. Please note, the requirements below are developed in accordance with Buyer's prime contract and are not modified by Buyer for each individual Seller or statement of work. Seller will remain at all times responsible for providing to any government agency, Buyer, or Buyer's customer, evidence of compliance with the requirements herein or that such requirements are not applicable to the extent satisfactory to the requesting party.

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.

52.227-11 Patent Rights -- Ownership by the Contractor (MAY 2014). This clause applies only if this contract is for experimental, developmental, or research work and Seller is a small business firm or nonprofit organization. In this clause, "Contractor" means Contractor, references to the Government are not changed and the subcontractor has all rights and obligations of the Contractor in the clause.

2. NASA FAR Supplement Clauses NASA Contracts. The following contract clauses are incorporated by reference from the National Aeronautics and Space Administration Federal Acquisition Regulation Supplement and apply to the extent indicated. In all of the following clauses, "Contractor" means Seller.

1852.227-70 New Technology - Other than a Small Business Firm or Nonprofit Organization (APR 2015). This clause only applies if this Contract is for experimental, developmental, or research work and Seller is other than a small business firm or nonprofit organization..

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

NASA ACC-80NSSC22M0152 PWP RIW S&S Special Provisions .

80NSSC22M0152 CFR Terms

- Ø Appendix A to 2 CFR Part 170: Reporting Subawards and Executive Compensation (DEC 26, 2014)
- Ø 2 CFR 175: Trafficking in persons (DEC 26, 2014)
- Ø 2 CFR 182: Government-wide requirements for Drug-Free Workplace (DEC 26, 2014)

80NSSC22M0152 GCAM Terms

- Ø GCAM Appendix D9: Equipment and other Property (NOV 30, 2021)
- Ø GCAM Appendix D30: Equipment and Other Property under Awards with For-profit Organizations (Nov 2021)

GCAM Appendix D30 Equipment and Other Property under Awards with For-profit Organizations (Nov 2021)

(a) This award permits acquisition of special purpose equipment required for the conduct of research. Acquisition of special purpose equipment costing in excess of \$5,000 and not included in the approved proposal budget requires the prior approval of the Grant Officer unless the item is merely a different model of an item shown in the approved proposal budget.

(b) Seller and Seller's subcontractors/sub-recipients may not purchase, as a direct cost to the award, items of general-purpose equipment, examples of which include but are not limited to office equipment and furnishings, air conditioning equipment, reproduction and printing equipment, motor vehicles, and automatic data processing equipment. If the Seller requests an exception, the Seller shall submit a written request for Buyer, for submittal to the Grant Officer for

approval, prior to purchase by the Seller, stating why the Seller cannot charge the general-purpose equipment to indirect costs.

(c) Under no circumstances shall award funds be used to acquire land or any interest therein, to acquire or construct facilities (as defined in 48 CFR (FAR) 45.301), or to procure passenger carrying vehicles.

(d) The Government shall have title to equipment and other personal property acquired with Government funds. Such property shall be disposed of pursuant to FAR 45.603, Abandonment or destruction of personal property.

(e) Title to Government furnished equipment (including equipment, title to which has been transferred to the Government prior to completion of the work) will remain with the Government.

(f) The Seller shall establish and maintain property management standards for Government property and otherwise manage such property as set forth in FAR 45.5, Support Government Property Administration, and NFS 1845.5.

(g) Seller shall submit annually a NASA Form 1018, NASA Property in the Custody of Contractors, in accordance with the instructions on the form, the provisions of NFS 1845.71 and any supplemental instructions that NASA may issue for the current reporting period. The original NF 1018 shall be submitted to the Center Deputy Chief Financial Officer (Finance) with three copies sent concurrently to the Center Industrial Property Officer, and another copy provided to the Buyer. The annual reporting period shall be from October 1 of each year through September 30 of the following year. The report shall be submitted in time to be received by October 15. Negative reports (*i.e.* no reportable property) are required. The information contained in the reports is entered into the NASA accounting system to reflect current asset values for agency financial statement purposes. Therefore, it is essential that required reports be received no later than October 15. A final report is required within 30 days after the end of the period of performance.

(h) The requirements set forth in this term and condition supersedes award term and condition in D9, Equipment and Other Property.

[End of Term and Condition]

80NSSC22M0152 Other Terms

Restrictions on Funding Activities with China

(a) Pursuant to The Department of Defense and Full-Year Appropriation Act, Public Law 112-10, Section 1340(a); The Consolidated and Further Continuing Appropriation Act of 2012, Public Law 112-55, Section 539; and future-year appropriations (hereinafter, "the Acts"), NASA is restricted from using funds appropriated in the Acts to enter into or fund any grant or cooperative agreement of any kind to participate, collaborate, or coordinate bilaterally with China or any Chinese-owned company, at the prime recipient level or at any subrecipient level, whether the bilateral involvement is funded or performed under a no-exchange of funds arrangement.

(b) Definition: "China or Chinese-owned Company" means the People's Republic of China, any company owned by the People's Republic of China, or any company incorporated under the laws of the People's Republic of China.

(c) The restrictions in the Acts do not apply to commercial items of supply needed to perform a grant or cooperative agreement.

(d) Subaward - The Seller shall comply with this provision and shall include the substance of this provision in all subawards made hereunder.

[End of Term and Condition]

Micro-purchase Threshold (Nov 2020)

Micro-purchase Threshold. The non-Federal entity must use one of the methods of procurement as prescribed in 2 CFR 200.320, Methods of procurement to be followed. As defined in 2 CFR 200.1, Definitions, the micro-purchase threshold for acquisitions of supplies or services made under grant and cooperative agreement awards is –

(i) \$10,000; or

(ii) As defined by FAR 2.101 Definitions, or

(iii) Such higher threshold as determined appropriate and in accordance with 2 CFR 200.320(a)(1)(iv) and (a)(1)(v).

[End of Provision]

NASA ACC-80NSSC22M0152 PWP RIW S&S – Unique Terms

NASA Grant and Cooperative Agreement Manual (GCAM) Terms *

Location	Title	Date
GCAM Appendix D1	Compliance with Title 2 of the Code of Federal Regulations, Grants and Agreements	Oct. 31, 2022
GCAM Appendix D2	System for Award Management and Unique Entity Identifier	Oct. 31, 2022
GCAM Appendix D3	Technical Publications and Reports	Oct. 31, 2022
GCAM Appendix D4	Reporting Subawards and Executive Compensation	Oct. 31, 2022
GCAM Appendix D6	Termination and Enforcement	Oct. 31, 2022
GCAM Appendix D7	Change in Principal Investigator or Scope	Oct. 31, 2022
GCAM Appendix D10	Patent Rights	Oct. 31, 2022
GCAM Appendix D12	National Security	Oct. 31, 2022
GCAM Appendix D13	Non-Discrimination	Oct. 31, 2022
GCAM Appendix D14	Clean Air and Water	Oct. 31, 2022
GCAM Appendix D15	Investigative Requirements	Oct. 31, 2022
GCAM Appendix D16	Travel and Transportation	Oct. 31, 2022
GCAM Appendix D17	Safety and Mishap Reporting	Oct. 31, 2022
GCAM Appendix D18	Made in America Encouragement	Oct. 31, 2022
GCAM Appendix D19	Investigation and Research Misconduct	Oct. 31, 2022
GCAM Appendix D20	Allocation of Risk/Liability	Oct. 31, 2022
GCAM Appendix D21	Export Licenses	Oct. 31, 2022
GCAM Appendix D22	Restrictions on sale or transfer of technology to foreign firms or institutions.	Oct. 31, 2022

Unless otherwise specified, the terms and conditions in D1 to D22 and the requirements in 2 CFR 170, 175, 182 and 183 apply and are incorporated by reference. To view full text of these requirements and terms and conditions go to <https://nasa.sharepoint.com/sites/GrantsPolicyandCompliance/SitePages/Regulations-and-Guidance.aspx> to view the NASA Grant and Cooperative Agreement Manual (GCAM).

Personal Identity Verification of Recipient Personnel (Dec 2014)

This is applicable to Sellers where their employees are required to have routine physical access to a Federally-controlled facility and/or routine access to a Federally-controlled information system in support of this contract.

(a) The Seller shall comply with agency personal identity verification procedures identified in the contract that implement Homeland Security Presidential Directive-12 (HSPD-12), Office of Management and Budget (OMB) guidance M-05-24 and Federal Information Processing Standards Publication (FIPS PUB) Number 201.

(b) The Seller shall account for all forms of Government-provided identification issued to the Seller employees in connection with performance under this contract. The Seller shall return such identification to the issuing agency at the earliest of any of the following, unless otherwise determined by the Government:

- (1) When no longer needed for grant performance.
- (2) Upon completion of the Seller's employee's employment.
- (3) Upon grant completion or termination.

(c) The Buyer may delay final payment under a contract if the Seller fails to comply with these requirements.

(d) The Seller shall insert the substance of this clause, including this paragraph (d), in all subcontracts or subagreements when their employees are required to have routine physical access to a Federally- controlled facility and/or routine access to a Federally-controlled information system. It shall be the responsibility of the Seller to return such identification to the issuing agency in accordance with the terms set forth in paragraph (b) of this section, unless otherwise approved in writing by the Buyer or Grant Officer.

[End of Term and Condition]

Reporting Requirements Regarding Sexual Harassment, Other Forms of Harassment, or Sexual Assault (April 2020)

This clause/article applies to any contract Buyer places with seller that involves a co-investigator.

(a) The Principal Investigator (PI) and any Co-Investigator(s) (Co-I) identified on a NASA award are in a position of trust. These individuals must comport themselves in a responsible and accountable manner during the award period of performance, whether at the recipient's institution, on-line, or at locales such as field sites, facilities, or conferences/ workshops. Above all, NASA wishes to assure the safety, integrity, and excellence of the programs and activities it funds.

(b) For purposes of this term and condition, the following definitions apply:

(1) Administrative Leave/ Administrative Action: Any temporary/ interim suspension or permanent removal of the PI or Co-I, or any administrative action imposed on the PI or Co-I by the recipient under organizational policies or codes of conduct, statutes, regulations, or executive orders, relating to activities, including but not limited to the following: teaching, advising, mentoring, research, management/ administrative duties, or presence on campus.

(2) Finding/Determination: The final disposition of a matter involving sexual harassment or other form of harassment under organizational policies and processes, to include the exhaustion of permissible appeals exercised by the PI or Co-I, or a conviction of a sexual offense in a criminal court of law.

(3) Other Forms of Harassment: Non-gender or non-sex-based harassment of individuals protected under federal civil rights laws, as set forth in organizational policies or codes of conduct, statutes, regulations, or executive orders.

(4) Sexual harassment: May include but is not limited to gender or sex-based harassment, unwelcome sexual attention, sexual coercion, or creating a hostile environment, as set forth in organizational policies or codes of conduct, statutes, regulations, or executive orders.

(c) The recipient is required to report to NASA:

(1) Any finding/determination regarding the PI or any Co-I that demonstrates a violation of the recipient's policies or codes of conduct, relating to sexual harassment, other forms of harassment, or sexual assault; and/or

(2) If the PI or any Co-I is placed on administrative leave or if any administrative action has been imposed on the PI or any Co-I by the recipient relating to any finding/determination or an investigation of an alleged violation of the recipient's policies or codes of conduct, statutes, regulations, or executive orders relating to sexual harassment, other forms of harassment, or sexual assault.² Such reporting must be submitted by the Authorized Organizational Representative (AOR) to NASA's Office of Diversity and Equal Opportunity at <https://missionstem.nasa.gov/term-condition-institutional-harassment-discr.html> within 10 business days from the date of the finding/determination, or the date of the placement of a PI or Co-I by the recipient on administrative leave or the imposition of an administrative action.³

(d) Recipient agrees to insert the substance of this term and condition in any subaward/subcontract involving a co-investigator. Recipient will be responsible for ensuring that all reports, including those related to co-investigators, comply with this term and condition.

(e) Each report must include the following information:

- > NASA Award Number;
- > Name of PI or Co-I being reported;⁴

Type of Report: Select one of the following:

- > Finding/Determination that the reported individual has been found to have violated the recipient's policies or codes of conduct, statutes, regulations, or executive orders relating to sexual harassment, other forms of harassment, or sexual assault; or
- > Placement by the recipient of the reported individual on administrative leave or the imposition of any administrative action on the PI or any Co-I by the recipient relating to any finding/determination, or an investigation of an alleged violation of the recipient's policies or codes of conduct, statutes, regulations, or executive orders relating to sexual harassment, other forms of harassment, or sexual assault.

The recipient must also provide:

- > A description of the finding/ determination and action(s) taken, if any; and/or
- > The reason(s) for, and conditions of placement of the PI or any Co-I on administrative action or administrative leave.

The recipient, at any time, may propose a substitute investigator if it determines the PI or any Co-I may not be able to carry out the funded project or activity and/or abide by the award terms and conditions.

In reviewing the report, NASA will consider, at a minimum, the following factors:

- a. The safety and security of personnel supported by the NASA award;
- b. The overall impact to the NASA-funded activity;
- c. The continued advancement of taxpayer-funded investments in science and scientists; and
- d. Whether the recipient has taken appropriate action(s) to ensure the continuity of science and that continued progress under the funded project can be made.

(f) Upon receipt and review of the information provided in the report, NASA will consult with the AOR, or designee. Based on the results of this review and consultation, the Agency may, if necessary and in accordance with 2 CFR 200.338, assert its programmatic stewardship responsibilities and oversight authority to initiate the substitution or removal of the PI or any Co-I, reduce the award funding amount, or where neither of those previous options is available or adequate, to suspend or terminate the award. Other personnel supported by a NASA award must likewise remain in full compliance with the recipient's policies or codes of conduct, statutes, regulations or executive orders relating to sexual harassment, other forms of harassment, or sexual assault. With regard to any personnel not in compliance, the recipient must make appropriate arrangements to ensure the safety and security of other award personnel and the continued progress of the funded project. Notification of these actions is not required under this term and condition.

Other personnel supported by a NASA award must likewise remain in full compliance with awardee policies or codes of conduct, statutes, regulations, or executive orders relating to sexual harassment, other forms of harassment, or sexual assault. With regard to any personnel not in compliance, the awardee must make appropriate arrangements to ensure the safety and security of other award personnel and the continued progress of the funded project. Notification of these actions is not required under this term and condition.

1 If a co-I is affiliated with a subrecipient organization, the AOR of the subrecipient must provide the requisite information directly to NASA and to the recipient. The subrecipient must act in accordance with Title 2 of the Code of Federal Regulations, Section 200.331, Requirements for Pass-Through Entities.

2 Recipient findings/determinations and placement of a PI or Co-I on administrative leave or the imposition of an administrative action must be conducted in accordance with organizational policies and processes. They also must be conducted in accordance with federal laws, regulations, and executive orders.

3 Such report must be provided regardless of whether the behavior leading to the finding/determination, or placement on administrative leave, or the imposition of an administrative action occurred while the PI or Co-I was carrying out award activities.

4 other individuals involved in the matter must not be included in the report. In the rare circumstance that information regarding a PI or Co-I is subject to the Family Educational and Privacy Act, 20 U.S implementing regulations, 35 C.F.R. Part 99, the recipient shall comply with those requirements.

[End of Term and Condition]

D11. Rights in Data (Deviation)

(a) "Data," as used in this term and condition, means recorded information, regardless of form, the media on which it may be recorded, or the method of recording. The term includes, but is not limited to, data of a scientific or technical nature, and any copyrightable work, including computer software and documentation thereof.

(b) Copyright

(1) In the event data is exchanged with a notice indicating the data is protected under copyright as a published copyrighted work, or are deposited for registration as a published work in the U.S. Copyright Office, the following paid-up licenses shall apply:

(A) If it is indicated on the data that the data existed prior to, or was produced outside of, this Cooperative Agreement, the receiving party and others acting on its behalf may reproduce, distribute, and prepare derivative works for the purpose of carrying out the receiving party's responsibilities under this Cooperative Agreement, unless greater rights are granted by the providing party; and

(B) If it is indicated on the data that the Data was produced under the Articles of Collaboration, outside of this Cooperative Agreement, the licenses specified in Paragraph 10.3(c) of the Articles of Collaboration shall apply to such data for all Cooperative Research Team Members; and

(C) If the furnished Data does not contain the indication of paragraph (b)(1)(A) or (B) of this section, it will be assumed that the Data was first produced under this Cooperative Agreement, and the receiving party and others acting on its behalf, shall be granted a paid up, nonexclusive, irrevocable, world-wide license for all such data to reproduce, distribute copies to the public, prepare derivative works, and perform publicly and display publicly, by or on behalf of the receiving party. For data that is computer software, the right to distribute shall be limited to potential users in the United States.

(2) When claim is made to copyright a work created under a Cooperative Agreement, the recipient shall affix the applicable copyright notice of 17 U.S.C. 401 or 402 and acknowledgment of Government sponsorship to the data when and if the data are delivered to the Government.

(c) In order that the Government may exercise its license rights in data, the Government, upon request to the recipient, shall have the right to review and/or obtain delivery of data resulting from the performance of work under this award or acquired under this award. Delivery shall be made within a time period specified by NASA.

(d) Cost Sharing and/or Matching Efforts. When the recipient cost shares with the Government on the effort, the following paragraph also applies -

(1) Data first produced by Recipient: In the event data first produced by the recipient in carrying out recipient's responsibilities under this Cooperative Agreement is furnished to NASA, and recipient considers such data to embody trade secrets or to comprise 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 for a period of up to five years after development of such data and disclosed and used by NASA and its contractors (under suitable protective conditions at least as stringent as NASA uses to protect its own sensitive information, but no less than a reasonable standard of care) only for experimental, evaluation, research and development purposes unless greater rights are granted by recipient, and thereafter may be used and disclosed by the Government and others acting on the Government's behalf for Government purposes (including experimental, evaluation, research and development purposes, but not including commercial purposes) only unless greater rights are granted by recipient. Recipient agrees not to disclose such data to any third party, other than to Cooperative Research Team Members for internal use only, without NASA's written approval until the aforementioned restricted period expires.

(e) For Cooperative Agreements, the following paragraph also applies -

(1) Data first produced by NASA: As to data first produced by NASA in carrying out NASA's responsibilities under this Cooperative Agreement and which data would embody trade secrets or would comprise commercial or financial information that is privileged or confidential if it had been obtained from the recipient, such data will be marked with an appropriate legend and maintained in confidence for 5 years (unless a shorter period has been agreed to between the Government and recipient) after development of such data, with the express understanding that during the aforesaid period such data may be disclosed and used (under suitable protective conditions) by or on behalf of the Government for Government purposes (including experimental,

evaluation, research and development purposes) only, and thereafter for any purpose whatsoever without restriction on disclosure and use. Recipient agrees not to disclose such data to any third party, other than to Cooperative Research Team Members for internal use only, without NASA's written approval until the aforementioned restricted period expires.

[End of Term and Condition]

GCAM Appendix D28. New Technology (OCT 2022)

(a) Definitions.

Administrator, as used in this term and condition, means the Administrator of the National Aeronautics and Space Administration (NASA) or duly authorized representative.

The term "award," as used in this term and condition, means any actual or proposed grant, cooperative agreement, understanding, or other arrangement, and includes any assignment, substitution of parties, subaward, or subcontract executed or entered into thereunder.

Made, as used in this term and condition, means conception or first actual reduction to practice; provided, that in the case of a variety of plant, the date of determination (as defined in section 41(d) of the Plant Variety Protection Act, 7 U.S.C. 2401(d)) must also occur during the period of performance.

Nonprofit organization, as used in this term and condition, means a domestic university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)), or any domestic nonprofit scientific or educational organization qualified under a State nonprofit organization statute.

Practical application, as used in this term and condition, means to manufacture, in the case of a composition or product; to practice, in the case of a process or method; or to operate, in case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.

Reportable item, as used in this term and condition, means any invention, discovery, improvement, or innovation of the awardee, whether patentable or otherwise protectable under Title 35 of the United States Code, made in the performance of any work under any NASA award or in the performance of any work that is reimbursable under any term and condition in any NASA award providing for reimbursement of costs incurred before the effective date of the award. Reportable items include, but are not limited to, new processes, machines, manufactures, and compositions of matter, and improvements to, or new applications of, existing processes, machines, manufactures, and compositions of matter. Reportable items also include new computer programs, and improvements to, or new applications of, existing computer programs, whether copyrightable or otherwise protectable under Title 17 of the United States Code.

Small business firm, as used in this term and condition, means a domestic small business concern as defined at 15 U.S.C. 632 and implementing regulations (see 13 CFR § 121.401 *et seq.*) of the Administrator of the Small Business Administration. Subject invention, as used in this term and condition, means any reportable item which is or may be patentable or otherwise protectable under Title 35 of the United States Code, or any novel variety of plant that is or may be protectable under the Plant Variety Protection Act (7 U.S.C. 2321 *et seq.*).

(b) Allocation of principal rights.

(1) Presumption of title.

(i) Any reportable item that the Administrator considers to be a subject invention shall be presumed to have been made in the manner specified in paragraph (A) or (B) of section 20135(b)(1) of the National Aeronautics and Space Act of 1958 (51 U.S.C. 20135) (hereinafter called "the Act"), and that presumption shall be conclusive unless at the time of reporting the reportable item the recipient submits to the Grant Officer a written statement, containing supporting details, demonstrating that the reportable item was not made in the manner specified in paragraph (A) or (B) of section 20135(b)(1) of the Act.

(ii) Regardless of whether title to a given subject invention would otherwise be subject to an advance waiver or is the subject of a petition for waiver, the recipient may nevertheless file the statement described in paragraph (b)(1)(i) of this term and condition. The Administrator will review the

information furnished by the recipient in any such statement and any other available information relating to the circumstances surrounding the making of the subject invention and will notify the recipient whether the Administrator has determined that the subject invention was made in the manner specified in paragraph (A) or (B) of section 20135(b)(1) of the Act.

(2) Property rights in subject inventions. Each subject invention for which the presumption of paragraph (b)(1)(i) of this term and condition is conclusive or for which there has been a determination that it was made in the manner specified in paragraph (A) or (B) of section 20135(b)(1) of the Act shall be the exclusive property of the United States as represented by NASA unless the Administrator waives all or any part of the rights of the United States, as provided in paragraph (b)(3) of this term and condition.

(3) Waiver of rights.

(i) Section 20135(g) of the Act provides for the promulgation of regulations by which the Administrator may waive the rights of the United States with respect to any invention or class of inventions made or that may be made under conditions specified in paragraph (A) or (B) of section 20135(b)(1) of the Act.

(ii) As provided in 14 CFR part 1245, subpart 1, recipients may petition, either prior to execution of the award or within 30 days after execution of the award, for advance waiver of rights to any or all of the inventions that may be made under an award. If such a petition is not submitted, or if after submission it is denied, the recipient (or an employee inventor of the recipient) may petition for waiver of rights to an identified subject invention within eight months of first disclosure of the invention in accordance with paragraph (e)(2) of this term and condition, or within such longer period as may be authorized in accordance with 14 CFR § 1245.105.

(c) Minimum rights reserved by the Government.

(1) With respect to each subject invention for which a waiver of rights is applicable in accordance with 14 CFR part 1245, subpart 1, the Government reserves –

(i) An irrevocable, nonexclusive, nontransferable, royalty-free license for the practice of such invention throughout the world by or on behalf of the United States or any foreign government in accordance with any treaty or agreement with the United States; and

(ii) Such other rights as stated in 14 CFR § 1245.107.

(2) Nothing contained in this paragraph (c) shall be considered to grant to the Government any rights with respect to any invention other than a subject invention.

(d) Minimum rights to the Recipient.

(1) The recipient is hereby granted a revocable, nonexclusive, royalty-free license in each patent application filed in any country on a subject invention and any resulting patent in which the Government acquires title, unless the recipient fails to disclose the subject invention within the times specified in paragraph (e)(2) of this term and condition. The recipient's license extends to its domestic subsidiaries and affiliates, if any, within the corporate structure of which the recipient is a party and includes the right to grant sublicenses of the same scope to the extent the recipient was legally obligated to do so at the time the award was issued. The license is transferable only with the approval of the Administrator except when transferred to the successor of that part of the recipient's business to which the invention pertains.

(2) The recipient's domestic license may be revoked or modified by the Administrator to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with 37 CFR part 404, Licensing of Government Owned Inventions. This license will not be revoked in that field of use or the geographical areas in which the recipient 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 Administrator to the extent the recipient, its licensees, or its domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.

(3) Before revocation or modification of the license, the recipient will be provided a written notice of the Administrator's intention to revoke or modify the license, and the recipient will be allowed 30 days (or such other time as may be authorized by the Administrator for good cause shown by the recipient) after the notice to show cause why the license should not be revoked or modified. The recipient has the right to appeal to the

Administrator any decision concerning the revocation or modification of its license.

(e) Invention identification, disclosures, and reports.

(1) The recipient shall establish and maintain active and effective procedures to assure that reportable items are promptly identified and disclosed to recipient personnel responsible for the administration of this New Technology term and condition within six months of conception and/or first actual reduction to practice, whichever occurs first in the performance of work under this award. These procedures shall include the maintenance of laboratory notebooks or equivalent records and other records as are reasonably necessary to document the conception and/or the first actual reduction to practice of the reportable items, and records that show that the procedures for identifying and disclosing reportable items are followed. Upon request, the recipient shall furnish the Grant Officer a description of such procedures for evaluation and for determination as to their effectiveness.

(2) The recipient will disclose each reportable item to the New Technology Representative, with notice to the Grant Officer, within two months after the inventor discloses it in writing to recipient personnel responsible for the administration of this New Technology term and condition or, if earlier, within six months after the recipient becomes aware that a reportable item has been made, but in any event for subject inventions before any on sale, public use, or publication of such invention known to the recipient. The disclosure to the Agency shall be in the form of a written report and shall identify the award under which the reportable item was made and the inventor(s) or innovator(s). It shall 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 physical, chemical, biological, or electrical characteristics of the reportable item. The disclosure shall also identify any publication, on sale, or public use of any subject invention and whether a manuscript describing such invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to the Agency, the recipient will promptly notify the Agency of the acceptance of any manuscript describing a subject invention for publication or of any on sale or public use planned by the recipient for such invention.

(3) The recipient shall furnish the New Technology Representative, with notice to the Grants Officer, the following:

(i) Interim new technology summary reports every 12 months from the date of the award, listing reportable items during that period, and certifying that all reportable items have been disclosed (or that there are no such inventions) and that the procedures required by paragraph (e)(1) of this term and condition have been followed.

(ii) A final new technology summary report within 120 days after the end of the period of performance, listing all reportable items or certifying that there were no such reportable items, and listing all research subawardees/subcontractors at any tier containing a patent rights clause or certifying that there were no such subcontractors.

(4) The recipient agrees, upon written request of the Patent Representative, to furnish additional technical and other information available to the recipient as is necessary for the preparation of a patent application on a subject invention and for the prosecution of the patent application, and to execute all papers necessary to file patent applications on subject inventions and to establish the Government's rights in the subject inventions.

(5) The recipient agrees, subject to 5(a) below, the Government may duplicate and disclose subject invention disclosures and all other reports and papers furnished or required to be furnished pursuant to this term and condition.

(a) Publishing information concerning an invention before a patent application is filed on a subject invention may create a bar to a valid patent. To avoid this bar, agencies may withhold information from the public that discloses any invention in which the Government owns or may own a right, title, or interest (including a nonexclusive license) (see 35 U.S.C. 205 and 37 CFR part 401). Agencies may only withhold information concerning inventions for a reasonable time in order for a patent application to be filed. Once filed in any patent office, agencies are not required to release copies of any document that is a part of a patent application for those subject inventions.

(f) Examination of records relating to inventions.

(1) The Grant Officer or any authorized representative shall, until 3 years after final payment under this award, have the right to examine any books (including laboratory notebooks), records, and documents of the recipient relating to the conception or first actual reduction to practice of inventions in the same field of technology as the work under this award to determine whether –

- (i) Any such inventions are subject inventions;
- (ii) The recipient has established and maintained the procedures required by paragraph (e)(1) of this term and condition; and
- (iii) The recipient and its inventors have complied with the procedures.

(2) If the New Technology Representative or Patent Representative learns of an unreported recipient invention, the recipient may be required to disclose the invention to the Agency for a determination of ownership rights.

(3) Any examination of records under this paragraph will be subject to appropriate conditions to protect the confidentiality of the information involved.

(g) Subawards/Subcontracts.

(1) Unless otherwise authorized or directed by the Grant Officer, the recipient shall -

- (i) Include the clause at NASA FAR Supplement (NFS) 1852.227-70, New Technology, (suitably modified to identify the parties) in any subaward/subcontract hereunder (regardless of tier) with other than a small business firm or nonprofit organization for the performance of experimental, developmental, or research work; and
- (ii) Include the FAR clause 52.227-11, as modified by the NASA FAR Supplement (NFS) 1852.227-11, "Patent Right-Retention by the Contractor (Short Form)" (suitably modified to identify the parties) in any subaward/subcontract hereunder (regardless of tier) with a small business firm or nonprofit organization for the performance of experimental, developmental, or research work.

(2) In the event of a refusal by a prospective subrecipient to accept such a clause the recipient

- (i) Shall promptly submit a written notice to the Grant Officer setting forth the subrecipient's reasons for such refusal and other pertinent information that may expedite disposition of the matter; and
- (ii) Shall not proceed with such subaward/subcontract without the written authorization of the Grant Officer.

(3) The recipient shall promptly notify the Grant Officer in writing upon the award of any subaward/subcontract at any tier containing a patent rights clause by identifying the subrecipient, the applicable patent rights term and condition/clause, the work to be performed under the subrecipient and the dates of award and estimated completion. Upon request of the Grant Officer, the recipient shall furnish a copy of such subaward/subcontract, and, no more frequently than annually, a listing of the subawards/subcontracts that have been awarded.

(4) The subrecipient will retain all rights provided for the recipient in paragraph (h)(1)(i) or (ii) of this term and condition, whichever is included in the subaward/subcontracts, and the recipient will not, as part of the consideration for awarding the subaward/subcontract, obtain rights in the subrecipients' subject inventions.

(i) Preference for United States industry. Unless provided otherwise, no recipient that receives title to any subject invention and no assignee of any such recipient shall grant to any person the exclusive right to use or sell any subject invention in the United States unless such person agrees that any products embodying the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement may be waived by the Administrator upon a showing by the recipient or assignee 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.

[End of Term and Condition]

GCAM Appendix D34. Access to Research Results (OCT 2022)

(a) This award is subject to the requirements of the, "NASA Plan: Increasing Access to the Results of Scientific Research," which covers public access to digital scientific data and peer-reviewed publications. For purposes of this term and condition, the following definitions apply:

(1) Awardee: Any recipient of a NASA grant or cooperative agreement, its investigators, and subrecipient (subaward or contract as defined in 2 CFR 200.1, Definitions) at any level.

(2) Final Peer-Reviewed Manuscript: The final text version of a peer-reviewed article disclosing the results of scientific research which is authored or co-authored by the Awardee or funded, in whole or in part, with funds from a NASA award, that includes all modifications from the publishing peer review process, and all graphics and supplemental material

prepared by the awardee.

(b) The recipient shall:

- (1) Comply with their approved Data Management Plan submitted with its proposal, and as modified upon agreement by the recipient and NASA from time to time during the course of the period of performance.
- (2) Ensure that any Final Peer-Reviewed Manuscript is submitted to the NASA-designated repository within one year of completion of the peer review process. NASA's instructions for completing the submission process are available on the NASA Scientific and Technical Information (STI) Program website at <https://sti.nasa.gov/>
- (3) Ensure that any publisher's agreements entered into by an Awardee will allow for the Awardee to comply with these requirements including submission of Final Peer-Reviewed Manuscripts to the NASA-designated repository, as listed in paragraph (b)(2) of this term and condition, with sufficient rights to permit such repository to use such Final Peer-Reviewed Manuscript in its normal course, including rights to permit users to download XML and plain text formats.
- (4) Hereby represent and warrant that Awardee has secured for recipient the right to submit the Final Peer-Reviewed Manuscript to the NASA-designated repository for use as set forth herein.
- (5) Include in annual and final reports a list of Final Peer-Reviewed Manuscripts covered by this term and condition.

[End of Term and Condition]

GCAM Appendix D36. Prohibition on certain telecommunications and video surveillance services or equipment. (OCT 2022)

(a) Grant and cooperative agreement recipients and subrecipients are prohibited from obligating or expending grant funds to:

- (1) Procure or obtain,
- (2) Extend or renew a contract to procure or obtain; or
- (3) Enter into contract (or extend or renew contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Pub. L. 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
 - i. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
 - ii. Telecommunications or video surveillance services provided by such entities or using such equipment.
 - iii. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise, connected to the government of a covered foreign country.

[End of Term and Condition]

Supplemental Rights in Data Provision

(a) Data Categories.

- (1) General: Data exchanged between NASA and recipient under this Cooperative Agreement will be exchanged without restriction as to its disclosure, use or duplication except as otherwise provided below in this provision and in accordance with D11. Rights in Data.
- (2) Recipient Reserved Background Data: "Recipient Reserved Background Data" is data furnished to NASA by the recipient which falls within the definition of "Reserved Background Technology" in the Articles of Collaboration. In the event it is necessary for recipient to furnish NASA with Recipient Reserved Background Data, and such Recipient Reserved Background Data is so identified with a suitable notice or legend, the Recipient Reserved Background Data will be maintained in confidence and disclosed and used by NASA and its contractors (under suitable protective conditions at least as stringent as NASA uses to protect its own sensitive information, but no less than a reasonable

standard of care) only for the purpose of carrying out NASA's responsibilities under this Cooperative Agreement. Upon completion of activities under this Cooperative Agreement, such Recipient Reserved Background Data will be disposed of by NASA as requested by recipient, unless greater rights are granted by recipient. The use of such Recipient Reserved Background Data, so identified with a suitable notice or legend, by recipient shall be governed by the provisions of the Articles of Collaboration pertaining to Background Copyrights and Reserved Background Technology.

(3) Recipient Contributed Background Data: "Recipient Contributed Background Data" is data furnished to NASA by the recipient which falls within the definition of "Contributed Background Technology" in the Articles of Collaboration. In the event it is necessary for recipient to furnish NASA with Recipient Contributed Background Data, and such Recipient Contributed Background Data is so identified with a suitable notice or legend, the Recipient Contributed Background Data will be maintained in confidence and disclosed and used by NASA and its contractors (under suitable protective conditions at least as stringent as NASA uses to protect its own sensitive information, but no less than a reasonable standard of care) only for the purpose of carrying out NASA's responsibilities under this Cooperative Agreement. Upon completion of activities under this Cooperative Agreement, such Recipient Contributed Background Data may be used and disclosed by the Government for experimental, evaluation, research and development purposes only and solely as necessary to use data or Inventions developed under this Cooperative Agreement, unless greater rights are granted by recipient. The Government may use contractors and/or cooperative agreement recipients to perform such experimental, evaluation, or research and development work. These contractors and/or cooperative agreement recipients, as well as their subcontractors and their individual employees, may be provided with Recipient Contributed Background Data submitted by the recipient under this Cooperative Agreement solely for the contractor's and/or cooperative agreement recipient's work to support the Government's experimental, evaluation, or research and development work under suitable protective conditions at least as stringent as NASA uses to protect its own sensitive information, but no less than a reasonable standard of care. The Government will not include Recipient Contributed Background Data in any solicitation for such experimental evaluation or research and development work. The use of such Recipient Contributed Background Data, so identified with a suitable notice or legend, by recipient shall be governed by the provisions of the Articles of Collaboration pertaining to Background Copyrights and Contributed Background Technology.

(4) ACC Data: ACC Data is data furnished to NASA by the recipient, developed under the Articles of Collaboration and not under this Cooperative Agreement or any other Cooperative Agreement funded for the purpose of performing ACC work. Such ACC Data, so identified with a suitable notice or legend, shall be governed by the provisions of the Articles of Collaboration pertaining to Project Technology and Project Copyrights. In the event it is necessary for recipient to furnish NASA with ACC Data, and such ACC Data is so identified with a suitable notice or legend, the ACC Data will be maintained in confidence and disclosed and used by NASA and its contractors (under suitable protective conditions at least as stringent as NASA uses to protect its own sensitive information, but no less than a reasonable standard of care) only for the purpose of carrying out NASA's responsibilities under this Cooperative Agreement. Upon completion of activities under this Cooperative Agreement, such ACC Data will be disposed of by NASA as requested by recipient, unless greater rights are granted by recipient.

(5) NASA Background Data: In the event it is necessary for NASA to furnish recipient with data which existed prior to, or was produced outside of, this Cooperative Agreement, and such data has restrictions governing its use and/or disclosure and such data is so identified with a suitable notice or legend, recipient shall use such data (under suitable protective conditions) only for the purpose of carrying out its responsibilities under this Cooperative Agreement. Upon completion of activities under this Cooperative Agreement, such data will be disposed of as requested by NASA, unless greater rights are granted by NASA.

(b) Oral and visual information: If information which the recipient considers to embody trade secrets or to comprise commercial or financial information which is privileged or confidential is disclosed orally or visually to NASA, such information must be reduced to tangible, recorded form (i.e., converted into data as defined herein), identified and marked with a suitable notice or legend, and furnished to NASA within 10 business days after such oral or visual disclosure, or NASA shall have no duty to limit or restrict, and shall not incur any liability for, any disclosure and use of such information.

(c) Disclaimer of Liability: Notwithstanding the above, NASA shall not be restricted in, nor incur any liability for, the disclosure and use of:

(1) Data not identified with a suitable notice or legend as set in paragraph (a)(2) of this section; nor

(2) Information contained in any data for which disclosure and use is restricted under paragraphs (a)(2), (3) or (4) of this section, if such information is or becomes generally known without breach of the above, is known to or is generated by NASA independently of carrying out responsibilities under this Cooperative Agreement, is rightfully received from a third

party without restriction, or is included in data which recipient has, or is required to furnish to the U.S. Government without restriction on disclosure and use.

(d) Marking of Data: Any data delivered under this Cooperative Agreement, by NASA or the recipient, shall be marked with a suitable notice or legend to indicate any restrictions on use or disclosure in accordance with D.11 Rights in Data and this Supplemental Rights in Data Provision.

(e) Lower Tier Agreements: The recipient shall include this provision, suitably modified to identify the parties, in all subcontracts or lower tier agreements, and in an appropriate legally binding instrument with Cooperative Research Team Members.

[End of Provision]

Supplemental Cooperative Agreement Provision

(a) The objectives of the Hi-Rate Composite Aircraft Manufacturing (HiCAM) project will be fulfilled, in part, through a Public-Private Partnership called the Advanced Composites Consortium (ACC). The ACC membership is governed by Articles of Collaboration which specify the rights and duties of the Consortium Members, as such term is defined in Exhibit A, Articles of Collaboration. The Articles of Collaboration also address the respective intellectual property rights of the Consortium Members. The Articles of Collaboration specify that this Cooperative Agreement shall govern the rights in all inventions and information falling within the scope of this Cooperative Agreement, i.e., that Work Activities performed under this Cooperative Agreement shall be governed by the provisions of this Cooperative Agreement. To the extent that the provisions of the Articles of Collaboration differ from the provisions of this Cooperative Agreement, the provisions of this Cooperative Agreement shall govern the respective rights of the parties for all Work Activities under this Cooperative Agreement.

(b) The purpose of this Cooperative Agreement is to conduct a shared resource project that will lead to successful implementation of the HiCAM project through the activities of the ACC. This Cooperative Agreement will support the ACC in advancing the state of the art in composites development, integration and certification. The specific objective of this Cooperative Agreement is to support select Projects of the ACC. This work will culminate in a significant increase in the production rate of large composite primary airframe structures, as needed to meet future single aisle transport aircraft demand.

(c) Recipient shall include provisions, suitably modified to identify the parties, to flow down necessary provisions (including, but not limited to, D10 Patent Rights, D11 Rights in Data, Supplemental Rights in Data Provision, D28 New Technology, Supplemental Invention Rights Provision, and D22 Restrictions on Sale or Transfer of Technology to Foreign Firms or Institution) of this Cooperative Agreement in any agreements with third parties, regardless of tier, performing work under this Cooperative Agreement.

[End of Provision]