

CUSTOMER CONTRACT REQUIREMENTS
Army Man Tech Niobium CSAM of Leading Edge
CUSTOMER CONTRACT 2024103-143016

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

2024103-143016 SPECIAL PROVISIONS .
SECTION VI - TECHNOLOGY RIGHTS

A. Definitions.

The following definitions apply to this Agreement, and to the other documents specifically incorporated into this Agreement.

1. **Technology** means the entire body of technical knowledge, methods and materials with respect to the Collaborative Project, whether communicated verbally or in writing, whether or not patentable or copyrightable or of a public or confidential nature. Technology consists of Intellectual Property and Technical Information, and includes Collaborative Project Technology, Background Technology and other Technology in the possession of the PARTICIPANTS.
2. **Background Technology** means all Technology (Intellectual Property and Technical Information) (1) in existence prior to the effective date of this Agreement, or (2) developed during the period of performance of the Collaborative Project but separate and apart from the Collaborative Project, which is relevant to and useful in the performance of work on the Collaborative Project and which the owner has a right to license or sublicense and agrees to make available to the Collaborative Project as identified in the proposal or contract.
3. **Collaborative Project** Technology means all Technology developed under the Collaborative Project.
4. **Data** means recorded Technical Information, regardless of form or the media on which it may be recorded. The term includes technical data and computer software. The term does not include information incidental to contract administration, such as financial, administrative, cost or pricing, or management Information.
5. **Intellectual Property** means any patent (including any art, method, process, machine, manufacture, design or composition of matter contained therein) and applications for patents, and any registered copyrights.
6. **Technical Information** means any writing, recording, computer storage media or printout, flowcharts, development notes or logs, formal or informal engineering drawings, designs, schematics, blueprints, memoranda, laboratory or engineering notes or manuals, software (including source code and object code), mask works and all other printed or electronically stored data that pertains to the Collaborative Project. Technical Information includes that intangible information base commonly referred to as trade secrets and know-how.
7. **Necessary Technology** means that Technology in the possession of a PARTICIPANT which is necessary for and essential to the implementation and use of Collaborative Project Technology.
8. **PARTICIPANT** means Seller unless specifically defined otherwise.
9. **PARTICIPANTS** means Seller and other parties performing work in support of this

Collaborative Project.

10. **Collaborative Project** shall refer to the research and development effort to be undertaken by the PARTICIPANTS in the general area of Additive Manufacturing and Advanced Materials Technology for Sustainment and Environmental Compliance, including the portion that will consist of work or effort performed by PARTICIPANT and its subcontractors and paid by NCMS and work or effort performed by PARTICIPANT and its subcontractors and contributed as part of their cash or in-kind contribution.

11. **NCMS** means Buyer.

B. Background Technology.

PARTICIPANT's existing experience and knowledge base is important in achieving the successful performance of the Collaborative Project, and PARTICIPANT is expected to contribute from its experience and knowledge base in order to maximize the benefits from the Collaborative Project. PARTICIPANT retains sole discretion regarding disclosure of its technology. If disclosed by PARTICIPANT in its sole discretion, Background Technology shall remain the property of PARTICIPANT but shall be provided to the Collaborative Project and the other PARTICIPANTS in accordance with the following terms and conditions.

1. **Confirmatory License.** A confirmatory license or similar instrument in the proposal/contract identifies the Background Technology, which PARTICIPANT agrees to make available for use on the Collaborative Project and provides to the other PARTICIPANTS. This confirmatory license or similar instrument specifies the terms and conditions under which each item of Background Technology will be made available for use in the Collaborative Project and thereafter. Unless otherwise clearly stated in the confirmatory license or similar instrument, each PARTICIPANT may use another Participant's Background Technology on a paid-up royalty-free basis in their business operations solely for the purposes of performing the work of the Collaborative Project during the term of this Collaborative Project. During the term of the Collaborative Project, PARTICIPANT may propose additions of Background Technology items for use in the Collaborative Project by providing NCMS with an amended confirmatory license or similar instrument containing appropriate description and conditions for use. Additional items of Background Technology will only be accepted by NCMS if they can be shown to have a direct relationship to the work of the Collaborative Project and are determined to be necessary for the achievement of the Project's goals. A copy of PARTICIPANT's confirmatory license or similar instrument will be provided to each other PARTICIPANT.
2. **Proprietary Security.** If any PARTICIPANT discloses its Background Technology and identifies such information as proprietary to it by use of an appropriate stamp, legend or other marking or notice, PARTICIPANT as a receiving PARTICIPANT agrees to employ the same measures to protect such proprietary information against disclosures to other persons as are used to protect its own proprietary information of like character (but no less than reasonable care). Oral disclosure of proprietary information shall be protected under this Agreement only if it is designated as proprietary at the time of disclosure, and subsequently reduced to writing, marked as proprietary, and provided to the recipients within ten (10) days after the initial disclosure. The foregoing notwithstanding, recipients shall have no liability for disclosure or use of any proprietary information that (i) is in its possession without restriction prior to the date of this Agreement, (ii) is generally known or becomes generally known to the general public through no fault of the recipient(s), (iii) has been released by the disclosing PARTICIPANT without restriction, (iv) is developed independent of PARTICIPANT's disclosure, (v) is required to be disclosed by law or regulation, or (vi) is used or disclosed with the written permission of the disclosing PARTICIPANT, or (vii) is used or disclosed more than five (5) years after termination of the Collaborative Project.

A recipient of the PARTICIPANT'S Background Technology shall cease use of Background Technology received hereunder upon the earlier of expiration/termination of this Agreement or upon receipt of a written request by the PARTICIPANT. Such recipient will use reasonable efforts to either (a) destroy all received Background Technology, including copies and derivatives thereof, then in its possession or control; or (b) return all such Background Technology, and copies and derivatives thereof, to the PARTICIPANT. Notwithstanding the foregoing, latent data such as deleted files and other non-logical data types, such as memory dumps, swap files, temporary files, printer spool files and metadata that is not

reasonably retrievable and is generally considered inaccessible without the use of specialized tools or techniques will not be within the requirement for return or destruction.

3. **Necessary Technology.** There shall be no obligation on the part of PARTICIPANT to license Necessary Technology except for such Background Technology as PARTICIPANT, in its sole discretion, chooses to provide pursuant to Section VI.B.1.

4. Licensing of Background Technology

- a. **Licensing of PARTICIPANTS.** Unless otherwise stated in the confirmatory license or similar instrument in the proposal/contract, PARTICIPANTS receiving Background Technology identified in contract/proposal may use such Background Technology on a royalty-free basis in their business operations during the term of this Collaborative Project only, and for purposes of performing the work of the Collaborative Project.
- b. **Licensing of the U.S. Government.** If different from B.4.a., PARTICIPANT agrees to provide a suitable confirmatory license or similar instrument to the Government entity and/or entities participating in the Collaborative Project to enable their performance under the Collaborative Project. A copy of this license, if different, is to be provided to NCMS.

C. Collaborative Project Technology

All rights and title to patents, data and copyrights generated solely under this co-funded Collaborative Project vest in the originating PARTICIPANT or PARTICIPANTS, as applicable. Notwithstanding the same, each of the PARTICIPANTS shall hereby have a non-exclusive, royalty-free, paid-up, sublicensable, worldwide license to use such technology and Data in its business operations (i) for purposes of performing the work of the Collaborative Project during the term of this Collaborative Project. All technology and Data developed collaboratively vests, in the originating PARTICIPANTS generating such technology and Data; and notwithstanding the same, PARTICIPANTS hereby convey a non-exclusive, royalty-free, paid-up sublicensable, worldwide license to use such technology and Data (i) to all other PARTICIPANTS for purposes of performing the work of the Collaborative Project during the term of this Collaborative Project; (ii) to Boeing inside the Boeing Field of Use, and (iii) to other PARTICIPANTS outside of the Boeing Field of Use. "Boeing Field of Use" means use of products for or in conjunction with: (i) aircraft, airplane, missiles, spacecraft, satellite, space station, vehicle, platform or any combination or sub-combination thereof intended for use in the atmosphere above the earth's surface or in space, alone or in combination with assets or services located on, above or under the earth's surface or in simulation of any of the above, (ii) domestic or foreign military, paramilitary or national security use or simulation under the auspices of or target for adoption and implementation by or for the United States Government or any foreign government. Moreover, NCMS and the Government shall have certain rights in all Data and Intellectual Property generated or developed under this Collaborative Project.

1. **Technical Information.** Except as otherwise set forth below and subject to fulfillment of the contractual obligations hereunder, NCMS hereby conveys such right and title in Technical Information developed or generated solely by PARTICIPANT under the Collaborative Project to PARTICIPANT. PARTICIPANT agrees to disclose all Technical Information required in deliverables under the Collaborative Project to NCMS. Such Technical Information will be treated as proprietary information as previously cited herein. Before public release of any Technical Information delivered under the Collaborative Project which includes PARTICIPANT's proprietary information, or extract or derivative thereof, NCMS shall take reasonable steps to ensure that any such release of information is approved for public release by PARTICIPANT. However, nothing herein shall prevent NCMS from fulfilling its obligation under the laws of the United States to make the results of research it supports available to the public. Following the proper release of Technical Information to the public, each Participant shall have the right to use, duplicate or disclose such Technical Information, in whole or in part, in any manner and for any purpose whatsoever and to have and permit others to do so, subject to any restrictions set forth below for patents or other Intellectual Property.
2. **Intellectual Property.** Except as otherwise set forth below and subject to fulfillment of contractual obligations hereunder, NCMS hereby conveys such right and title in Intellectual Property developed or generated solely by PARTICIPANT under the Collaborative Project to PARTICIPANT.
 - a. **Disclosure of Inventions.** This Agreement is subject to the Standard Patent Rights clause at 37 CFR 401.14, entitled "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms under Government Grants, Contracts, and Cooperative Agreements." PARTICIPANT shall provide (and shall require any persons and/or subcontractors performing work on the Agreement to provide) the Government (and a copy of the cover letter to the

NCMS Project Manager) with a written invention disclosure report and a DD Form 882 "Report of Inventions and Subcontracts" concerning each invention it has developed under the Collaborative Project within two months of notification within PARTICIPANT'S organization of conception or first actual reduction to practice, whichever occurs first. The invention disclosure report shall be sufficiently complete in technical detail to convey a clear understanding to the extent known, of the nature, purpose, operation, and the physical, chemical, biological or electrical characteristics of the invention. Such report shall identify any disclosure, or sale or use of the invention. A final report is due within 60 days of termination of this Agreement. Negative reports are required. All DD Form 882s shall be sent via the Buyer to the Government, NCMS Project Manager and the Contract Administration Representative who will disclose the invention to the Government in accordance with the terms of Government's award and 37 CFR 401.14.

- b. Election to File.** If within six (6) months of the date of disclosure to the Government, PARTICIPANT does not elect in writing to file a U.S. patent application or foreign patent application in any country or community of countries, NCMS or the Government may elect to retain title and to file at their own expense wherever PARTICIPANT has elected not to file.
- c. Fees and Costs and March-in Rights.** Retention of Patent Rights is subject to PARTICIPANT's paying all patent, associated fees and costs, including costs of patent preparation, prosecution, maintenance and enforcement. Should PARTICIPANT decide at any time to cease necessary payments on patent, copyright or mask works applications or maintenance of any patent obtained pursuant to 37 CFR 401.14, PARTICIPANT shall offer to the Government, through NCMS, the opportunity to assume responsibility of the expenses associated with such application or patent. If the Government chooses to assume responsibility for said application or patent, PARTICIPANT shall assign to the Government all rights to said application or patent, including, but not limited to rights for past infringement.
- 3. Licensing of NCMS.** PARTICIPANT hereby agrees that NCMS' rights to Collaborative Project Technology delivered or otherwise provided to NCMS shall include the limited right to make, have made and use for research and educational purposes, articles and processes under any inventions or patents developed or generated under the Collaborative Project by the PARTICIPANT solely or jointly with other Participants, subject to obligations to protect Proprietary Information. PARTICIPANT hereby grants NCMS a fully paid up license in and to all PARTICIPANT interests in Collaborative Project reports including the right to copy, distribute, perform, and display publicly, in the United States and throughout the world. Notwithstanding the foregoing, NCMS shall have the right to use the knowledge base it gains, via the deliverables and other information provided, as a result of engaging in this Collaborative Project in its business operations for any purpose whatsoever.
- 4. Licensing of the U.S. Government.** PARTICIPANT hereby agrees that its inventions conceived or first actually reduced to practice under this Collaborative Agreement, and Data, and copyrights developed under this Collaborative Agreement shall be subject to the reservation of a non-exclusive, nontransferable, irrevocable, paid-up license to use, duplicate, or disclose for the Government purposes only and all such patents, Data and copyrights.
- 5. Flow down to Subcontractors.** Any subcontract entered into by PARTICIPANT is subject to 37 CFR 401.14 and must also contain the licensing provisions consistent with this Agreement so as not to cause a blocking position with regard to the research and development work undertaken in the Collaborative Project.

D. Patent and Copyright Enforcement.

PARTICIPANT shall have the first right to enforce any patents, copyrights and mask works obtained by it on Collaborative Project Technology created or developed by PARTICIPANT. PARTICIPANT shall retain any monetary recoveries resulting from such enforcement and/or suit. NCMS shall promptly notify PARTICIPANT of any infringement of any such patent, copyright or mask works of which it becomes aware. If, within six (6) months of receiving notice of such infringement PARTICIPANT does not file suit or cause such alleged infringement to cease, then PARTICIPANT agrees that NCMS shall have the right of first refusal to initiate legal action against any such infringer, or otherwise enforce such patent copyright, or mask works in its own name, at its own expense, and for its own benefit. PARTICIPANT further agrees to in full discretion, consider in good faith, steps as are necessary to enable NCMS to attain standing to bring suit against any such infringer, or otherwise enforce such patent, copyright, or mask works, even if the lack of joinder should prevent the initiation of a lawsuit. NCMS shall be the sole beneficiary of any monetary recoveries resulting from such enforcement and/or suit. without obtaining prior written consent from such PARTICIPANT.

E. Warranty of Sublicense(s) to Subsidiaries of Participants.

PARTICIPANT, which sublicenses or otherwise extends its rights under the clauses of this Section to its qualified subsidiary corporation(s), warrants that such subsidiary corporation(s) will honor all relevant obligations under this Agreement. When a PARTICIPANT's subsidiary corporation no longer qualifies as a subsidiary corporation as described herein, such subsidiary corporation will be afforded the same rights to Collaborative Project Technology and Background Technology as is the terminating/terminated PARTICIPANT as set forth in Section V.

SECTION VII OTHER AGREEMENT TERMS AND CONDITIONS**A. PROPERTY**

1. Purchased Property

a. Pursuant to 2 CFR 200.313 and 2 CFR 200.314, title to all tangible nonexpendable personal property procured in whole or in part with Buyer's customer's funds during the performance of this Contract with an acquisition cost in excess of Five Thousand Dollars (\$5,000.00), shall vest at the time of purchase in Buyer's customer, including without limitation all property which is assembled, constructed, fabricated or produced from equipment, material, structures and/or test apparatus with unit costs of less than or equal to Five Thousand Dollars (\$5,000.00) but with an aggregate cost in excess of Five Thousand Dollars (\$5,000.00). PARTICIPANT purchases such property on behalf of Buyer's customer. PARTICIPANT shall exercise reasonable care in the custody and maintenance of all such property in its control, and shall obtain and maintain adequate insurance coverage to satisfy all claims of any kind arising from PARTICIPANT's custody and maintenance of such property until disposal of such property by NCMS.

b. PARTICIPANT shall identify each item of property, which falls under the provisions of this section by a suitable tag, sticker, marker, ink stencil or other non-removable label. Such label shall refer to Buyer's customer as the owner of such property. PARTICIPANT shall maintain a list of all property purchased hereunder which is the property of Buyer's customer; such list, at a minimum shall refer to the item description, acquisition date, acquisition cost, serial number, and general location. A copy of the property list then current shall be submitted to NCMS when the Final Report is submitted.

c. Within one (1) year following receipt of PARTICIPANT's property list, NCMS or Buyer's customer shall, at its expense, arrange for disposal of all listed property. Such disposal shall include, if mutually acceptable, sale to PARTICIPANT. Buyer's customer shall at all times have the right to abandon in place any and all listed property by written notice to PARTICIPANT, and thereafter Buyer's customer shall have no further responsibility for the property described in such written notice.

d. PARTICIPANT shall not lease or rent property for use in performing the Agreement where the aggregate of charges for each individual item of property exceeds Five Thousand Dollars (\$5,000.00) during the period of performance of this Agreement, without the prior written approval of Buyer.

2. Government-Furnished Property.

a. PARTICIPANT shall provide written notification to the NCMS of any Government-Furnished Equipment (GFE) or Government-Furnished Information (GFI) within thirty (30) days of receipt.

b. PARTICIPANT shall use, maintain, protect and keep records of all GFE/GFI in a manner consistent with the GFE/GFI Procedures.

c. PARTICIPANT further understands that the use of GFI is restricted as follows:

LIMITATIONS ON THE USE OR DISCLOSURE OF GOVERNMENT FURNISHED INFORMATION MARKED WITH A DISTRIBUTION STATEMENT OR EXPORT CONTROL WARNING.

Unclassified technical documents or computer software provided to PARTICIPANT as Government furnished information (GFI) under this Agreement may be subject to restrictions on use, modification, reproduction, release, performance, display, or further disclosure. For GFI marked with a distribution statement or export control warning in accordance with DoD Instruction 5230.24, PARTICIPANT must use, modify, reproduce, perform, or display that GFI only in the performance of this Agreement. For GFI marked with a distribution statement or export control warning, PARTICIPANT must use, modify, reproduce, release, perform, display, or further disclose such GFI only in accordance with the document's specific distribution statement and export control warning. GFI marked with an export control warning must NOT be disseminated outside the United States without first verifying the recipient's eligibility and authority to receive export-controlled information.

PARTICIPANT must include the substance of this paragraph in all subcontracts.

B. ASSIGNMENT AND SUBCONTRACTING

1. Reserved.

2. Where any portion of the work requires subcontracting, PARTICIPANT will select a subcontractor with the concurrence of the NCMS. PARTICIPANT shall ensure that each subcontract to be awarded under this Agreement which has experimental, developmental or

research work as its primary purpose, incorporates the terms and conditions of this Agreement. No part of this Agreement or the work hereunder shall be subcontracted by PARTICIPANT without the prior review and approval of the proposed subcontract and written consent of the NCMS if the subcontract, including but not limited to consultant agreements, purchases and construction subcontracts: (1) is proposed to exceed Twenty-five Thousand Dollars (\$25,000.00); or (2) is one of a number of subcontracts or purchases or agreements with a single subcontractor or vendor for the same or related supplies or services which, in the aggregate, are expected to exceed Twenty-five Thousand Dollars (\$25,000.00).

3. Notwithstanding any such consent or approval, (1) NCMS shall not bear any liability to PARTICIPANT or to any subcontractor arising out of any act or omission of PARTICIPANT or any subcontractor, and (2) any subcontracting by PARTICIPANT shall not relieve PARTICIPANT of any responsibility for the performance of this Agreement or the work hereunder.

4. In the event a subcontract hereunder is canceled or terminated, PARTICIPANT will so advise NCMS and obtain the NCMS' prior written consent to any subcontractor termination cost settlement for such costs to be allowable under this Agreement.

C. INSURANCE and DISCLAIMERS

1. Insurance

- a. PARTICIPANT shall not commence the work under this Agreement until it shall obtain and maintain for the period of performance of this Agreement the following insurance:
 - i. Workers Compensation and/or all other Social Insurance in accordance with the statutory requirements of the jurisdiction in which the Agreement will be performed. Employers Liability shall have the following minimum limits: \$500,000 Each Accident; \$500,000 Disease - Each Employee; \$500,000 Disease - Policy Limit.
 - ii. Commercial General Liability Insurance or comparable coverage, or Professional Liability Insurance, if applicable, covering all PARTICIPANT'S operations under this Agreement, with the minimum limits of: General Aggregate - \$1,000,000; Products/Completed Operations Aggregate - \$1,000,000; Occurrence Limit - \$1,000,000.
 - iii. Automobile Liability with combined Bodily Injury and Property Damage Limits of \$1,000,000.

b. All policies of insurance obtained pursuant to this Agreement shall provide that such insurance shall not be changed, canceled or allowed to lapse until thirty (30) days prior written notice has been given to the authorized NCMS Contract Administration Representative.

c. PARTICIPANT shall deliver to NCMS within thirty (30) days of the execution date of this Agreement or prior to submission of PARTICIPANT'S first invoice, whichever is earlier, Certificate(s) of Insurance in a form satisfactory to NCMS evidencing the requisite insurance coverage.

d. PARTICIPANT shall not allow any subcontractor to commence any part of the work of this Agreement which has experimental, developmental or research work as its primary purpose, until all similar insurance required of PARTICIPANT by the Agreement has been so obtained by the subcontractor and provides NCMS with Certificate(s) of Insurance evidencing the requisite insurance coverage.

E. ACCESS TO RECORDS

Access to any books, documents, papers, and records of the PARTICIPANT that are directly pertinent to the work of this Collaborative Project and this Agreement, would be handled by PARTICIPANT'S cognizant Defense Contract Audit Agency (DCAA) and/or the Defense Contract Management Agency (DCMA).

It is the intent that such audits shall be performed not more frequently than once every twelve (12) months during performance of the Agreement. In addition, DCAA and/or DCMA may perform such an audit at any time within three (3) years following NCMS' final payment to PARTICIPANT under this Agreement. This information may be marked proprietary by PARTICIPANT and shall be governed by applicable provisions of this Agreement.

F. PARTICIPANT REPRESENTATIONS

1. PARTICIPANT is duly organized, validly existing firm in good standing under the laws of its State of Incorporation, and has all requisite power and authority to carry on its business as now conducted and as proposed to be conducted and to give to NCMS the rights set forth in this Agreement.
2. PARTICIPANT's performance of the work described in this Agreement shall be done in a proficient and professional manner and shall conform to the highest professional, technical, and scientific standards.
3. All action on the part of PARTICIPANT necessary for the authorization, execution, delivery and performance of all obligations of PARTICIPANT under this Agreement has been taken. This Agreement when executed and delivered; will constitute a valid and legally binding obligation of PARTICIPANT enforceable in accordance with its terms.
4. The execution, delivery and performance of this Agreement will not result in any violation of any provision of any instrument or agreement to which PARTICIPANT is a party nor will it conflict with or constitute a default under any such provision.
5. To the best of PARTICIPANT's knowledge and belief, there is no action, claim, proceeding or investigation pending or threatened against PARTICIPANT or any of its employees expected to perform services hereunder before any court or administrative agency, that might result, either individually or in the aggregate, in any material adverse change in the business, prospects, condition, affairs, operation, properties or assets of PARTICIPANT, or in PARTICIPANT's ability to perform and keep confidential the Agreement and the Collaborative Project, or in any material liability on the part of the PARTICIPANT. The foregoing includes, without limitation, actions pending or threatened (or the basis for same known to PARTICIPANT) involving the prior employment of any of PARTICIPANT's employees if it is alleged that infringement, misappropriation or conversion of any information or materials proprietary to or trade secrets of any prior employer took place, whether or not the employee will work on the work of this Agreement.
6. As required by Executive Order 12549, Debarment and Suspension, and other responsibility matters implemented in Subpart C of 2 CFR Part 180, as adopted by DOD at 2 CFR Part 1125.

G. FOREIGN NATIONALS

PARTICIPANT agrees that it shall limit participation on this Agreement to (1) U.S. citizens, (2) lawful permanent residents as defined by 8 U.S.C. 1101(a)(20), (3) other protected individuals as defined by 8 U.S.C. 1324b(a)(3) and (4) Canadian citizens (pursuant to the principles underlying the Canada-U.S. Free Trade Agreement), if such participation will involve visual inspection of the Technology, Intellectual Property or Technical Information, or oral exchanges of information about the foregoing. PARTICIPANT further agrees to furnish NCMS upon request with proof of the citizenship status of its personnel participating on this Agreement, including (1) U.S. citizens; (2) legal permanent residents; and (3) foreign nationals who are not permanent residents. PARTICIPANT further agrees, that if it is necessary to involve foreign national employees in visual inspection of the Technology, Intellectual Property, or Technical Information, or oral exchanges of information about the foregoing, PARTICIPANT will furnish to NCMS proof of appropriate valid export license, or technical assistance agreement, or exemption from licensing requirements (e.g. Canadian exemption) to the extent required by the International Traffic In Arms Regulations ("ITAR") or the Export Administration Regulations ("EAR"). A copy of such license or agreement shall be furnished to NCMS before any disclosure of information to such foreign person. In the event that PARTICIPANT believes that the subject matter of this Agreement is not covered by ITAR, PARTICIPANT may request a written waiver of the requirements, which may be granted if NCMS agrees that ITAR does not cover the subject matter.

H. MILITARY SECURITY CLASSIFICATION

1. Military security requirements in the performance of this Agreement shall be maintained in accordance with the DD Form 254. The highest classification that may be involved in the performance of this Agreement is SECRET. The Agreement, and modifications thereto, are unclassified.
2. PARTICIPANT shall comply with 48 CFR 252.204-7012, Safeguarding Covered Defense Information and Cyber Incident Reporting when applicable. The Government will identify Covered Defense Information (CDI) in the Concept Paper during the project formation stage. PARTICIPANT that will store, process and/or generate CDI will certify to NCMS that: (a) on

its enterprise level information systems, implement the security requirements specified by National Institute of Standards and Technology (NIST) Special Publication (SP) 800-171 per the requirements of the Interim Clause, and (b) make reasonable best efforts regarding the same for those other areas still requiring analysis, specifically subcontractor's program unique systems/tools and subcontracts requiring flow down, as applicable. Nothing in this paragraph shall be interpreted to foreclose the PARTICIPANT'S right to seek alternate means of complying with the security requirements in National Institute of Standards and Technology (NIST) Special Publication (SP) 800-171 (Compliance with Safeguarding Covered Defense Information Controls) and/or (Safeguarding Covered Defense Information and Cyber Incident Reporting).

By signing this Agreement, PARTICIPANT represents that it is compliant with the requirements of 48 CFR 252.204-7012.

I. EQUAL EMPLOYMENT OPPORTUNITY

PARTICIPANT shall comply with Executive Order No. 11246, entitled "Equal Employment Opportunity," as amended by Executive Order No. 11375, and as supplemented in the Department of Labor Regulations (41 CFR, Part 60).

J. ANTI-KICKBACK ACT

PARTICIPANT shall comply with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145) as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency through NCMS.

L. USE OF HUMAN SUBJECTS

No Agreement funds may be used for any research involving uninformed or non-voluntary human beings as experimental subjects. PARTICIPANT will ensure compliance with Federal, State and local regulatory guidelines on human subjects.

M. HEALTH AND SAFETY GUIDELINES

By signing the Agreement, or accepting funds under this agreement, the PARTICIPANT assures it will comply with the following requirements:

1. Applicable OSHA Standards in Laboratories - 29 CFR 1910.1030 Blood Borne Pathogens; 29 CFR 1910.1450, Occupational Exposure to Hazardous Chemicals in Laboratories
2. Handling and transport of etiological agents - Procedures for Domestic Handling and Transport of Diagnostic Specimens and Etiologic Agents, 1994 (3rd ed.), H5a3doc.75, National Committee for Clinical Laboratory Standards
3. Disposal of high level radioactive waste and spent nuclear fuel. Note however, that some States are exempt if they have established separate requirements. - Nuclear Regulatory Commission Standard and Regulation, pursuant to the Energy Reorganization Act of 1974, (42 USC, 5801, et seq.)
4. Text Messaging While Driving EO 13513
5. Increasing Seat Belt Use in the United States Executive Order 13043, Increasing Seat Belt Use in the United States, dated, April 16, 1997 - In accordance with the Executive Order, "grantees are encouraged to adopt and enforce on the job seat belt policies and programs for their employees when operating company-owned, rented, or personally owned vehicles."

O. NATIONAL SECURITY GUIDELINES:

By signing the agreement or accepting funds under this agreement, the PARTICIPANT assures it will comply with the following requirements:

1. Executive Order 13224, Blocking Property and Prohibiting Transactions with Persons who Commit, Threaten to Commit, or Support Terrorism, dated September 23, 2001. Executive Order 13224 gives the U.S. government a powerful tool to impede terrorist funding and is part of our national commitment to lead the international effort to bring a halt to the evil of terrorist activity. President Bush issued Executive Order 13224 pursuant to the authorities of the

International Emergency Economic Powers Act (50 U.S.C. 1701 et. seq.)(IEEPA), the National Emergencies Act (50 U.S.C. 1601 et seq.), section 5 of the United Nations Participation Act of 1945, as amended (22 U.S.C. 287c)(UNPA), and section 301 of title 3, United States Code.

2. Select Agents and Toxins - Institution must be registered with CDC and or USDA prior to beginning work with agents. Investigator must be licensed prior to beginning work. NIH Term of Award includes notice that registration must be complete before using NIH funds and that no funds may be used for Select Agent Research if certification is denied. USDA inserts a term indicating that the grantee has primary responsibility for complying with Title II of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, Public Law 107 188, and the regulations promulgated thereunder in 7 CFR Part 331, 9 CFR Part 121, and 42 CFR Part 72. For guidance on a biosecurity plan that includes physical security of facilities and access controls to prevent unauthorized entries see Departmental Manual 9610 1, USDA Security Policies and Procedures for Biosafety Level 3 Facilities (available via <http://www.ocio.usda.gov/document/departamental-manual-9610-001>) Other State and Local regulations may apply.

3. Executive Order 13526 Classified National Security Information: prescribes a uniform system for classifying, safeguarding, and declassifying national security information, including information relating to defense against transnational terrorism.

P. NONDISCRIMINATION:

By signing or accepting funds under this agreement, the PARTICIPANT agrees that it will comply with applicable provisions of the following national policies prohibiting discrimination:

1. On the basis of race, color, or national origin, in Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d, et seq.) as implemented by Department of Defense (DoD) regulations at 32 CFR part 195.
2. On the basis of race, color, religion, sex, or national origin, in Executive Order 11246 [3 CFR, 1964 1965 Comp., p. 339], as implemented by Department of Labor regulations at 41 CFR Part 60.
3. On the basis of gender, blindness, or visual impairment, in Title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et seq.) as implemented by DoD regulations at 32 CFR part 196.
4. On the basis of age, in the Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.), as implemented by Department of Health and Human Services regulations at 45 CFR part 90.
5. On the basis of disability, in the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by Department of Justice regulations at 28 CFR Part 41 and DoD regulations at 32 CFR part 56.
6. Americans with Disabilities Act - 42 USC 12101 et. seq.
7. On the basis of disability in the Architectural Barriers Act of 1968 (42 U.S.C. 4151 et seq.) related to physically handicapped person's ready access to, and use of, buildings and facilities for which Federal funds are used in design, construction, or alteration.

Q. OFFICIALS NOT TO BENEFIT

No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this Agreement, or to any benefit arising from it, in accordance with 41 USC 6306.

R. LOBBYING

Section 319 of Public Law 101-121 generally prohibits recipients and sub-recipients of Federal contracts, grants and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan. A "Certification for Contracts, Grants, Loans, and Cooperative Agreements" and the Standard Form LLL, "Disclosure of Lobbying Activities" 31 USC Sec. 1352, as implemented by DoD at 32 CFR part 28, and submit all disclosures required by that statute and regulation. will be required to be submitted by the PARTICIPANT to NCMS prior to disbursement of any funds under this Agreement. PARTICIPANT must comply with the prohibition in 18 U.S.C. 1913 on the use of Federal funds, absent express Congressional authorization, to pay directly or indirectly for any service, advertisement or other written matter, telephone communication, or other device intended to influence at any time a Member of Congress or official of any government concerning any legislation, law, policy, appropriation, or

ratification.

If you are a nonprofit organization described in section 501(c)(4) of title 26, United States Code (the Internal Revenue Code of 1968), you may not engage in lobbying activities as defined in the Lobbying Disclosure Act of 1995 (2 U.S.C., chapter 26).

U. TERRORIST FINANCING

PARTICIPANT shall comply with Executive Order No. 13224, blocking Terrorist Property and a summary of the Terrorism Sanctions Regulations (Title 31 Part 595 of the U.S. Code of Federal Regulations), Terrorism List Governments Sanctions Regulations (Title 31 Part 596 of the U.S. Code of Federal Regulations), and Foreign Terrorist Organizations Sanctions Regulations (Title 31 Part 597 of the U.S. Code of Federal Regulations).

V. HUMAN TRAFFICKING, INHUMANE LIVING CONDITIONS, AND WITHHOLDING OF EMPLOYEE PASSPORTS

PARTICIPANT shall comply with Title 18, United States Code, Section 1592 Unlawful conduct with respect to documents in furtherance of trafficking, peonage, slavery, involuntary servitude, or forced labor and United States Central Command (USCENTCOM) Clause No. 952-222-0001 (July 2010) subject: Prohibition Against Human Trafficking, Inhumane Living Conditions, and Withholding of Employee Passports

**SECTION 889 COMPLIANCE
ARTICLE AND CERTIFICATION**

Re: Prohibition on the Use of Certain Telecommunications and Video Surveillance Services or Equipment.

This Article is to ensure compliance with Section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232).

Based on the information provided below, the Government may be unable to enter into a new project agreement/initiative, exercise an option under an existing project, bilaterally modify the Agreement to extend the term of an Agreement, execute an additional phase or incrementally fund an existing project with the PARTICIPANT.

(a) Definitions.

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

"Covered foreign country" means The People's Republic of China.

"Covered telecommunications equipment or services" means any of the following –

- (1) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities);
- (2) 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);
- (3) Telecommunications or video surveillance services provided by such entities or using such equipment; or
- (4) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence 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.

"Critical technology" means –

- (1) Defense articles or defense services included on the United States Munitions List set forth in the International Traffic in Arms Regulations under subchapter M of chapter I of title 22, Code of Federal Regulations;
- (2) Items included on the Commerce Control List set forth in Supplement No. 1 to part 774 of the Export Administration Regulations under subchapter C of chapter VII of title 15, Code of Federal Regulations, and controlled-
 - (i) Pursuant to multilateral regimes, including for reasons relating to national security, chemical and biological weapons proliferation, nuclear nonproliferation, or missile technology; or
 - (ii) For reasons relating to regional stability or surreptitious listening;
- (3) Specially designed and prepared nuclear equipment, parts and components, materials, software, and technology covered by part 810 of title 10, Code of Federal Regulations (relating to assistance to foreign atomic energy activities);
- (4) Nuclear facilities, equipment, and material covered by part 110 of title 10, Code of Federal Regulations (relating to export and import of nuclear equipment and material);
- (5) Select agents and toxins covered by part 331 of title 7, Code of Federal Regulations, part 121 of title 9 of such Code, or part 73 of title 42 of such Code; or

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

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

"Reasonable inquiry" means an inquiry designed to uncover any information in the entity's possession about the identity of the producer or provider of covered telecommunications equipment or services used by the entity that excludes the need to include an internal or third-party audit.

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

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

(b) Prohibition.

(1) The PARTICIPANT is prohibited from providing to the Government any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, unless the PARTICIPANT is providing (i) a service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or (ii) telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles or the covered telecommunication equipment or services. A waiver, for a period not exceeding August 13, 2021, may be requested.

(2) The PARTICIPANT acknowledges and accepts that the Government is prohibited from entering into a new project agreement, exercise an option under an existing project, bilaterally modify the Agreement to extend the term of an Agreement, execute an additional phase or incrementally fund an existing project with the member or with an entity that uses any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, unless an exception at paragraph (b)(1) of this article applies, regardless of whether that use is in performance of work under a Federal contract or agreement.

(c) Disclosures.

(1) Disclosure for the certification in paragraph (c)(2) of this Article. If the PARTICIPANT does provide covered telecommunications equipment or services to the Government in the performance of any contract, subcontract, other transaction agreement, or other contractual instrument in in paragraph (c)(2) of this provision, the PARTICIPANT shall provide the following information:

(i) For covered equipment

A. The entity that produced the covered telecommunications equipment (include entity name, unique entity identifier, CAGE code, and whether the entity was the original equipment manufacturer (OEM) or a distributor, if known);

B. A description of all covered telecommunications equipment offered (include brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); and

C. Explanation of the proposed use of covered telecommunications equipment and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(1) of this Article.

(ii) For covered services

A. If the service is related to item maintenance: A description of all covered telecommunications services offered (include on the item being maintained: Brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); or

B. If not associated with maintenance, the Product Service Code (PSC) of the service being provided; and explanation of the proposed use of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(1) of this Article.

(2) If the PARTICIPANT does use covered telecommunications equipment or services, or use any equipment, system, or service that uses covered telecommunications equipment or services referenced in this Article, the PARTICIPANT shall provide the following information:

(i) For covered equipment

A. The entity that produced the covered telecommunications equipment (include entity name, unique entity identifier, CAGE code, and whether the entity was the OEM or a distributor, if known);

B. A description of all covered telecommunications equipment offered (include brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); and

C. Explanation of the proposed use of covered telecommunications equipment and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(2) of this Article.

(ii) For covered services

A. If the service is related to item maintenance: A description of all covered telecommunications services offered (include on the item being maintained: Brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); or

B. If not associated with maintenance, the PSC of the service being provided; and explanation of the proposed use of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(2) of this Article.

(d) Reporting requirement.

(1) In the event the PARTICIPANT identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during agreement performance, or the PARTICIPANT is notified of such by a subcontractor at any tier or by any other source, the PARTICIPANT shall report the information in paragraph (e)(2) of this Article to NCMS Contracts Administrator.

(2) The PARTICIPANT shall report the following information pursuant to paragraph (e)(1) of this term and condition

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

(ii) Within 10 business days of submitting the information in paragraph (e)(2)(i) of this term and condition: any further available information about mitigation actions undertaken or recommended. In addition, the PARTICIPANT shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

(e) Subcontracts.

(1) The PARTICIPANT shall insert the substance of this Article, including this paragraph in all subcontracts and other contractual instruments, including subcontracts for the acquisition of commercial items.

(f) Certification.

The PARTICIPANT shall review the list of excluded parties in the System for Award Management (SAM) (Caution <https://www.Sam.gov>) for entities excluded from receiving federal awards for "covered telecommunications equipment or services."

1. The PARTICIPANT certifies that it does not provide covered telecommunications equipment or services as a part of its offered products or services to the Government in the performance of any contract, subcontract, other transaction agreement, or other contractual instrument.

2. If the PARTICIPANT does provide covered telecommunications equipment or services as a part of its offered products or services to the Government in the performance of any contract, subcontract, other transaction agreement, or other contractual instrument as described in paragraph (c)(1), the PARTICIPANT certifies that it will not provide covered telecommunications equipment or services to the Government in the performance of any contract, subcontract, other transaction agreement, or other contractual instrument resulting from this solicitation. If the PARTICIPANT will provide covered telecommunications equipment or services to the Government in the performance of any contract, subcontract, other transaction agreement, or other contractual instrument resulting from this solicitation (c)(2), the PARTICIPANT shall provide the additional disclosure information required at paragraph (d)(1) of this Article.

By accepting the submitting a proposal or accepting the contract, PARTICIPANT certifies that the above information is true and correct.

RESTRICTIONS ON LOBBYING, 31 USC Sec. 1352**CERTIFICATION FOR CONTRACTS, GRANTS, LOANS AND COOPERATIVE AGREEMENTS****The PARTICIPANT certifies, to the best of his or her knowledge and belief, that:**

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, Disclosure Form to Report Lobbying, in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. This certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, United States Code.