

**CUSTOMER CONTRACT REQUIREMENTS**  
**Siemens (ARM) Mobile and Autonomous Coating Applications**  
**CUSTOMER CONTRACT 203-1**

**CUSTOMER CONTRACT REQUIREMENTS**

The following customer contract requirements apply to this contract to the extent indicated below.

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

**A. Protection of Human Subjects**

Seller agrees that no research involving human subjects will be conducted under this Contract.

**B. Vertebrate Animals**

Seller agrees that no research involving the use of vertebrate animals will be conducted under this Contract.

**C. Federal Requirements**

**1. Flowdown to Lower Tier Agreements**

Seller shall include this Section c — Federal Requirements, suitably modified to identify the parties, in all subcontracts or lower tier agreements, regardless of tier, for experimental, development, or research work.

**2. Intellectual Property Rights**

a. Standard Patent Rights Clauses

Seller shall comply with the standard patent rights clauses in 37 CFR 401.14, entitled “Patent Rights (Small Business Firms and Nonprofit Organizations),” which are hereby incorporated by reference with the following modifications:

- (i) The term “contractor” shall read “Seller”.
- (ii) The terms “agency,” “Federal Agency” and “funding Federal Agency” shall read “U.S. Department of Defense” for all paragraphs except (c) and (f)(3).
- (iii) The terms “agency,” “Federal Agency” and “funding Federal Agency” shall read “Advanced Robotics for Manufacturing Institute” for paragraphs (c) and (f)(3).
- (iv) The time “two months” shall read “thirty (30) days” for paragraph (c)(1).
- (v) The time “thirty days” shall read “sixty (60) days” for paragraph (e)(3).
- (vi) The statement in paragraph (f)(4) shall be replaced with “This invention was made with U.S. Government support under Technology Investment Agreement

W911NF-17- 3-0004 awarded by U.S. Army Contracting Command — Aberdeen Proving Ground. The Government has certain rights in the invention.”

(vii) Paragraphs (g)(2) and (g)(3) shall be deleted.

(viii) Flowdown to lower tier agreements in lieu of 37 CFR 401.14 paragraph (g)(2) are addressed by section C.1.

(ix) Paragraph (j) (March-in Rights) is replaced by the following paragraph:

Seller agrees that, with respect to any subject invention in which Seller has retained title, the Government has the right to require Seller, an assignee, or exclusive licensee of a subject invention, to grant a non-exclusive license to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if Seller refuses such a request, the Government has the right to grant such a licensee itself if the Government determines that:

1. Such action is necessary because Seller or assignee has not taken effective steps, consistent with the intent of this Contract, to achieve practical application of the subject invention;
2. Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by Seller, assignee, or their licensees;
3. Such action is necessary to meet requirements for public use and such requirements are not reasonably satisfied by Seller, assignee, or licensees; or
4. Such action is necessary because agreement has not been obtained or waived or because a licensee who has the exclusive right to use or sell any subject invention in the United States is in the breach of such agreement.

(x) Paragraph (1), entitled “Communication”: The point of contact on matters relating to the patent rights clauses will be the servicing Staff Judge Advocate’s office.

- b. Definitions — For the purposes of the patent rights clauses, definitions of “Invention”, “Subject Invention”, “Practical Application”, and “Made” are provided in 37 CFR 401.14(a) as modified where the term “contractor” shall read “Seller”.

c. Reporting

(i) Seller agrees to report to Buyer on invention disclosures, election of title, and filing and maintenance of patent applications as specified in 37 CFR 401.14(c) and (f) with the modifications in section C.2.a Standard Patent Rights Clauses.

(ii) Reporting on Utilization of Subject Inventions (augmenting 37 CFR 401.14(h)) — Seller agrees to submit to Buyer, for five years beyond the date of this Contract, an annual report on the utilization of a Subject Invention or on efforts at obtaining such utilization that are being made by Seller or its licensees or assignees. The information in such reports is specified in 37 CFR 401.14(h).

(iii) Interim and Final Invention Reports — Seller shall send Invention (Patent) Reports to Buyer as of the close of each performance year and at the end of the term for this Contract. Annual reports are due 60 days after the end of each year of performance and final reports are due 60 days after the expiration of the final performance period. The reports shall 1) list subject invention(s) and state that

all Subject Inventions have been disclosed, or 2) state that there are no such inventions; i.e., negative reports are also required annually. Invention disclosure(s), patent application(s), and patent(s) for any subject invention for which Seller has retained ownership shall be listed with 1) the name(s) of inventor(s), 2) title of invention(s), 3) disclosure number, patent application serial number, or patent number as applicable, 4) filing date, 5) a copy of the patent application and 6) patent number(s) and issue date(s) in any country in which Seller has applied for patent(s). Seller may report in the format that Seller normally prepares for its own internal purposes. Alternatively, Seller may use the Form 882, Report of Inventions and Subcontracts for reporting.

- d. Joint Subject Inventions (between the Government and Seller) — Title to Subject Inventions made jointly by a Government employee and Seller —shall be held jointly by the Government and Seller. Seller shall have the initial option to file patent applications on joint subject inventions at its own expense. If Seller declines to file or complete prosecution of such patent applications, Seller waives co-ownership interest and agrees to assign its title to such joint Subject inventions to the Government.
- e. Confidentiality Invention reporting information is confidential to Buyer and the respective inventing organizations.
- f. Scope —The provisions set forth in this section C. 2 intellectual Property Rights apply only to Subject Inventions.
- g. Survival Rights — Provisions of this section.2. Intellectual Property Rights shall survive termination of this Agreement.

### 3. Data Rights

- a. Definitions

- (i) “Commercial Computer Software”, “Computer Data Base”, Computer Program”, “Computer Software”, “Computer Software Documentation”, “Restricted Rights” and “Unlimited Rights” as used in this section 5.3 is defined in Title 48 (DFARS) 252.227-7014(A) (Jun 1995).

- (ii) “Form, Fit and Function Data”, “Limited Rights” and “Technical Data” as used in this section 5.3 Data Rights is defined in Title 48 (DEARS) 252.227-7013(A) (Nov 1995).

- (iii) “Commercial Computer Software License” as used in this section 5.3 Data Rights means the license terms under which Commercial Computer Software is sold or offered for sale, lease or license to the general public.

- (iv) “Data” as used in this section C.3. Data Rights means Computer Software, Computer Software Documentation, Form, Fit and Function Data, and Technical Data.

- (v) “Government Purpose Rights” means the Government is allowed the right to practice, obtain,

reproduce, publish, or otherwise use in any part of the world for purposes of the Government, and to authorize others to do so solely for Government purposes. Government purpose do not include commercial applications. Similarly, software developed while performing under the TIA will be provided to the Government with Government Purpose Rights.

(vi) “ARM Purpose Rights” as used in this section C.3, Data Rights, means the rights to use Data as stipulated in the Intellectual Property Rights and Access section of the Membership Policies, available upon request.

(vii) “Specially Negotiated License Rights” are those rights to Data that have been specifically negotiated between the Government and Seller.

b. Data Categories

(i) Category A is Data developed and paid for totally by non-governmental funds, whether pre-existing or concurrently developed proprietary data, trade secret data, or data related to Seller products. Seller retains all rights to Category A Data.

(ii) Category B is any Seller generated Data developed during the performance of work under this Contract, which cannot be disclosed without compromising the Category A Data.

(iii) Category C is any Seller generated Data, excluding Category A and B Data, developed during the performance of work under this Contract.

(iv) Category D is third-party proprietary data used in performance of work under this Contract, including but not limited to, Technical Data, Computer Software, trade secrets and mask works.

c. Allocation of Principal Rights

(i) Any Data developed outside of this Contract with Government funding in whole or in part under a Government agreement, contract or subcontract shall have the rights negotiated under such prior agreement, contract or subcontract; the Government shall get no additional rights in such Data under this Contract.

(ii) All Data generated while performing under this Contract (Category B and C Data) will be provided to the Government with Government Purpose Rights.

(iii) Seller agrees that in consideration for the Government’s funding, and in lieu of any Government rights to Category A, B or D data (except as contained in paragraph (vi) below), Seller intends to reduce to practical application materials and processes developed under this Contract.

(iv) No deliveries to Buyer, ARM or the Government of Category A and B data are contemplated or required under this Contract. Buyer, ARM and the Government reserve the right to negotiate certain rights in Category A and B data with the owner of the data. The existence and use of Category A or B data will be disclosed in the SOW.

(v) ARM shall have immediate and irrevocable ARM Purpose Rights to all Category C Data.

(vi) Subject to the IPP — Intellectual Property Management Plan incorporated into the contract, if applicable, particularly relating to access to BIP, Seller shall provide access to Buyer any third-party Computer Software, Category D Data, as required for the performance or operation of other Computer Software required to be delivered in the SOW, with such rights as it is able to negotiate with the software vendor. Seller shall use reasonable efforts in such negotiations to obtain rights adequate to fulfil Government Purpose Rights and ARM Purpose Rights and shall provide to Buyer the details as part of the SOW.

(vii) Data that will be delivered, furnished, or otherwise provided to Buyer under this section C. 3.c. Allocation of Principal Rights, in which the Government has previously obtained rights, shall be delivered, furnished, or provided with the pre-existing rights, unless (a) the parties have agreed otherwise, or (b) any restrictions on the Government's rights to use, modify, reproduce, release, perform, display, or disclose the Data have expired or no longer apply.

d. Marking of Data

(i) Any Data delivered under this Agreement shall be marked with the following legend:

“This data is being delivered as Category (insert category) Data, as defined in Agreement W911NF-17-3-0004. Use, duplication, or disclosure is subject to the restrictions as stated in Agreement W911NF-17-3-0004 between ARM and the Government.”

(ii) In the event that Seller learns of a release to Buyer of its unmarked Data that should have contained a restricted legend, Seller will have the opportunity to cure such omission going forward by providing written notice to Buyer within six (6) months of the erroneous release.

e. Prior Technology

(i) Seller shall not be obligated to provide Data that existed prior to, or was developed outside of this Contract to Buyer, ARM or the Government. However, in the event it is necessary for Seller to furnish to Buyer, ARM or the Government with Data which existed prior to, or was produced outside of this Contract, and such Data embodies trade secrets or comprises commercial or financial information which is privileged or confidential, and such Data is so identified with a suitable notice or legend, the Data will be maintained in confidence and disclosed and used by Buyer, ARM, the Government, and such Government Contractors or contract employees that the Government may hire on a temporary or periodic basis only for the purpose of carrying out the Government's responsibilities under this Contract. Data protection will include proprietary markings and handling, and the signing of nondisclosure agreements by Buyer, ARM, such Government Contractors, or contract employees. Upon completion of activities under this Contract, such Data will be disposed of as requested by Seller.

(ii) Oral and Visual Information: If information which Seller considers to embody trade secrets or to comprise commercial or financial information which is privileged or confidential is expressly disclosed orally or visually directly to Buyer, the exchange of such information must be memorialized in tangible, recorded form and marked with a suitable notice or legend, and furnished to Buyer within thirty (30) calendar days after such oral or visual disclosure, or Buyer shall have no duty to limit or restrict, and

shall not incur any liability for any disclosure and use of such information. If Buyer reasonably determines that the memorialization of the exchange is insufficiently detailed to enable it to identify the privileged or confidential information, Seller shall provide additional detail at Buyer's request, subject to restrictions on use and disclosure.

(iii) Disclaimer of Liability: Notwithstanding the above, Buyer, ARM and the Government shall not be restricted in, nor incur any liability for, the disclosure and use of:

(a) Data not identified with a suitable notice or legend as set forth in this section C.3.c. Data Rights; nor

(b) Information contained in any Data for which disclosure and use is restricted, if such information is or becomes generally known without breach of the above, is properly known to Buyer, ARM or the Government or is generated by Buyer, ARM or the Government independent of carrying out responsibilities under this Contract, is rightfully received from a third party without restriction, or is included in Data which the Seller has furnished, or is required to furnish to Buyer, ARM or the Government without restriction on disclosure and use.

(c) Notwithstanding C.3.f. (iii)(a) above, if Seller cures the omission of the suitable notice or legend, the restrictions, and related liability for disclosure and use of such information shall apply after cure unless it is then unrestricted under C.3.f. (iii)(b) above.

f. Copyright

(i) Seller reserves the right to protect by copyright works developed under this Contract. All such copyrights will be in the name of Seller or the author, as determined by Seller policies.

(ii) Government Rights —

**Works Created Solely by Recipient:** Seller retains all ownership to copyrights for original works of authorship created solely by Seller's employees in the course of performance of work under this agreement. Seller grants a royalty-free, nonexclusive, irrevocable license to use, modify, prepare derivative works, reproduce, distribute, perform, and display worldwide such copyrighted works by or on behalf of the Government for Government purposes.

**Jointly Created Works:** Ownership to copyrights for original works of authorship created jointly by U.S. Government employees and Seller's employees in the course of performance of work under this agreement is vested in Seller. Seller grants to the Government a royalty-free, nonexclusive, irrevocable license to use, modify, prepare derivative works, reproduce, distribute, perform, and display worldwide such copyrighted works.

**Copyright Statement:** Seller will include the following statement on any text, drawing, mask work or other work of authorship that may be copyrighted under Title 17 of the US Code that is created in the performance of this Contract:

“The U.S. has a copyright license in this work pursuant to a Technology Investment Agreement.”

(iii) Seller hereby grants to Buyer and ARM a non-exclusive, non-transferable, royalty-free, fully paid-up license to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, all copyrighted works developed under this Contract (excluding Data) to which it owns the copyright, and to authorize others to do so for non-commercial purposes.

g. Survival Rights — Provisions of this section C.3 Data Rights shall survive termination of this Contract.

#### 4. Public Release or Dissemination of Information

- a. Open Publication Policy— Notwithstanding the reporting requirements of this Contract, the Parties favor an open-publication policy to promote the public acceptance of the research developed under this award, but simultaneously recognize the necessity to protect identified proprietary information.
- b. Publication or Disclosure — It is herein agreed that except for the disclosure of basic information regarding this Contract such as purpose and a general description of the technical work under this Contract, Seller agrees to furnish copies to the Buyer prior to publication or other disclosure of the results of the fundamental research under this award. Publication or other disclosures include press releases, specific publicity or advertisement, and articles for proposed publication or presentation. The requirement to furnish advance copies of publications or other disclosures does not constitute any restriction on the conduct or reporting of the fundamental research. Publications under this Contract shall be in accordance with Section 5 Publications of the ARM Membership Policies, available upon request.
- c. Prior Review of Public Releases — It is herein agreed that except for the disclosure of basic information regarding this Contract, such as purpose and a general description of the technical work under this award, Seller will submit all proposed public releases to the Buyer in accordance with Section 5 Publications of the ARM Membership Policies (available upon request) for review and comment prior to release. Public releases include press releases, specific publicity or advertisement, and articles for proposed publication or presentation.
- d. Publication Legend — Articles for publication or presentation will contain an acknowledgement of support and a disclaimer. These statements may be placed either at the bottom of the first page or at the end of the paper and should read as follows:

“Research was sponsored by the Office of the Secretary of Defense and was accomplished under Agreement Number W91INF-17-3-0004. The views and conclusions contained in this document are those of the authors and should not be interpreted as representing the official policies, either expressed or implied, of the Office of the Secretary of Defense or the U.S. Government. The U.S. Government is authorized to reproduce and distribute reprints for Government purposes notwithstanding any copyright notation herein.”

#### 5. Export Controls

- a. Each party acknowledges that certain information or technology provided by the other party under this Contract may be subject to United States export control laws and regulations (collectively, “Export Control Laws”) which include, without limitation, the International Traffic in Arms

Regulations (ITAR), Export Administration Regulations (EAR) and regulations and orders administered by the Office of Foreign Assets Control (OFAC). Each party agrees to comply with all Export Control Laws. The disclosing party shall provide the receiving party with written notice containing the nature of any such export controlled information, including Export Control Classification Number (ECCN) or United States Munitions List (USML) category, prior to any exchange of such export controlled Confidential Information. The disclosing party shall not disclose any information subject to Export Control Laws unless and until the disclosing party has been notified in writing that a plan for the transfer and control of the information has been created by the receiving party.

- b. Seller further agrees if U.S. export control laws and regulations are applicable to this Contract, Seller will not disclose or re-export any technical data under this Contract to any country or end-user or for any end-use, for which U.S. government requires an export license at the time of export or transfer, unless Seller has obtained authorization from the U.S. agency responsible for such matters.

## 6. Representations and Certifications

- a. The Representations and Certifications, which have been executed by Seller prior to award of this Contract are hereby incorporated herein by reference.
- b. General — Seller represents and certifies that it has filed and will maintain all assurances or other documentation with the appropriate government agencies to the extent such assurances are required, including any applicable national policy requirements as listed in and incorporated by reference from DoD R&D General Terms and Conditions dated JULY 2016, Part 8: National Policy Requirements, which may be found at <https://www.onr.navy.mil/Contracts-Grants/submit-proposal/grantsproposal/grants-terms-conditions.aspx>.
- c. Debarment — By accepting this Contract, Seller certifies that neither Seller nor any of its employees or agents performing any service under this Contract (including the Project Director) are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction, under investigation for a crime or otherwise engaged in conduct for which a person can be debarred by any federal agency, and Seller will immediately notify Buyer upon any inquiry concerning commencement of any such proceeding concerning Seller or such person referred to in this subparagraph.
- d. Drug-Free Workplace — by accepting this Contract, Seller assures that it is in compliance with the requirements in the “*Drug-Free Workplace*” (41 U.S.C. chapter 81). Specifically, Seller certifies it will provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in Seller’s workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing a drug-free awareness program to inform employees about—

- (1) The dangers of drug abuse in the workplace;
- (2) Seller’s policy of maintaining a drug-free workplace;
- (3) Any available drug counseling, rehabilitation and employee assistance program, and
- (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.



(c) Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the Contract, the employee will—

- (1) Abide by the terms of the statement; and
- (2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after each conviction.

(e) Notifying the agency within ten (10) days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction;

(f) Taking one of the following actions, within thirty (30) days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted—

- (1) Taking appropriate personnel action against such an employee, up to and including termination; or
- (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

- e. **Lobbying** — By accepting this contract, Seller certifies that no federally 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 an Member of Congress in connection with this Contract, and that if any funds other than federally 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 an Member of Congress in connection with the Prime Award, grant loan or cooperative agreement Seller will complete and submit standard Form-LLL, “*Disclosure Form to Report Lobbying.*”

Seller shall require that the language of this certification be included in the award documents for all subcontracts at all tiers (including subcontracts, sub grants, 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. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for such failure.

- f. The above referenced certifications must be flowed down to all relevant lower tier subcontractors.

#### **D. Intellectual Property Policies**

- a. Certain Intellectual Property rights flow down from the Prime Agreement as specified in Section C, Intellectual Property Rights.
- b. Seller acknowledges that Consortium Developed Intellectual Property (“CDIP”), as defined below,

may be generated during the course of the work under this Contract (“Project CDIP”) and is available to ARM Consortium Members (“Members”) in accordance with the terms of the ARM Consortium Membership Policies (available upon request).

CDIP means individually and collectively all IP that is conceived or made solely or jointly by Member(s) during the performance of a sub-award under the ARM Institute Consortium and/or funded in whole or in part with federal government funds through the TIA or with Membership fees. Given the nature of the Consortium, which includes IP being shared among Members, no CDIP will be a trade secret.

- c. In addition to the rights and obligations set forth in the Membership Policies, each Party agrees that Project CDIP created and owned solely by Seller or jointly with any Member and any relationship concerning Background Intellectual Property (“BIP”) as discussed in Section D. shall be subject to the terms set forth in the IPP — Intellectual Property Management Plan attached to the Contract, as applicable.
- d. Seller shall declare to Buyer any intention to use BIP, as defined below, within the Project as soon as known. BIP known at the time of Contract must be declared in Intellectual Property Management Plan attached to the contract, if applicable. If BIP constrains the use of CDIP, then licensing of the BIP must be made available to the Government, ARM, Buyer, and Members consistent with ARM Membership Agreement and Policies. Seller must find an alternative solution if such BIP licensing is not available.

Background Intellectual Property means IP in existence as of the effective date of the TIA or coming into existence subsequent to the effective date of the TIA, which is not CDIP.

- e. Buyer shall coordinate activities under CDIP policy and play a key role in conjunction with the owners of the Project CDIP in facilitating access to the technology. Seller agrees to designate a technology licensing officer or equivalent representative from their organizational entity to serve as the principal point of contact with respect to Project CDIP. Said individual shall have the responsibility of direct communication with Buyer, and other ARM Consortium Members in regard to access to Project CDIP.
- f. Seller and parties under all subcontracts or lower tier agreements, regardless of tier, that solely or jointly create CDIP are required to disclose the creation of Project CDIP to their respective technology transfer, licensing office or equivalent responsible office as soon as practicable during the performance of the Project. Seller shall notify Buyer in writing of the existence of agreements among the Project CDIP owners governing jointly developed Project CDIP.
- g. Seller shall provide a summary to Buyer of the disclosed Project CDIP consistent with ARM Membership Agreement and Policies, (available upon request) including, but not limited to, Section 3.3 of the Membership Policies for addition to the ARM CDIP database to inform Members as required under the ARM Consortium Membership Agreement. The summary shall disclose the nature of the CDIP to ARM Members in specific enough terms so that readers can assess their interest in learning more, but in general enough terms that the disclosure does not reveal valuable proprietary information and is thus releasable to the Members. Seller shall include a similar summary requirement no less restrictive in any lower-tier agreement it enters into concerning the Project.

- h. Members interested in learning more about the Project CDIP may sign a Proprietary Information Agreement with the CDIP owner(s) to allow signatories to discuss the Project CDIP in sufficient detail so that they can determine whether or not they wish to negotiate a license to use the Project CDIP, and on what terms including royalties. Licensing terms and conditions shall be in a legally binding agreement among the respective parties, separate from this Contract and the Membership Agreement. During the Term of this Contract, Seller shall notify Buyer in writing of the existence of agreements among the Project CDIP owners and Members governing such licensing. Seller shall include a similar notice requirement no less restrictive in any lower-tier agreement it enters into concerning the Project, recognizing that after the Term of this Agreement each Member has obligations under the ARM Membership Agreement and Policies concerning licensing terms and conditions.