CUSTOMER CONTRACT REQUIREMENTS
4DT Live Flight Demonstration
CUSTOMER CONTRACT 693KA8-19-D-00003/ERAU0002

CUSTOMER CONTRACT REQUIREMENTS

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

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

693KA8-19-D-00003 /ERAU0002 .
ARTICLE 1. INTELLECTUAL PROPERTY

a. RIGHTS IN DATA:

The FAA retains Government Purpose Rights in all data first produced and delivered under this Contract.

“Data” means recorded information, regardless of form or method of recording. The term includes technical data and computer software. The terms does not include incidental to contract administration, such as financial, administrative, cost or pricing, or management information.

"Government Purpose Rights" means the rights to –

(1) Use, modify, reproduce, release, perform, display, or disclose Data within the government without restriction; and,

(2) Release or disclose technical Data outside the government and authorize persons to whom release or disclosure has been made to use, modify, reproduce, release, perform, display, or disclose that data for government purposes.

The Government Purpose Rights shall be in perpetuity.

"Government Purpose", means any activity in which the United States Government is a party, including cooperative agreements with international or multi-national defense organizations, or sales or transfers by the United States Government to foreign governments or international organizations. “Government Purpose” includes competitive acquisition by or on behalf of the government but do not include the rights to use, modify, reproduce, release, perform, display, or disclose Data for commercial purposes or authorize others to do so.

Subject the U.S. Government’s rights set forth herein or under Buyer’s prime agreement under which this Contract is awarded, and except as may be set forth in a particular Task Order, each party shall own all right, title, and interest in and to any Intellectual Property conceived, developed, or first reduced to practice during the course of or as a result of work performed solely by that party under this Contract. The other party shall have a license in such Intellectual Property only to the extent necessary to complete its tasks and provide any required deliverables under the prime agreement hereunder. Intellectual Property conceived, developed, or first reduced to practice during the course of or as a result of work performed jointly by the parties under this Contract shall be jointly owned by the parties. As used herein, “Intellectual Property” means all legal rights in works, ideas, inventions, discoveries, and improvements, including but not limited to, patents, patent applications, copyrights, copyrightable works (including software, technical data, drawings, and specifications), trademarks, proprietary information, mask works, industrial designs, integrated circuit layout designs, databases, technical data, trade secrets, and know-how.

b. RIGHTS IN INVENTIONS:

Buyer and its subcontractors, as appropriate shall retain all rights, title and interest to any inventions made by Buyer in performance of this Contract and the Government shall not obtain any rights to any such invention.

ARTICLE 2. LEGAL AUTHORITY

This Contract is entered into under the authority of 49 U.S.C. 106(1) and (m), which authorizes agreements and other transactions on such terms and conditions as the Administrator determines necessary and follows the guidance of the FAA Acquisition Management System.

ARTICLE 3. AUDITS

The Government or Buyer has the right to examine or audit relevant financial records pertaining solely to this Contract for a period not to exceed three years after expiration of the term of the prime contract with FAA. Seller will provide access to records to the Defense Contract Audit Agency (DCAA) or Defense Contract Management Agency (DCMA) or the Office of Inspector General or Buyer for data other than Commercial Item data. Seller must maintain an established accounting system that complies with generally accepted accounting principles. Commercial companies should ensure their record retention policies comply with this policy.

ARTICLE 4. LOWER TIER CONTRACTS

As mandated, Seller shall include all of these terms of CCR 693KA8-19-F-00003 suitably modified in all lower tier contracts, regardless of tier. Subsequently, all subcontracts issued hereunder must also include all these terms of 693KA8-19-F-00003, suitably modified.

ARTICLE 5. CIVIL RIGHTS ACT

Seller must comply with Title VI of the Civil Rights Act of 1964 relating to nondiscrimination in federally assisted programs and provide a certification to that effect.

ARTICLE 6. OFFICIALS NOT TO BENEFIT

AMS Clause 3.2.5-1, "Officials Not to Benefit" and Clause 3.2.5-7, "Disclosure Regarding Payments to Influence Certain Federal Transactions" are incorporated by reference into this Contract.

ARTICLE 7. PROTECTION OF INFORMATION

a. The parties agree that they must take appropriate measures to protect Proprietary, Information (as defined below) that may come into their possession as a result of this Contract.

b. Proprietary Information means all information, in whatever form, related to the subject matter of this Contract and disclosed, directly or indirectly, by one party to the other, or obtained, directly or indirectly, by one party from the other, including, but not limited to, technical information in the form of designs, concepts, requirements, specifications, software, interfaces, components, processes, or business and financial information. Proprietary Information includes the terms and conditions of this Contract.

c. To gain protection as Proprietary Information, an originating party shall disclose information in written or other permanent form and shall clearly and conspicuously mark such information as being proprietary using an appropriate legend. Information stored in electronic form on disk, tape, or other storage media constitutes information in permanent form. Such electronic information will be adequately marked if a proprietary legend displays when the information

originally runs on a computer system and when the information is printed from its data file. If an originating party originally discloses information in some other form (e.g., orally or visually), a receiving party will protect such information as Proprietary Information to the extent that the originating party: (a) identifies the information as proprietary at the time of original disclosure; (b) summarizes the Proprietary Information in writing; (c) marks the writing clearly and conspicuously with an appropriate proprietary legend; and (d) delivers the writing to the receiving party within thirty (30) days following the original disclosure.

d. The receiving party may use and copy the disclosing party's Proprietary Information solely for the purpose of performing the receiving party's obligations under this Contract. The receiving party may disclose the disclosing party's Proprietary Information to employees of the receiving party who have a need-to-know the Proprietary Information for the purposes of performing the receiving party's obligations under this Contract. The receiving party may not disclose the disclosing party's Proprietary Information to any third party without the prior written consent of the disclosing party. Notwithstanding the restrictions set forth in this Article, Seller may disclose to a subcontractor Buyer's Proprietary Information as may be necessary to accomplish the work under this Contract, provided that the subcontractor agrees that such information will be used solely for the purposes of such subcontract and is subject to written obligations of confidentiality no less stringent than those set forth in this Article 7.

e. Upon the disclosing party's written request at any time, and in any event upon the completion, termination or cancellation of this Contract, the receiving party shall return to the disclosing party all such Proprietary Information of the disclosing party, or shall, at the disclosing party's option, destroy all such information and confirm as to such destruction to the disclosing party.

f. Each party shall protect Proprietary Information except to the extent disclosure is required by subpoena or by a court of competent jurisdiction. Where this exception applies, the receiving party shall, to the extent legally permitted to do so, provide prompt written notice to the disclosing party prior to proceeding with such disclosure and shall afford the disclosing party the right to (a) to seek an appropriate protective order or other remedy; (b) to consult with the receiving party with respect to the disclosing party's taking steps to resist or narrow the scope of such request or legal process; or (c) to modify or waive compliance, in whole or in part, with the terms of this Article 7.

g. This Article 7 does not restrict disclosure or use of information otherwise qualifying as Proprietary Information if the receiving party can show that any one of the following conditions exists: (a) the receiving party knew the information and held it without restriction as to further disclosure when the disclosing party disclosed the information hereunder; (b) the receiving party developed the information independently with no reliance on any IP or Proprietary Information of the other party; (c) another source lawfully disclosed the information to the receiving party and did not restrict the receiving party in its further use or disclosure; or (d) the information was already in the public domain when the disclosing party disclosed it to the receiving party, or entered the public domain through no fault of the receiving party.

h. The receiving party will satisfy its obligations hereunder to protect Proprietary Information from misuse or unauthorized disclosure by exercising reasonable care. Such care will include protecting such information using those practices the receiving party normally uses to restrict disclosure and use of its own information of like importance and in any event not less than a reasonable standard of care.

i. Proprietary Information is and remains the property of the disclosing party. Except as set forth in

this Contract, the receiving party does not receive any right or license under any patents, copyrights, trade secrets, or the like of the disclosing party.

ARTICLE 8. FAA – AMS CLAUSE 3.1.7-2 – ORGANIZATIONAL CONFLICTS OF INTEREST

(a) Seller warrants that, to the best of Seller's knowledge and belief, there are no relevant facts or circumstances which could give rise to an organizational conflict of interest (OCI), as defined in the FAA Acquisition Management System, "Organizational Conflicts of Interest (3.1.7)", or that Seller has disclosed all such relevant information.

(b) Seller agrees that if an actual or potential OCI is discovered after award, Seller must make a full disclosure in writing to Buyer. The disclosure must include a mitigation plan describing actions Seller has taken or proposed to take, to avoid, mitigate, or neutralize the actual or potential conflict. Changes in Seller's relationships due to mergers, consolidations or any unanticipated circumstances may create an unacceptable organizational conflict of interest might necessitate such disclosure.

(c) The FAA may review and audit OCI mitigation plans as needed after award, and to reject mitigation plans if the OCI, in the opinion of the FAA cannot be avoided, or mitigated.

(d) Buyer may terminate this contract for convenience in whole or in part, if the FAA deems such termination necessary to avoid an OCI. If the Sub-Contractor was aware of a potential OCI prior to award or discovered an actual or potential conflict after award and did not disclose or misrepresented relevant information to Buyer, Buyer may terminate this contract for default, notify the FAA CO, who could potentially debar the Sub-Contractor from government contracting, or pursue such other remedies as may be permitted by law or this contract.

ARTICLE 9. POLICY TO BAN TEXT MESSAGING WHILE DRIVING

Policy conforming to DOT Order 3902.10 Text Messaging While Driving, and Executive Order 13513 Federal Leadership on Reducing Text Messaging While Driving, is hereby incorporated:

a. DEFINITIONS:

The following definitions intend to be consistent with the definitions in DOT Order 3902.10 and the E.O. For clarification purposes, they may expand upon the definitions in the E.O.

(1) "Driving"

(a) Means operating a motor vehicle on a roadway, including while temporarily stationary because of traffic, a traffic light, stop sign, or otherwise.

(b) It does not include being in your vehicle (with or without the motor running) in a location off the roadway where it is safe and legal to remain stationary.

(2) "Text Messaging"

(a) Means reading from or entering data into any handheld or other electronic device, including for the purpose of short message service texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication.

(b) The term does not include the use of a cell phone or other electronic device for the limited purpose of entering a telephone number to make an outgoing call or answer an incoming call, unless prohibited by State or local law.

(c) In accordance with Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, October 1, 2009, and DOT Order 3902.10, Text Messaging While Driving, December 30, 2009, financial assistance recipients and sub-recipients of grants and cooperative agreements are encouraged to:

(d) Adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving:

(i) Company-owned or-rented vehicles or Government-owned, leased or rented vehicles; or

(ii) Privately-owned vehicles when on official Government business or when performing any work for or on behalf of the Government; or

(e) Conduct workplace safety initiatives in a manner commensurate with the size of the business, such as:

(i) Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and

(ii) Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.