

CUSTOMER CONTRACT REQUIREMENTS
Advanced Variable Speed Aircraft Transmission (AVSAT)
CUSTOMER CONTRACT W911W6-14-2-0003

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

ARTICLE XII: PATENT RIGHTS

A. Definitions.

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

B. Allocation of Principal Rights

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

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

1. Recipient will disclose each Subject Invention to the Government, through buyer, within six (6) months after the inventor discloses it in writing to his company personnel responsible for patent matters. The disclosure to the Government will be in the form of a written report and will identify the Contract under which the invention was made and the identity of the inventor(s). It will be sufficiently complete in technical detail to convey a clear understanding to the extent known at the time of the disclosure, of the nature, purpose, operation, and the physical, optical, chemical, biological, or electrical characteristics of the invention. The disclosure will also identify any publication, sale, or public use of the invention and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In the event there are no Subject Inventions, Recipient will submit a negative report as part of Contract closeout.

2. If Recipient determines that it does not intend to retain title to any such invention, Recipient will notify the Government, in writing,

through Buyer, within eight (8) months of disclosure to the Government. However, in any case where publication, sale, or public use has initiated the one (1)-year statutory period wherein valid patent protection can still be obtained in the United States, the period for such notice may be shortened by the Government to a date that is no more than sixty (60) calendar days prior to the end of the statutory period.

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

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

D. Conditions When the Government May Obtain Title.

Upon the Government's written request, Recipient will convey title to any Subject Invention to the Government under any of the following conditions:

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

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

1. Recipient will retain a nonexclusive, royalty free sub-licensable license throughout the world in each Subject Invention to which the Government obtains title, except if Recipient fails to disclose the Subject Invention within the times specified in paragraph C of this Article. The Recipient license extends to the domestic subsidiaries and affiliates, if any, of Recipient within the corporate structure of which Recipient is a party and includes the right to grant licenses of the same scope to the extent that Recipient was legally obligated to do so at the time the Contract was awarded. The license is transferable only with the approval of the Government, except when transferred to the successor of that part of the business to which the invention pertains. Government approval for license transfer will not be unreasonably withheld.
2. The Recipient domestic license may be revoked or modified by the Government to the extent necessary to achieve expeditious practical application of Subject Invention pursuant to an application for an exclusive license submitted consistent with appropriate provisions at 37 CFR Part 404, provided that such revocation or modification will not take place less than ten (10) years after the end of the term of this Contract. This license will not be revoked in that field of use or the geographical areas in which Recipient has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of the Government to the extent Recipient, its licensees, or the subsidiaries or affiliates have failed to achieve practical application in that foreign country.
3. Before revocation or modification of the license, the Government will furnish Recipient a written notice of its intention to revoke or modify, the license, and Recipient will be allowed thirty (30) calendar days (or such other time as may be authorized for good cause shown) after the notice to show cause why the license should not be revoked or modified.

F. Action to Protect the Government's Interest.

1. Recipient agrees to execute or to have executed and promptly provide to the Agreements Administrator, through Buyer, all instruments necessary to:

(a) establish or confirm the rights the Government has throughout the world in those Subject Inventions to which Recipient elects to retain title, and

(b) convey title to the Government when requested under paragraph D. of this Article and to enable the Government to obtain patent protection throughout the world in that Subject Invention.

2. Recipient agrees to require, by written Agreement, that employees of Recipient, other than clerical and nontechnical employees, agree to disclose promptly in writing, to personnel identified as responsible for the administration of patent matters and in a format acceptable to Recipient, each Subject Invention made under this Contract in order that Recipient can comply with the disclosure provisions of paragraph C. of this Article. Recipient will instruct employees, through employee Agreements or other suitable educational programs, on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.

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

4. Recipient will include, within the specification of any United States patent application and any patent issuing thereon covering a Subject Invention, the following statement: "This invention was made with Government support under Agreement No. W911W6-14-2-0003 for the Advanced Variable Speed Aircraft Transmission (AVSAT) Program The Government has certain rights in the invention."

G. Lower Tier Contracts.

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

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

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

H. Reporting on Utilization of Subject Inventions.

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

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

I. Preference for American Industry.

Notwithstanding any other provision of this clause, Recipient agrees that it will not grant to any person the exclusive right to use or sell any Subject Invention in the United States unless such person agrees that any product embodying the Subject Invention or produced through the use of the Subject Invention will be manufactured substantially in the United States. However, in individual cases, the requirements for such a Contract may be waived by the Government upon a showing by Recipient that reasonable but unsuccessful

efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that, under the circumstances, domestic manufacture is not commercially feasible.

J. March-In Rights.

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

1. Such action is necessary because Recipient or assignee has not taken effective steps, or is not expected to take within a reasonable time, effective steps to achieve practical application of the Subject Invention, a reasonable time being no less than ten (10) years from the end of the term of the Contract;
2. Such action is necessary to alleviate health or safety needs, which are not reasonably satisfied by Recipient, assignee, or their licensees;
3. Such action is necessary to meet requirements for public use; and such requirements are not reasonably satisfied by Recipient, assignee, or licensees; or
4. Such action is necessary because the Contract required by paragraph (l) of this Article has not been obtained or waived or because a licensee of the exclusive right to use or sell any Subject Invention in the United States is in breach of such Contract.

K. Opportunity to Cure.

Certain provisions of this Article provide that the Government may gain title or license to a Subject Invention by reason of Recipient's action or failure to act within the times required by this Article. Prior to claiming such rights (including any rights under Article XII. J., "March-In Rights"), the Government will give written notice to Recipient of the Government's intent and afford Recipient a reasonable period of time to cure such action or failure to act. The length of the cure period will depend on the circumstances, but in no event will be less than sixty (60) days. Recipient may also use the cure period to show good cause why the claiming of such title or right would be inconsistent with the intent of this Contract, in light of the appropriate timing for introduction of the technology in question, the relative funding and participation of the parties in the development and other factors.

L. Notification of Background Inventions, Disclosures or Patents.

In no event shall the provisions set forth in this Article apply to any Background Inventions or Patents obtained thereon by recipient. Recipient shall retain the entire right, title, and interest throughout the world to each such invention and patents, and the Government shall not acquire any rights to such Invention and Patents under this Contract except for Subject Inventions.

ARTICLE XIII. OTHER INTELLECTUAL PROPERTY RIGHTS.

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

1. "Background Data" means Technical Data produced by Recipient at private expense prior to performance of or outside the scope of this Contract and is considered by Recipient to be proprietary. Such Background Data may include any modifications, derivatives to previously conceived, designed, developed, and resultant revisions to software, processes, qualification data, and manufacturing plans.
2. "Background Software" means any Software developed by Recipient prior to the performance of this Contract or outside the scope of work performed under this Contract and is considered by Recipient to be proprietary.
3. "Government Data" means Data that has been delivered to the Government prior to or outside the terms of this Contract. The Government's pre-existing rights in that Data govern disclosure and use of such Government Data.
4. "Government Purpose" means any activity in which the United States Government is a party, including cooperative Contracts with international or multi-national defense organizations, or sales or transfers by the United States Government to foreign governments or international organizations. Government purposes include competitive procurement, but do not include the rights to use, modify, reproduce, release, perform, display, or disclose technical data for commercial purposes or authorize others to do so.

5. "Government Purpose Rights" means the rights to
 - a. Use, modify, reproduce, release, perform, display or disclose technical data within the Government without restriction; and
 - b. Release or disclose technical data outside the Government and authorize persons to whom release or disclosure has been made to use, modify, reproduce, release, perform, display, or disclose that data for United States government purposes.
 - c. Government Purpose Rights set forth in this Contract will be enacted for a period of twenty (20) years.
6. "Limited Rights" as defined in (a)(14) of DFARS 252.227-7013, Rights in Technical Data-Noncommercial Items (MAY 2013).
7. "Proprietary Information" means information which embodies trade secrets or which is privileged or confidential, technical, business or financial information provided that such information:
 - a. is not generally known, or is not available from other sources without obligations concerning its confidentiality;
 - b. has not been made available by the owners to others without obligation concerning its confidentiality;
 - c. is not described in an issued patent or a published copyrighted work or is not otherwise available to the public without obligation concerning its confidentiality; or
 - d. can be withheld from disclosure under 15 U.S.C. § 3710a(c)(7)(A) & (B) and the Freedom of Information Act, 5 U.S.C. § 552 et seq; and
 - e. is identified as such by labels or markings designating the information as proprietary.
8. "Restricted Rights" shall have the same definition as that contained in DFARS clause 252.227-7014 (FEB 2014).
9. "Subject Technical Data", as used in this article, means any Technical Data first produced and delivered during performance of this Contract.
10. "Technical Data" means recorded information, regardless of the form or method of the recording, of a scientific or technical nature (including computer software documentation). The term does not include computer software or data incidental to contract administration, such as financial and/or management information.
11. "Unlimited Rights" means rights to use, modify, reproduce, perform, display, release, or disclose technical data in whole or in part, in any manner, and for any purpose whatsoever, and to have or authorize others to do so.

B. Allocation of Principal Rights.

This Contract shall be performed with a mix of Government and Boeing funding. Any technical data and computer software developed with Contract funding shall be considered as "Developed with mixed funding" as defined in DFARS clause 252.227-7013(a)(10) and 252.227-7013(a)(10). In consideration of Government funding, the Parties agree as follows:

1. Background Data provided to the Government shall be limited to that information normally shared with commercial customers or that information specifically negotiated under this Contract and shall be subject to Limited Rights. Recipient retains all right, title, and interest in such Background Data. Certain deliverable reports/documentation may, by necessity, incorporate Background Data. If so, such report/documentation will be supplied with Limited Rights. Furnishing of "Background Data" by incorporating it into a deliverable reports/documentation shall not affect any preexisting Government Rights in such Technical Data.

Other assertions meeting the definition of Background Data/Background Software may be identified after award. Such identification shall be submitted to the Grants/Agreements Officer, through Buyer, as soon as practical, but in no case shall the additional Background Data be included in any data deliverable until the Contract is bilaterally amended to reflect such addition. There is no requirement for Software deliverables under this Contract.

2. RESERVED

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

4. The following reports/documentation may include background data Technical Progress Report, Final Report, Final Briefing, Briefing Materials, Test Plan and Test Report. When Background Data is included and subject to Limited Rights, that Background Data shall be submitted in an appendix to the report/document such that the Government may have Government Purpose Rights in the primary portion of the report/document.

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

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

D. Marking of Data

1. Pursuant to paragraph B above,

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

Government Purpose Rights

Agreement Number: W911W6-14-2-0003

Recipient Name: The Boeing Company

Recipient Address: 5000 East McDowell Rd., Mesa AZ 85215-9707

Expiration Date: 01 October 2034

The Government's rights to use, modify, reproduce, release, perform, display or disclose these Technical Data are restricted as stated in Agreement W911W6-14-2-0003 between the Government and Recipient. Any reproduction of technical data or portions thereof marked with this legend must also reproduce the markings. Any person other than the Government or Buyer, who has been provided access to such Technical Data, must promptly notify Recipient.

Limited Rights

Agreement Number: W911W6-14-2-0003

Recipient Name: The Boeing Company

Recipient Address: 5000 East McDowell Rd., Mesa AZ 85215-9707

The Government's rights to use, modify, reproduce, release, perform, display, or disclose these technical data are restricted as stated in Agreement W911W6-14-2-0003. Any reproduction of technical data or portions thereof marked with this legend must also reproduce the markings. Any person, other than the Government or Buyer, who has been provided access to such data, must promptly notify the above named Recipient.

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

Government Purpose Rights

Agreement Number: W911W6-14-2-0003

Recipient Name: The Boeing Company

Recipient Address: 5000 East McDowell Rd., Mesa, AZ 85215-9707

Expiration Date: 01 Oct 2034

The Government's rights to use, modify, reproduce, release, perform, display, or disclose this software are restricted as stated in Agreement W911W6-14-2-0003 between the Government and Recipient. No restrictions apply after the expiration date shown above. Any reproduction of the software or portions thereof marked with this legend must also reproduce the markings.

Limited Rights

Agreement Number: W911W6-14-2-0003

Recipient Name: The Boeing Company

Recipient Address: 5000 East McDowell Rd., Mesa, AZ 85215-9707

The Government's rights to use, modify, reproduce, release, perform, display, or disclose this software are restricted as stated in Agreement W911W6-14-2-0003 between the Government and Recipient. Any reproduction of computer software or portions thereof

marked with this legend must also reproduce the markings. Any person, other than the Government, who has been provided access to such software must promptly notify the above named Recipient.

2. Further, the deliverable proprietary non-technical data information not subject to Unlimited Rights, Government Purpose Rights or Limited Rights, shall be marked with the proprietary notice customarily used by Recipient to identify, data and information that is subject to restrictions regarding disclosure and/or use. The proprietary notice shall however, also include notation of this Agreement Number "W911W6-14-2-0003" and a right for the Government to use the report for purpose of administration of this Contract.

3. Except for Technical Data or Proprietary Information delivered under this Contract, the parties agree that Recipient will appropriately advise the Government through the Buyer regarding any limitation or restriction to Technical Data or Computer Software to which the Government may have access. Limitations and restrictions will be subject to the appropriate Recipient or third party markings and legends including a copyright notice to assure proper handling and shall bear notation to this Agreement Number "W911W6-14-2-0003."

E. Disclosure to Government Support Contractors.

The Government may utilize contractor support, as required, for the duration of the Agreement. Information, including business sensitive/confidential or proprietary data, the Recipient provides to the Government with restrictions may be viewed and utilized by the support contractor in the course of its contract performance. The Recipient and its subrecipients/contractors consent to a release of their business sensitive/confidential, proprietary, and/or restricted data to the Government's support contractor. The Government will require the support contractor to protect Recipient information. The Recipient may execute its own Non-Disclosure Agreement with the Government support contractor(s) listed below Company:

USFalcon

The Government utilizes USFalcon for IT support services. This contract with USFalcon contains DFARS clause 252.227-7025, Limitations on the Use or Disclosure of Government Furnished Information Marked with Restrictive Legends. The Government requires USFalcon to provide non-disclosure agreements. The employees performing these services completed non-disclosure agreements and the Government has obtained these forms.

F. Disclosure of Unmarked Data.

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

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

ARTICLE XV: PUBLIC RELEASE OR DISSEMINATION OF INFORMATION

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

B. Recipient is encouraged to publish results of the research projects, unless subject to export controls, in appropriate journals. One advance copy of each release of information to be publicized will be submitted to the Agreement Administrator, through Buyer, who will staff request for release. Approval by the Grants/Agreements Officer is required prior to any release. Submit request at least thirty (30) days prior to the anticipated release date. The Government reserves the right to deny approval of any publication submitted less than thirty (30) days prior to anticipated release date. The Government's Grants/Agreements Officer shall include the following language in letters approving Recipient requests for publication: "The purpose of this letter is to advise you that your publication, entitled 'Advanced Variable Speed Aircraft Transmission (AVSAT)' has been reviewed by the Army Aviation Applied Technology Directorate and is hereby approved for public release."

Publications include, but are not limited to--

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

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

"This research was partially funded by the Government under Agreement No. W911W6-14-2-0003. The U.S Government is authorized to reproduce and distribute reprints for Government purposes notwithstanding any copyright notation thereon."

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

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

D. Two (2) copies of all publications resulting from the project shall be forwarded to the Government Technical Agent upon release.

E. The Government shall submit to the Recipient's Program Manager any information intended to be publicized by the Government for approval prior to release. Approval by the Recipient's Program Manager is required prior to any release. Submit request at least thirty (30) days prior to the anticipated release date.

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

A. Recipient shall report to the Grants/Agreements Officer, through Buyer, promptly and in reasonable written detail, each notice or claim of patent or copyright infringement based on the performance of this Contract of which Recipient has knowledge.

B. In the event of any claim or suit against the Government on account of any alleged patent or copyright infringement arising out of the performance of this Contract or out of the use of any supplies furnished or work or services performed under this Contract, Recipient shall furnish to the Government, through Buyer, when requested by the Grants/Agreements Officer, all evidence and information in possession of Recipient pertaining to such suit or claim. Such evidence and information shall be furnished at the expense of the Government except where Recipient has agreed to indemnify the Government.

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

ARTICLE XXIX: TRAFFICKING IN PERSONS.

A. Recipient, its employees, sub recipients under this Contract, and sub recipients' employees shall not:

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

B. The Government may unilaterally terminate the Contract in its entirety, without penalty, if Recipient or subrecipient that is a private entity –

1. Is determined to have violated a prohibition in paragraph A of this Article; or
2. Has an employee who is determined by the Grants/Agreement Officer to have violated a prohibition in paragraph A of this Article through conduct that is either –
 - a. Associated with performance under this Agreement; or
 - b. Imputed to Recipient or the sub recipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement)," as implemented by our agency at DoD Grant and Agreement Regulations, DOD 3210.6 – R# Part 1125 – Nonprocurement Debarment and Suspension.

C. Recipient shall inform the Government immediately of any information received from any source alleging a violation of a prohibition in paragraph A of this Contract.

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

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

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

F. Definitions.

6. "Employee" means either:

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

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

3. "Private entity":

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

b. Includes

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

(2) A for-profit organization.

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

CONTRACT PROVISIONS

In accordance with 32 CFR 37.705(a) and 34.31, all contracts awarded by a recipient, including those for amounts less than the simplified acquisition threshold, shall contain the following provisions as applicable:

1. Equal Employment Opportunity - All contracts shall contain a provision requiring compliance with E.O. 11246 (3 CFR, 1964-1965 Comp., p. 339), "Equal Employment Opportunity," as amended by E.O. 11375 (3 CFR, 1966-1970 Comp., p. 684), "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR chapter 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

2. Copeland "Anti-Kickback" Act (18 U.S.C. 874 and 40 U.S.C. 276c) - All contracts and sub awards in excess of \$2000 for construction or repair awarded by recipients and sub recipients shall include a provision for compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874), 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 sub recipient shall 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 is otherwise entitled. The recipient shall report all suspected or reported violations to the responsible DoD Component.

3. Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333) - Where applicable, all contracts awarded by recipients in excess of \$100,000 for construction and other purposes that involve the employment of mechanics or laborers shall include a provision

for compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR part 5). Under Section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1 1/2 times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

4. Rights to Inventions Made Under a Contract or Agreement -- Contracts or agreements for the performance of experimental, developmental or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

5. Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended -- Contracts and sub awards of amounts in excess of \$100,000 shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). Violations shall be reported to the responsible DoD Component and the Regional Office of the Environmental Protection Agency (EPA).

6. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) - Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

7. Debarment and Suspension (E.O.s 12549 and 12689) -- Contract awards that exceed the simplified acquisition threshold and certain other contract awards shall not be made to parties listed on nonprocurement portion of the General Services Administration's Lists of Parties Excluded from Federal Procurement and Nonprocurement Programs in accordance with E.O.s 12549 (3 CFR, 1986 Comp., p. 189) and 12689 (3 CFR, 1989 Comp., p. 235), "Debarment and Suspension." This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principals.