



**E104 PART E, *Alternate II* Flowdown Document
ESAero**

If E104 PART E, *Alternate II*, Flowdown Document is specified in this Purchase Order, the following terms apply to this order:

**Flowdown Document Attachment (FDA)
Other Transaction Authority Project Agreement No.:
AMTC-24-03-026**

Prime Contract Number: 2021-414

DPAS Rating: None

Date of Creation: 04.28.2025

The following customer contract requirements apply to this Order or Purchase Order to the extent indicated below and are hereby incorporated into the Order or Purchase Order by full text or by reference with the same force and effect as if they were given in full text. These clauses may contain certifications, representations, disclosures, notices, and/or other information that may be applicable to Seller for this Order or Purchase Order. By accepting these terms and conditions, the Seller agrees to abide by the requirements of these clauses and shall furnish to Buyer any required certification, representation, or disclosure. Upon Supplier's or Seller's request, Buyer's Purchasing Representative will make their full text available. Also, the full text of a FAR or DFARS provision or clause may be accessed electronically at these addresses: <https://www.acquisition.gov/dfars/part-252-solicitation-provisions-and-contract-clauses> or <https://www.acquisition.gov/far/>:

Whenever necessary to make the context of the Clauses applicable to the Order or Purchase Order, the term "Contractor" or "Offeror" shall mean "Supplier" or "Seller", "Subcontractor" shall mean "Seller's Subcontractor", "Member" or "PAH", the term "Contract" shall mean the Order or Purchase Order, and the term "Government", "Contracting Officer" and equivalent phrases shall mean Buyer, except the terms "Government" and "Contracting Officer" do not change: (a) in the phrases, "Government Property", "Government-Furnished Property", and "Government-Owned Property", (b) in the patent Clauses if incorporated herein, (c) when a right, act, authorization, or obligation can be granted or performed only by the Government or the Contracting Officer or a duly authorized representative, such as in FAR 52.227-1 and FAR 52.227-2, (d) when title to property is to be transferred directly to the Government, (e) when access to Proprietary Information is required, except as specifically otherwise provided herein, and (f) where specifically modified herein. Supplier or Seller shall incorporate into each lower-tier subcontract placed in support of the Order or Purchase Order all applicable Clauses in accordance with the flowdown requirements specified in each such Clause. If any of the following clauses do not apply to this Order or Purchase Order, such clauses are considered to be self-deleting.

In accordance with DFARS 252.244-7000, for Orders placed in support of Department of Defense (DoD) Prime Contracts for items meeting the FAR definition of commercial products or services, only the following FAR and DFARS clauses indicated as applicable in the table below (last column) or in the applicability statement of the full text clauses shall apply.



CLAUSES INCORPORATED BY REFERENCE FROM THE OTA PROJECT AGREEMENT:

Clause Number	Title	Applicability (Reference to “Purchase Orders” includes underlying Solicitations)	Applies to Commercial (C) and/or Non-Commercial (NC) Procurements X = Yes		Applies to Orders under DoD Contracts for Commercial Products & Services
			C	NC	
252.204-7012	Safeguarding Covered Defense Information and Cyber Incident Reporting (May 2024)	Applicable to Orders for operationally critical support, or for which Seller's performance will involve covered defense information, including Orders for commercial products or commercial services, except for Orders solely for the acquisition of COTS items.	X	X	X

CLAUSES INCORPORATED BY REFERENCE FROM THE OTA BASE AGREEMENT:

Clause Number	Title	Applicability (Reference to “Purchase Orders” includes underlying Solicitations)	Applies to Commercial (C) and/or Non-Commercial (NC) Procurements X = Yes		Applies to Orders under DoD Contracts for Commercial Products & Services
			C	NC	
52.204-2	Security Requirements (Aug 1996)	Applicable to all Orders that involve access to classified information. Any reference to the Changes clause is excluded.		X	
52.204-24	Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment (Oct 2020)	Applicable to all Orders. Seller agrees that it will not provide any covered telecommunications equipment or services as a part of its offered products or services in the performance of this contract, subcontract, or other contractual instrument.	X	X	X
52.204-25	Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment (Aug 2020)	Applicable to all Orders, including for Commercial Items pursuant to 52.244-6.	X	X	X



Clause Number	Title	Applicability (Reference to “Purchase Orders” includes underlying Solicitations)	Applies to Commercial (C) and/or Non-Commercial (NC) Procurements X = Yes		Applies to Orders under DoD Contracts for Commercial Products & Services
			C	NC	
52.223-3	Hazardous Material Identification and Material Safety Data (Jan 1997)	Applicable to all Orders that require the delivery of hazardous materials as defined in FAR 23.301. “Government” means “Government and Buyer” in this clause.		X	
52.227-1	Authorization and Consent (Jun 2020)	Applicable to all Orders over the Simplified Acquisition Threshold.		X	
52.227-1	Authorization and Consent (Jun 2020) - Alternate I (Apr 1984)	Applicable to all Orders over the Simplified Acquisition Threshold when the primary purpose of Seller's work is research and development, excluding construction or a architect-engineer work.		X	
52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement (Jun 2020)	Applicable to all Orders over the Simplified Acquisition Threshold.		X	
52.227-6	Royalty Information (Apr 1984)	Applicable to Orders when royalty information is desired and for which certified cost or pricing data are obtained under FAR 15.403.		X	
52.227-9	Refund of Royalties (Apr 1984)	Applicable to all Orders in which the amount of royalties reported during negotiation of the Order exceeds \$250.		X	
52.227-10	Filing of Patent Applications- Classified Subject Matter (Dec 2007)	Applicable to all Orders that cover or likely to cover classified subject matter.		X	
52.236-13	Accident Prevention (Nov 1991)	Applicable to all fixed-price construction, fixed-price dismantling, demolition, or removal of improvements Orders.		X	
52.236-13	Accident Prevention - Alternate I (Nov 1991)	Applicable to all fixed-price construction, fixed-price dismantling, demolition, or removal of improvements Orders that may involve work of a long duration or hazardous nature or performance at a Government facility where special precautions are appropriate.		X	
52.245-1	Government Property (Jan 2017)	Applicable to all Orders when Government property is acquired or furnished (see PT-001).	X	X	



Clause Number	Title	Applicability (Reference to “Purchase Orders” includes underlying Solicitations)	Applies to Commercial (C) and/or Non-Commercial (NC) Procurements X = Yes		Applies to Orders under DoD Contracts for Commercial Products & Services
			C	NC	
252.223-7002	Safety Precautions for Ammunition and Explosives (May 1994)	Applicable to all Orders that involve ammunition or explosives.		X	
252.223-7003	Change in Place of Performance – Ammunition and Explosives (Dec 1991)	Applicable to all Orders that involve ammunition or explosives.		X	
252.223-7007	Safeguarding Sensitive Conventional Arms, Ammunition, and Explosives (Sep 1999)	Applicable to all Orders for (i) the development, production, manufacture, or purchase of arms, ammunition, and explosives (AA&E), or (ii) when AA&E will be provided to the Seller as Government-furnished property.		X	
252.225-7040	Contractor Personnel Supporting U.S. Armed Forces Deployed Outside the United States (Oct 2015)	Applicable to all Orders that will be performed when Seller’s personnel or Seller’s subcontractors are supporting U.S. Armed Forces deployed outside the United States in contingency operations, peace operations consistent with Joint Publication 3-07.3, or other military operations or military exercises, when designated by the Combatant Commander or as directed by the Secretary of Defense.	X	X	X
252.225-7043	Antiterrorism/Force Protection Policy for Defense Contractors Outside the United States (Jun 2015)	Applicable to all Orders that require performance or travel outside the U.S., except subcontractors who are a foreign government, a representative of a foreign government, or a foreign corporation wholly owned by a foreign government.		X	
252.227-7013	Rights in Technical Data— Noncommercial Items (Feb 2014)	Applicable to all Orders when Buyer will be required to deliver to the Government Seller’s technical data pertaining to noncommercial items, or pertaining to commercial items for which the Government will have paid for any portion of the development costs.	X	X	X
252.227-7014	Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation (Feb 2014)	Applicable to Orders when Seller’s performance will require delivery of non-commercial computer software or computer software documentation.		X	



Clause Number	Title	Applicability (Reference to “Purchase Orders” includes underlying Solicitations)	Applies to Commercial (C) and/or Non-Commercial (NC) Procurements X = Yes		Applies to Orders under DoD Contracts for Commercial Products & Services
			C	NC	
252.227-7015	Technical Data—Commercial Items (Feb 2014)	Applicable to all Orders whenever any technical data related to commercial items developed in any part at private expense will be provided under the Order for delivery to the Government.	X	X	X
252.227-7016	Rights in Bid or Proposal Information (Jan 2011)	Applicable to all Orders.		X	
252.227-7018	Rights in Noncommercial Technical Data and Computer Software—Small Business Innovation Research (SBIR) Program (Mar 2020) (Deviation 2020-O0007)	Applicable if noncommercial technical data or computer software is to be delivered hereunder and Buyer's Purchasing Representative determines that public dissemination by the contractor would be: (1) in the interest of the U.S. Government, and (2) facilitated by the U.S. Government relinquishing its right to publish the work for sale, or to have others publish the work for sale on behalf of the U.S. Government.		X	
252.227-7019	Validation of Asserted Restrictions – Computer Software (Sep 2016)	Applicable to all Orders when Seller's performance includes the furnishing of computer software that Buyer will furnish to the Government.		X	
252.227-7020	Rights in Special Works (Jun 1995)	Applicable to Orders where the Government has a specific need to control the distribution of modified existing works or works first produced, created, or generated in the performance of a contract and required to be delivered under that contract, including controlling distribution by obtaining an assignment of copyright, or a specific need to obtain indemnity for liabilities that may arise out of the creation, delivery, use, modification, reproduction, release, performance, display, or disclosure of such works.		X	
252.227-7021	Rights in Data—Existing Works (Mar 1979)	Applicable to Orders exclusively for existing works when—(1) The existing works will be acquired without modification; and (2) The Government requires the right to reproduce, prepare derivative works, or publicly perform or display the existing works; or (3) The Government has a specific need to obtain indemnity for liabilities that may arise out of the content, performance, use, or disclosure of such data.		X	



Clause Number	Title	Applicability (Reference to "Purchase Orders" includes underlying Solicitations)	Applies to Commercial (C) and/or Non-Commercial (NC) Procurements X = Yes		Applies to Orders under DoD Contracts for Commercial Products & Services
			C	NC	
252.227-7025	Limitations on the Use or Disclosure of Government- Furnished Information Marked with Restrictive Legends (May 2013)	Applicable to all Orders.		X	
252.227-7026	Deferred Delivery of Technical Data or Computer Software (Apr 1988)	Applicable to all Orders.		X	
252.227-7027	Deferred Ordering of Technical Data or Computer Software (Apr 1988)	Applicable to all Orders.		X	
252.227-7037	Validation of Restrictive Markings on Technical Data (Sep 2016)	Applicable to all Orders requiring the delivery of technical data.	X	X	X

FDA REVISION HISTORY:

Revision Date	Revision Description
04/28/2025	Initial Release
Select	
Select	
Select	

ARTICLES INCORPORATED IN FULL TEXT:

ARTICLE I.B. DEFINITIONS

(Applicable to all Orders.)

“Consortium Administrative Organization (CAO)” refers to the organization acting on behalf of the Consortium to execute and administer the efforts under the Other Transaction Agreement (OTA) for this program as defined in the specific management agreement entered into between the Consortium and the CAO. The CAO has the authority to execute the OTA on behalf of the Consortium.

“Nontraditional Defense Contractor” means an entity that is not currently performing and has not performed, for at least the one-year period preceding the issuance of the Request for Whitepapers by the DoD/solicitation, any contract or subcontract for the DoD that is subject to full coverage under the cost accounting standards prescribed pursuant to the 41 U.S.C. § 1502 and the regulations implementing such section.

Note: Nontraditional Defense Contractors can be at the prime level, team members, subcontractors, lower- tier vendors, or "intra-company" business units; provided the business unit makes a significant contribution to the prototype project (i.e., is



a key participant). ACC-RSA will follow the specific guidance from the Office of the Secretary of Defense (OSD) concerning the use of Nontraditional Defense Contractors. Nontraditional Defense Contractors will be required to provide a DUNS number.

Examples of what might be considered a significant contribution include supplying a new key technology or product(s), accomplishing a significant amount of the effort, or in some other way causing a material reduction in the cost or schedule or increase in performance.

“Project Agreement” means the agreement for the Prototype Project between the CAO and the Consortium Project Agreement Holder (PAH) for the performance of the effort by a PAH and other subcontractors whose Prototype Project proposal is selected by the Government for funding, and it establishes the scope of work and terms and conditions for performance by, and payment to, the PAH.

“Project Agreement Holder (PAH)” means the consortium member entity(ies) issued a Project Agreement by the CAO for the Government-selected Prototype Project to be funded under this Agreement.

“Prototype Project” or “Project” means a research activity proposed by a Consortium Member Entity and selected by the Government for award under this Agreement. A Prototype Project will be executed by the Consortium’s Member Entity(ies) either individually, among and between Consortium Member Entities, and/or among other subcontractors for the agreed-upon period of performance.

10 U.S.C. §4022

(Applicable to all Orders.)

The Buyer is required to describe in its Executive Summary how it meets the criteria of 10 U.S.C. §4022(d)(1) (A-C). To do so, the Buyer requires the information below to be completed by the Seller:

Seller ☐ IS ☐ IS NOT a nontraditional defense contractors or nonprofit research institutions, and Seller ☐ DOES ☐ DOES NOT intend to use second-tier subcontractors that are nontraditional defense contractors or nonprofit research institutions.

If so, for what purchase:

Purpose (If Seller is or intends to use second-tier subcontractors that are nontraditional defense contractors or nonprofit research institutions):

Participant	Business Classification/Size	Significant Contribution	Key Personnel

For purposes of the above, A Non-traditional Defense Contractor is an entity that is not currently performing and has not performed, for at least the one-year period preceding the issuance of this Request for White Papers by the Department of Defense, any contract or subcontract for the Department of Defense that is subject to full coverage under the cost accounting standards prescribed pursuant to Section 1502 of Title 41 of the U.S. Code and the regulations implementing such section. A Nonprofit Research Institution means a nonprofit institution, as defined in 15 U.S.C. §3703, and includes federally funded research and development centers, as identified by the National Scientific Foundation in accordance with the Government-wide Federal Acquisition Regulation issued in accordance with 41 U.S.C. §1303(a)(1) (or any successor regulation thereto).

ARTICLE V. OBLIGATION AND PAYMENT

(Applicable to all Orders for Cost Reimbursable Milestone Payment Method.)

b. Cost Reimbursable Milestone Payment Method (with not to exceed ceiling): Reference Paragraph C of this Article for annual indirect rate requirements and allowable cost guidance. Payment is contingent upon satisfactory progress toward completion of milestones as delineated in Project Agreement. Payment shall be made based on actual costs incurred in completing milestones up to the maximum amount allowable under the applicable Project Agreement, provided the designated



AOR has verified compliance with the Statement of Work and accomplishment of the stated effort. Per (iii) below, either a Status Report identifying any associated technical tasks and the progress toward completion of each milestone, a Deliverable Report, or a Milestone Report is required concurrent with the invoice. An acceptable invoice for reimbursable payment is one that (on the invoice or on the attached Status, Deliverable, or Milestone Report in accordance with each Project Agreement):

- i. is addressed to the CAO and contains the CAO's address:
Advanced Technology International 315 Sigma Drive
Summerville, SC 29486
- ii. contains the date of invoice, invoice number, and the Base Agreement number and Project Agreement number (20XX-XXX #X);
- iii. identifies any associated technical milestones and the progress toward completion of each milestone;
- iv. includes a description of supplies and services, labor costs, subcontractor costs, material costs, travel costs, other direct costs, and extended totals;
- v. indicates the current period and cumulative man-hours and costs incurred through the period indicated on the invoice; and
- vi. contains the following certification statement:

"I certify that the amounts invoiced are for costs incurred in accordance with the agreement, the work reflected has been performed, and prior payment has not been received."

Authorized Signature _____

ARTICLE VIII: CONFIDENTIAL AND/OR PROPRIETARY INFORMATION

(Applicable to all Orders that include Confidential and/or Proprietary Information.)

This clause shall apply to the oral or written communication between the parties, including the Government, CAO, AMTC Members, and PAHs; however, Article XI, Data Rights and Copyrights, shall control the rights in data for all data delivered and to be delivered in the performance of this Agreement and each Project Agreement.

A. Definitions

"Disclosing Party" means the CAO, PAH, or the Government who discloses Confidential and/or Proprietary Information as contemplated by the subsequent paragraphs.

"Receiving Party" means the CAO, PAH, or the Government who receives Confidential and/or Proprietary Information disclosed by a Disclosing Party.

"Confidential and/or Proprietary Information" means information and materials of a Disclosing Party which are designated as confidential and/or proprietary or as a Trade Secret in writing by such Disclosing Party, whether by letter or by use of an appropriate stamp or legend, prior to or at the same time any such information or materials are disclosed by such Disclosing Party to the Receiving Party. Notwithstanding the foregoing, materials and other information which are orally, visually, or electronically disclosed by a Disclosing Party, or are disclosed in writing without an appropriate letter, stamp, or legend, shall constitute Confidential and/or Proprietary Information or a Trade Secret if such Disclosing Party, within thirty (30) calendar days after such disclosure, delivers to the Receiving Party a written document or documents describing the material or information and indicating that it is confidential and/or proprietary or a Trade Secret, provided that any disclosure of information by the Receiving Party prior to receipt of such notice shall not constitute a breach by the Receiving Party of its obligations under this Paragraph. Confidential and/or Proprietary Information does not mean data, software, or software documentation delivered and to be delivered in performance of this Agreement and each Project Agreement, which would be governed by ARTICLE XI: DATA RIGHTS AND COPYRIGHTS.

"Trade Secret" means all forms and types of financial, business, scientific, technical, economic or engineering or otherwise proprietary information, including, but not limited to, patterns, plans, compilations, program devices, formulas, designs, prototypes, methods, techniques, processes, procedures, programs or codes, whether tangible or intangible, and whether or how stored, compiled, or memorialized physically, electronically, graphically, photographically, or in writing if:

- (1) The owner thereof has taken reasonable measures to keep such information secret; and
- (2) The information derives independent economic value, actual or potential, from not being generally known to and not being readily ascertainable through proper means, by the public.



Trade Secret does not mean data, software, or software documentation delivered and to be delivered in performance of this Agreement and each Project Agreement, which would be governed by ARTICLE XI: DATA RIGHTS AND COPYRIGHTS.

B. Exchange of Information

The Government may from time to time disclose Government Confidential and/or Proprietary Information to the CAO for use by the CAO or the PAH(s) in connection with particular Prototype Projects; and the CAO or the PAH(s) may from time to time disclose information that is Confidential and/or Proprietary Information to the Government in connection with a Whitepaper, Project Proposal, TDL, Project Agreement or performance thereunder.

C. Confidentiality and Authorized Disclosure

The Receiving Party agrees, to the extent permitted by law, that Confidential and/or Proprietary Information shall remain the property of the Disclosing Party, and that, unless otherwise agreed to by the Disclosing Party, Confidential and/or Proprietary Information shall not be disclosed, divulged or otherwise communicated by it to third parties or used by it for any purposes other than in connection with specified Project efforts and the licenses granted in Article X, Patent Rights, and Article XI, Data Rights and Copyrights. However, the duty to protect such Confidential and/or Proprietary Information shall not extend to materials or information that:

- (1) Are received or become available without restriction to the Receiving Party under a proper, separate agreement,
- (2) Are not identified with a suitable notice or legend (subject to the cure procedures described in the definition of "Confidential and/or Proprietary Information" above),
- (3) Are lawfully in possession of the Receiving Party without such restriction to the Receiving Party at the time of disclosure thereof as demonstrated by prior written records,
- (4) Are or later become part of the public domain through no fault of the Receiving Party,
- (5) Are received by the Receiving Party from a third party having no obligation of confidentiality to the Disclosing Party that made the disclosure,
- (6) Are developed independently by the Receiving Party without use of Confidential and/or Proprietary Information as evidenced by written records,
- (7) Are required by law or regulation to be disclosed; provided, however, that the Receiving Party has provided written notice to the Disclosing Party promptly so as to enable such Disclosing Party to seek a protective order or otherwise prevent disclosure of such information.

D. Return of Confidential and/or Proprietary Information

Upon the request of the Disclosing Party, the Receiving Party will promptly return all copies and other tangible manifestations of the Confidential and/or Proprietary Information. As used in this Section, tangible manifestations include human readable media as well as magnetic and digital storage media. In the event that return of all tangible manifestations is not practicable, the Party may propose an alternative process to ensure the verifiable destruction of such tangible manifestations. Such alternative process must be agreed upon in writing by both Parties prior to implementation.

E. Term

The obligations of the Receiving Party under this Article shall continue for a period of five (5) years after the expiration or termination of the Project Agreement under which the information was provided

F. Flowdown

The PAH shall flow down the requirements of this Article VIII to their respective personnel, agents and subcontractors at all levels receiving such Confidential and/or Proprietary Information under this Agreement.

ARTICLE IX: PUBLICATION AND ACADEMIC RIGHTS

(Applicable to all Orders.)

A. Use of Information

For the purposes of this Article, "Parties" means the Project Agreement Holder and the Government where collectively



identified and “Party” where each entity is individually identified.

Subject to the provisions of Article VIII, Confidential and/or Proprietary Information, and this Article IX, the PAH and the Government shall have the right to publish or otherwise disclose information and/or data developed by the Government and/or the respective PAH under the Prototype Project. The Parties shall have only the right to use, disclose and exploit any such information or data in accordance with the rights held by them pursuant to this Agreement. Notwithstanding the above, the Parties shall not be deemed authorized by this paragraph alone to disclose any Confidential and/or Proprietary Information of the Government or the PAH.

B. Classified Research Projects

If a release of Confidential Information is for a classified Research Project, the provisions of the DoD Security Agreement (DD Form 441) and the DoD Contract Security Classification Specification (DD Form 254) apply.

C. Publication or Public Disclosure of Information

1. Review or Approval of Information and Data for Public Release

(a) The PAH must receive written Government approval prior to Public Release of data developed by the Government and/or respective PAH(s) under the Prototype Projects. At least sixty (60) days prior to the scheduled release date, the PAH shall submit to the ALO and AOR at least one copy of the information to be released.

The ALO will route the information to the cognizant Public Affairs Office for review and approval. The ALO and Redstone Arsenal Public Affairs Office are hereby designated as the approval authorities for the AO for such releases.

(b) Where the PAH is an Academic Research Institution performing fundamental research on campus, the CAO shall require such PAHs to provide papers and publications for provision to the ALO for review and comment 60 days prior to formal paper/publication submission in accordance with the procedures in paragraph (a) above must be followed.

(c) The Parties to this Agreement are responsible for assuring that an acknowledgment of Government support will appear in any publication of any material based on or developed under this Agreement, using the following language:

“Effort sponsored by the U.S. Government under Other Transaction number W9124P-19-9-0001 between AMTC and the Government. The U.S. Government is authorized to reproduce and distribute reprints for Governmental purposes notwithstanding any copyright notation thereon.”

(d) The Parties to this Agreement are also responsible for assuring that every publication of material based on or developed under this Agreement contains the following disclaimer:

“The views and conclusions contained herein are those of the authors and should not be interpreted as necessarily representing the official policies or endorsements, either expressed or implied, of the U.S. Government.”

The PAH shall flow down these requirements to its subagreement recipients at all tiers.

2. Notices

To avoid disclosure of Confidential and/or Proprietary Information belonging to the PAH and/or the Government and the loss of patent rights as a result of premature public disclosure of patentable information, any PAH that is proposing to publish or disclose such information shall provide advance notice to the CAO and identify such other parties that may have an interest in such Confidential and/or Proprietary Information. The CAO shall notify such parties at least sixty (60) calendar days prior to PAH submission for publication or disclosure by the publishing party, together with any and all materials intended for publication or disclosure relating to technical reports, data, or information developed during the term of and pursuant to this Agreement. The Government will notify the CAO, who will in turn notify the PAH, of any objection to disclosure within this sixty (60) day period, or else the PAH publishing party shall be deemed authorized to make such disclosure, as long as the publishing party has complied with the other provisions of this Article IX as well as Article VIII, Confidential and/or Proprietary Information.

3. Filing of Patent Applications

During the course of the sixty (60) calendar day period discussed above, the PAH shall provide notice to the CAO as to whether the PAH desires that a patent application be filed on any invention disclosed in such materials. In the event that the PAH to whom such Confidential and/or Proprietary Information belongs desires that such a patent application be filed, the PAH or the Government proposing to publish or disclose such materials agrees to withhold publication and disclosure



of such materials until the occurrence of the first of the following:

- (a) Filing of a patent application covering such invention, or
- (b) Written agreement, from the AO and the CAO (on behalf of the PAH) that no patentable invention is disclosed in such materials.

Further, during the course of any such sixty (60) calendar day period, the PAH shall notify the AO, through the CAO, if the PAH believes any of its Confidential and/or Proprietary Information has been included in the proposed publication or disclosure and shall identify the specific Confidential and/or Proprietary Information that needs to be removed from such proposed publication. The Government and the CAO, on behalf of the PAH proposing the publication or disclosure of such materials, agree to remove from the proposed publication or disclosure all such Confidential and/or Proprietary Information so identified by the CAO.

4. Public Announcements

Any public announcements (including press releases, website postings or other public statements) by any party regarding this Agreement or Project Agreements awarded thereunder shall follow the procedures set forth in this Article IX.

ARTICLE X: PATENT RIGHTS

(Applicable to all Orders.) (In addition to ESAero Standard Terms and Conditions terms.)

A. Definitions

“Subject Invention” means any invention of a PAH conceived or first actually reduced to practice in the performance of work under this Agreement.

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

1. The PAH shall disclose each Subject Invention to the CAO within two (2) months after the inventor discloses it in writing to his company personnel responsible for patent matters. The disclosure to the CAO, or with prior authorization from the AO, to the Government, shall be in the form of a written report and shall identify the Project Agreement under which the invention was made and the identity of the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding to the extent known at the time of the disclosure, of the nature, purpose, operation, and the physical, chemical, biological or electrical characteristics of the invention. The disclosure shall 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.

F. Action to Protect the Government’s Interest

2. The PAH agrees to require, by written agreement, that its employees working on Projects, other than clerical and non-technical employees, agree to disclose promptly in writing to personnel identified as responsible for the administration of patent, each Subject Invention made under this Agreement. The PAH must then comply with the disclosure provisions of Paragraph C of this Article X, execute all papers necessary to file the patent applications on the Subject Invention, and establish the Government’s rights in the Subject Invention. The PAH acknowledges and shall instruct its 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.

N. Patent Rights Clauses

Rights in patents under this Agreement, including third parties, shall be determined in accordance with the following FAR Part 27 clauses and provisions:

FAR 52.227-1 Authorization and Consent and Alternate I (Apr 1984)
FAR 52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement
FAR 52.227-3 Patent Indemnity
FAR 52.227-6 Royalty Information
FAR 52.227-9 Refund of Royalties
FAR 52.227-10 Filing of Patent Applications – Classified Subject Matter
FAR 52.227-3, Patent Indemnity,

FAR 52.227-6, Royalty Information, and FAR 52.227-9, Refund on Royalties will be listed in the Project award



documentation if applicable to a given Project on a case-by case basis only to the extent that the applicable circumstances, the terms of the clause, or the prescribing conditions are met.

ARTICLE XI: DATA RIGHTS AND COPYRIGHTS

(Applicable to all Orders.) **(In addition to ESAero Standard Terms and Conditions terms.)**

A. General

Rights in Technical Data and computer software under this Agreement shall be determined in accordance with the following DFARS Part 227 clauses:

DFARS 252.227-7013 Rights in Technical Data – Noncommercial Items

DFARS 252.227-7014 Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation

DFARS 252.227-7015 Technical Data – Commercial Items

DFARS 252.227-7016 Rights in Bid or Proposal Information

DFARS 252.227-7018 Rights in Noncommercial Technical Data and Computer Software – Small Business Innovation Research (SBIR) Program (DEVIATION 2020-O0007)

DFARS 252.227-7019 Validation of Asserted Restrictions – Computer Software

DFARS 252.227-7020 Rights in Special Works

DFARS 252.227-7021 Rights in Data-Existing Works

DFARS 252.227-7025 Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends

DFARS 252.227-7026 Deferred Delivery of Technical Data or Computer Software

DFARS 252.227-7027 Deferred Ordering of Technical Data or Computer Software

DFARS 252.227-7030 Technical Data – Withholding of Payment

DFARS 252.227-7037 Validation of Restrictive Markings on Technical Data

FAR or DFARS clauses are incorporated by reference but only to the extent that the applicable circumstances, the terms of the clause, or the prescribing conditions are met. The specific clauses applicable to a given Project will be listed in the Project award documentation.

C. Prior Technology

In the event it is necessary for the Government to furnish the PAH with data which existed prior to, or was produced outside of this Agreement, and such data is so identified with a suitable notice or legend, the data will be maintained in confidence and disclosed and used by the PAH only for the purpose of carrying out the responsibilities under this Agreement. Data protection will include proprietary markings and handling, and the signing of non-disclosure agreements by the PAH's employees and/or its subcontractors' employees. Upon completion of activities under this Agreement, such data will be disposed of as requested by the Government.

ARTICLE XII: EXPORT CONTROL

(Applicable to all Orders.) **(In addition to ESAero Standard Terms and Conditions terms.)**

A. Export Compliance

Each Party agrees to comply with U.S. Export regulations including, but not limited to, the requirements of the Arms Export Control Act, as amended 22 U.S.C. § 2751-2794, including the International Traffic in Arms Regulation (ITAR), 22 C.F.R. § 120 et seq.; and the Export Administration Act of 1979, 50 U.S.C. app. §2401-2420. Each party is responsible for obtaining from the Government export licenses or other authorizations/approvals, if required, for information or materials provided from one party to another under this Agreement.

Accordingly, the PAH shall not export, directly, or indirectly, any products and/or technology, Confidential Information, Trade Secrets, or Classified and Unclassified Technical Data in violation of any U.S. Export laws or regulations.

B. Flowdown

The PAH shall include this Article, suitably modified to identify all parties, in all lower-tier agreements. This Article shall, in turn, be included in all sub-tier subcontracts or other forms of lower-tier agreements, regardless of tier.



ARTICLE XIII: TITLE AND DISPOSITION OF PROPERTY

(Applicable to all Orders that contain Government or Buyers Property.)

A. Definitions

In this Article, “property” means any tangible personal property other than property actually consumed during the execution of work under this Agreement.

B. Title to Property

No significant items of property are expected to be acquired under this Agreement by the PAH. Title to any item of property valued at \$10,000 or less, or property with an acquisition value greater than \$10,000 that was included in the final cost proposal selected by the Government, that is acquired by the PAH pursuant to a Project Agreement shall vest with the PAH upon acquisition with no further obligation of the Parties unless otherwise stated in the Project Agreement or SOW or otherwise determined by the Agreements Officer.

Should any item of property with an acquisition value greater than \$10,000 be required after the final cost proposal, the CAO, at the request of the PAH and on its behalf, shall obtain prior written approval from the Agreements Officer, if the final cost proposal did not specifically identify the proposed acquisition. Upon written approval of the Agreements Officer, title to this property also shall vest in the PAH upon acquisition, unless otherwise stated in the Project Agreement or SOW. The PAH shall be responsible for the maintenance, repair, protection and preservation of all such property at its own expense. Property acquired pursuant to this clause shall not be considered as in exchange for services in performance of the Project, but shall be considered a Government contribution to the Project.

C. Government Furnished Property

The Government may provide the PAH Government Furnished Property (GFP) to facilitate the performance of individual Prototype Agreements under this Agreement. Such GFP will be specifically identified to a particular Project via a modification to the OTA and subsequently incorporated into a resulting Prototype Project Agreement. The GFP shall be utilized only for the performance of that individual Project unless a specific exception is made in writing by the Agreements Officer.

If used outside of the performance of the Project Agreement, the Government makes no warranty whatsoever that Contractor’s use of Government Furnished Property, technical data, or computer software will be free from infringement of third party rights. Contractor shall hold the Government harmless from, and defend and indemnify the Government for, any and all liabilities that arise from or relate to Contractor’s use of any Government Furnished Property, technical data, or computer software outside the performance of this Agreement.

Except for AMTC Members who have an adequate property management system as defined in FAR 52.245-1 (Jan 2017) and are using this system to manage the GFP provided in this Agreement (whose risk and responsibilities are defined therein), AMTC Members who receive GFP for a Project Agreement shall assume the risk of and be responsible for any loss or destruction of, or damage to, any GFP while in its possession or control, with the exception of reasonable wear and tear or reasonable and proper consumption.

The PAH shall obtain explicit written authorization for any transfer or disposition of Government Furnished Property.

ARTICLE XV: OPSEC & SECURITY

(Applicable to all Orders.)

3. Security Incidents and Violations. The PAH shall immediately notify the AOR and Cognizant Security Office of any actual security violation, security incident, or of any indication of a potential unauthorized disclosure or compromise of classified or sensitive but unclassified information.

18. Key Control. The PAH shall establish and implement methods of making sure all keys/key cards issued to the PAH by the Government are not lost or misplaced and are not used by unauthorized persons. NOTE: All references to keys include key cards. No keys issued to the PAH by the Government shall be duplicated. The PAH shall develop and follow procedures covering key control that shall be included in the Standard Operating Procedures. Such procedures shall include turnin of any issued keys by personnel who no longer require access to locked areas. The PAH shall immediately report any occurrences of lost or duplicate keys/key cards to the Agreements Officer. In the event keys, other than master keys, are lost



or duplicated, the PAH shall, upon direction of the Agreements Officer, re-key or replace the affected lock or locks; however, the Government, at its option, may replace the affected lock or locks or perform re-keying. When the replacement of locks or re-keying is performed by the Government, the total cost of re-keying or the replacement of the lock or locks shall be deducted from the milestone payment. In the event a master key is lost or duplicated, all locks and keys for that system shall be replaced by the Government and the total cost deducted from the milestone payment. The PAH shall prohibit access to Government issued keys/key cards by unauthorized personnel other than the PAH's employees. The PAH shall prohibit entry into controlled areas by unauthorized personnel other than the PAH's employees engaged in the performance of assigned work in those areas, or personnel authorized entrance by the Agreements Officer.

19. Lock Combinations. The PAH shall establish and implement methods of ensuring that all lock combinations are not revealed to unauthorized persons. The PAH shall ensure that lock combinations are changed when personnel having access to the combinations no longer have a need to know such combinations. These procedures shall be included in the PAH's Standard Operating Procedures.

23. Privacy Act. The PAH shall ensure that employees assigned to the Project understand and comply with DoD 5400.7, DoD Freedom of Information Act Program, and Privacy Act Program. These directives set policy and procedures for the disclosure of records to the public and for making, handling, transmitting, and safeguarding For Official Use Only (FOUO) material. In addition, they set guidelines for collecting, safeguarding, maintaining, using, accessing, amending, and disseminating personal data kept in systems of records

24. Cybersecurity (CS). The PAH shall adhere to all applicable CS regulations and security policies including Executive Order 13556, Controlled Unclassified Information, National Institute of Standards and Technology (NIST) 800 Series Special Publications, and the Federal Information Security Management Act (FISMA). The PAH will work with the Program Manager (PM) and Original Equipment Manufacturer (OEM), as specified in the individual project's SOW, to support the creation and sustainment of the Risk Management Framework (RMF) packages and all the contents therein. The PAH shall obtain and maintain required clearances up to TS/SCI to obtain Government provided access to critical threat information. The PAH shall perform vulnerability assessments (e.g. scan systems for vulnerabilities), and apply technical/non-technical remediations in collaboration with the Government customer to support accreditation decisions.

The PAH shall be certified or trained at the level required to conduct the cyber mission. The PAH shall ensure it is knowledgeable on current and emerging vulnerabilities and mitigation strategies for the tactical system. The PAH shall participate in technical and non-technical meetings, as defined in the individual project's SOW, to identify the tailored set of security controls and ensure they are implemented appropriately into any developmental efforts.

26. Section 508 Compliance. All electronic and information technology (EIT) procured or developed through an awarded Project Agreement must meet the applicable accessibility standards at 36 CFR 1194, unless an agency exception to this requirement exists. 36 CFR 1194 implements Section 508 of the Rehabilitation Act of 1973, as amended, and is viewable at <http://www.access-board.gov/sec508/508standards.htm>.

B. Safeguarding Covered Defense Information and Cyber Incident Reporting

Project Agreements shall include DFARS 252.204-7012, Safeguarding Covered Defense Information and Cyber Incident Reporting (OCT 2016), as it pertains to each Project.

ARTICLE XVI: CIVIL RIGHTS ACT

(Applicable to all Orders.)

This Agreement is subject to the compliance requirements of Title VI of the Civil Rights Act of 1964 as amended (42 U.S.C. § 2000d et seq.) relating to nondiscrimination in Federally assisted programs. The PAH agrees to sign an Assurance of Compliance with the nondiscriminatory provisions of the Act.

Assurance of Compliance with Title VI of the Civil Rights Act of 1964
Statement of Assurance of Compliance with
Title VI of the Civil Rights Act of 1964
For AMTC Project Agreement Holders

Seller hereby agrees that it will comply with the provisions of the Title VI Civil Rights Act of 1964 as amended (42 U.S.C 2000-d) and all requirements imposed pursuant thereto, to the end that, in accordance with Title VI of that Act and the Regulation, no person in the United States shall, on the ground of race, color, or national origin, be excluded from



participation in, be denied the benefits of, or be otherwise subjected to discrimination under any Project Agreement for which the Seller receives Federal financial assistance from the Government.

The Seller agrees that compliance with this assurance constitutes a condition of continued receipt of Federal financial assistance, and that it is binding upon the Seller, its successors, transferees and assignees for the period during which such assistance is provided.

The Seller further recognizes and agrees that the United States shall have the right to seek judicial enforcement of this assurance.

The person or persons whose signature(s) appear(s) below is/are authorized to sign this assurance, and commit the Seller to the above provisions

Signature of Authorized Official

Title of Authorized Official

Seller Name

Date

ARTICLE XVII: NO SMALL BUSINESS AFFILIATION

(Applicable to all Orders.)

The Parties hereby acknowledge that the AMTC has been formed to develop and mature guided weapons systems technologies and aviation and missile manufacturing technologies, involving industry, academia and the Government. Every Member in the Consortium is independent of the other businesses and entities in the Consortium, and there is no affiliation between Consortium Member Entities within the definition of 13 C.F.R. § 121.103 of the Federal small business regulations and no such affiliation is intended either by the formation or implementation of the Consortium. Small businesses are merely members with no ownership rights in the Consortium.

ARTICLE XXV: DUTY-FREE ENTRY

DUTY-FREE ENTRY: Unless supplies were imported into the customs territory of the United States prior to execution of a Project Agreement, AMTC Members shall not include any amount for duty on (1) end products or qualifying country end products delivered under this Agreement; (2) components (including, without limitation, raw materials and intermediate assemblies) produced or made in qualifying countries that are to be incorporated into domestic end products delivered under this Agreement; or (3) other supplies for which the AMTC Member estimates that duty will exceed \$200 per shipment into the customs territory of the United States. The definitions in DFARS clause "252.225-7013 Duty-Free Entry" are incorporated by reference. AMTC Members shall notify the CAO in writing of any items which are to be accorded duty-free entry. The Government will execute duty-free entry certificates and afford appropriate assistance, but the AMTC Member is responsible for preparation of customs forms. AMTC Members shall claim duty-free entry only for supplies that they will be delivered under this Agreement.

ARTICLE XXI, GENERAL PROVISIONS

Section G, Organizational Conflict of Interest

"Organizational Conflict of Interest (OCI)" means that because of other contractual activities or relationships with the Government or other persons, a person is unable or potentially unable to render impartial assistance or advice to the Government, or the person's objectivity in performing the project work is or might be otherwise impaired, or a person has an unfair competitive advantage. Relevant other contractual activities or relationships may include those which exist outside of the OTA construct, such as in Program Office support contracts, or other research, development or engineering contracts involving the Government. "Person" as used herein includes Corporations, Partnerships, Joint Ventures, Teaming Arrangements, and other business enterprises.



The two underlying OCI principles are:

- (a) Preventing the existence of conflicting roles that might bias a Person's judgment; and
- (b) Preventing unfair competitive advantage. An unfair competitive advantage exists where an AMTC Member competing for award possesses-
 - (1) Proprietary information that was obtained from a Government official without proper authorization; or
 - (2) Source selection information that is relevant to the prototype project but is not available to all competitors, and such information would assist that PAH in obtaining the award.

An AMTC Member that provides systems engineering and technical assistance (SETA) support for a system, but does not have overall contractual responsibility for its development, its integration, assembly, and checkout, or its production shall not:

- (1) Be awarded a prototype project to supply the system or any of its major components; or
- (2) Be a subcontractor or consultant to a supplier of the system or any of its major components.

Systems engineering includes a combination of substantially all of the following activities: determining specifications, identifying and resolving interface problems, developing test requirements, evaluating test data, and supervising design. Technical assistance includes a combination of substantially all of the following activities: developing work statements, determining parameters, directing other PAHs' operations, and resolving technical controversies.

The exercise of common sense, good judgment, and sound discretion is required in determining whether a potential conflict exists.

OCI concerns could lead the Government to decide against award of a particular prototype project. An AMTC Member's submission of an Enhanced Whitepaper under an RWP designates no known actual, potential, or perceived conflict of interest exists at the time of EWP submission. The AMTC Member agrees that if, after award, it discovers a potential organizational conflict of interest, a prompt and full disclosure shall be made in writing to the AO, through the CAO. This disclosure shall include a description of the actions the AMTC Member has taken or proposes to take, to avoid or mitigate such conflicts.

ARTICLE 9.0 QUALITY SYSTEM/PRODUCT ASSURANCE.

(Applicable to all Orders.)

The PAH shall implement, or if already in place maintain, a quality system IAW International Organization for Standardization (ISO) 9001/Aero Space (AS) 9100 or equivalent systems as agreed between the PAH and the Government. Any exclusion to the PAH's quality management system shall be agreed to between the PAH and the Government. The PAH shall make available, for review by the Government, quality system procedures, planning and all other documentation and data that comprise the PAH's quality system for both hardware and software. The Government will review the documents that comprise the quality system, and may perform any necessary inspections, or evaluations to confirm conformance to requirements and adequacy of the quality system.

9.1 Product Acceptance System. The PAH shall plan, develop, implement, and/or maintain a product acceptance system that demonstrates compliance to the technical and contractual requirements. The product acceptance system shall address system and subsystem component requirement verification, in-process inspection, and final acceptance testing. The product acceptance system shall be approved by the Government. The Government reserves the right to visit the PAH's facility in support of product acceptance. The product acceptance system shall identify all end items that require individual Acceptance Test Procedures (ATPs) based on the criticality of the item. System level and end item ATPs shall be prepared IAW CDRL A056. All items shall successfully complete acceptance testing prior to delivery to the Government and prior to use of the item in any test activity. The PAH shall prepare and deliver acceptance test results of system level ATPs IAW (DI-QCIC-80553A). (Deliverable 5.25)