

BLOCK V SUPPLEMENTAL TERMS AND CONDITIONS

**Supplemental Terms and Conditions for Subcontracts/Purchase Orders in Support of Block V
Purchase Orders Performed by BAE Systems**

The following supplemental terms and conditions are required by BAE Systems’ higher-tier contracts with our Customer related to multiple Block V purchase orders. Defined terms have the meanings set forth in BAE SYSTEMS’ USGOVSERV + GOODS terms incorporated into the Contract. The following terms are included again for reference:

Contract means the instrument of contracting, such as the Subcontract, PO, Purchase Order, or other such type designation, including these terms and conditions, all referenced documents, exhibits, and attachments.

Seller means the party identified on the face of this Contract with whom BAE Systems is contracting, and includes a subcontractor or supplier.

Work means all required deliverables, articles, materials, supplies, goods, and services, including but not limited to technical data and software, constituting the subject matter of this Contract.

1. AMENDMENTS/CHANGES

SELLER will negotiate in good faith with BAE SYSTEMS to incorporate additional or modified provisions to these terms and conditions as required by BAE SYSTEMS’ customer.

2. SELLER ELIGIBILITY

SELLER must satisfy the following criteria in order to perform Work under this Contract:

- a. Maintain an active certification under the United States/Canada Joint Certification Program (JCP Certified) (applies to United States and Canadian suppliers only);
- b. Register with the United States State Department if required (applies to United States suppliers only);
- c. Possess a written Access Control Plan/Technology Control Plan (ACP/TCP) to prevent unauthorized disclosures of export-controlled hardware and technical data;
- d. Request and obtain BAE Systems’ approval prior to disclosing export-controlled technical data, hardware, software, and information provided to Seller to foreign nationals, whether within the U.S. or abroad;
- e. Ensure that appropriate U.S. State Department approvals and/or licenses are obtained for all prospective foreign suppliers and subcontractors before allowing them access to export-controlled hardware, technical data, software, and information;
- f. Include all required flow downs of this Contract in lower-tier solicitations and subcontracts and other applicable documents;
- g. Maintain current, accurate, and complete representations and certifications with BAE Systems; and
- h. Submit a small business subcontracting plan for approval within thirty (30) days of award when required (for large businesses only).

3. ACQUISITION OF FACILITIES

Except as may be specifically provided in this Contract, SELLER shall not acquire facilities under this Contract and shall not direct charge to this Contract the cost of any item related to facilities or alteration to a facility.

4. LITIGATION NOTICE

SELLER shall provide BAE SYSTEMS with immediate written notice of any cause of action or lawsuit that arises from or is related to this Contract, including any claims made against SELLER by any lower-tier subcontractor or vendor that may result in litigation in any way related to this Contract.

5. INTELLECTUAL PROPERTY

- a. This Article applies to all technical data or computer software developed or delivered under this Contract.
- b. Definitions.
 - i. Intellectual Property means analyses, data, designs, drawings, notes, software, specifications studies, technical data, and other works developed in the performance of this Contract.
 - ii. Unlimited rights means rights to use, modify, reproduce, perform, display, release, or disclose Intellectual Property in whole or in part, in any manner, and for any purpose whatsoever, and to have or authorize others to do so.
- c. SELLER grants and agrees that the Government shall have unlimited rights in Intellectual Property unless SELLER identifies such Intellectual Property on Customer’s Form No. 84002-5667, Notice of Limitation of Government’s and Other’s Rights, and properly asserts for itself or other persons that the Government’s rights to use, release, or disclose Intellectual Property should be restricted. SELLER will provide completed Form No. 84002-5667 for acknowledgment by BAE Systems and Customer. SELLER’s asserted restrictions on a completed Form No. 84002-5667 or elsewhere regarding Intellectual property are SELLER’s unilateral claims. The claims do not equate to Customer’s agreement to the claims. At any time, the Customer has the right to request substantiating information supporting the claims and reject any such claims if they are unsupported.
- d. Any Intellectual Property furnished to BAE Systems as a required deliverable under this Contract shall be free from confidential, proprietary or restrictive markings (Nonconforming Markings) that are either (i) not expressly permitted by applicable FAR or DFARS clauses or (ii) violate the rights in ownership of any Intellectual Property owned by BAE SYSTEMS or Customer. SELLER will comply with Article 34’s directions regarding Nonconforming Markings.
- e. When required under this Contract, SELLER shall

negotiate and execute a license agreement that identifies and enumerates all rights in Intellectual Property that the SELLER and/or its lower-tier subcontractors has/have granted to the U.S. Government (and others, if any) under the provisions of this Contract. Any such license agreement is hereby made part of this Contract.

- f. The SELLER shall include this Article, suitably modified, in all lower-tier agreements. The provisions of this Article shall survive termination of this Contract.

6. PUBLIC RELEASE OF INFORMATION

- a. SELLER shall comply with the terms and conditions of any Proprietary Information Agreement pertaining to the Work of this Contract which it has executed.
- b. Information, technical data, photographs, sketches, advertisements, displays, or other materials related to Work under this Contract which SELLER would like to publish, display, or release, to other contractors, or to the general public, requires prior approval by BAE SYSTEMS and Customer. SELLER shall transmit a written request for public release to the BAE SYSTEMS at least ten (10) weeks prior to the anticipated printing or release date. SELLER shall identify the specific method of release, as well as other pertinent details of the proposed release in the request.
- c. References to BAE SYSTEMS and Customer, or any of their respective officers, agents, and employees, in any public release is prohibited without prior written consent from BAE SYSTEMS. This includes, without limitation, reference to supplying any particular item or service to BAE SYSTEMS and Customer.
- d. Information and technical data described above may NOT be transmitted over the internet (except in certain cases when suitably encrypted and prior written approvals have been obtained).
- e. Should any information described above be requested, subpoenaed, or otherwise sought by a court of competent jurisdiction or other judicial or administrative authority, SELLER shall provide sufficient notice to BAE SYSTEMS to enable BAE SYSTEMS a reasonable opportunity to obtain a protective order to govern such disclosure, and, if requested by BAE SYSTEMS, SELLER shall reasonably cooperate with BAE SYSTEMS to obtain such a protective order.
- f. SELLER's obligations under this article shall survive this Contract and continue in effect for a period of twenty (20) years after issuance of this Contract. SELLER shall include all provisions of this Article in all lower-tier subcontracts issued under this Contract.

7. PAYMENT IMPLICATIONS OF FRAUD OR FALSIFICATION

- a. BAE SYSTEMS may reduce or suspend advance, partial, or progress payments to the SELLER under this Contract upon a written determination by BAE SYSTEMS that substantial evidence exists that the SELLER's request for advance, partial, progress, or milestone (performance-based payments) payments is based on fraud, misrepresentation, or falsification. This clause is in addition to any rights or remedies available to the BAE SYSTEMS by law or in equity.
- b. Actions taken by the BAE SYSTEMS under this clause

shall not constitute an excusable delay under the force majeure clause of this Contract or otherwise relieve the SELLER of its obligations to perform under this Contract.

8. WORK IN THE UNITED STATES

- a. Unless advance BAE SYSTEMS written approval has been obtained, SELLER shall perform all work in the United States and shall have all items manufactured in the United States that will be delivered to BAE SYSTEMS. Components and subcomponents of such deliverables shall also be manufactured in the United States only, unless the components or subcomponents are:
 - i. Commercially available off-the-shelf (COTS) items as defined in FAR 2.101;
 - ii. Are not restricted under U.S. Export Laws and Regulations; and
 - iii. Are not designed or modified for the BAE SYSTEMS or the Government of the United States.
- b. For purposes of this clause, "work" and "manufacture" are defined as: the process of converting or assembling raw materials, components, or parts into finished or partially finished goods that meet SELLER's or BAE SYSTEMS' stated specifications or requirements.
- c. SELLER may submit to the BAE SYSTEMS a written request for BAE SYSTEMS approval to perform work outside the United States or to supply items manufactured outside the United States. The request must name all countries where work would be performed or items manufactured. If granted, each approval shall be limited to a specific original Contract or Contract supplement and shall not constitute an approval for other Contracts or Contract supplements.
- d. SELLER shall exclude from its sources of supply any items manufactured in International Traffic in Arms Regulations (ITAR) 126.1 proscribed or embargoed countries, including but not limited to Belarus, Burma, China (PR), Cuba, Eritrea, Iran, North Korea, the Republic of the Sudan, Syria, and Venezuela.
- e. The requirements of this clause are in addition to any other requirements in the terms and conditions of this order for BAE SYSTEMS approval to transmit technical data or equipment outside the United States.

9. EXPORT CONTROL MARKING

SELLER shall place the following statement on documents containing defense technical data that is controlled by the Arms Export Control Act: WARNING - This document contains technical data whose export is restricted by the Arms Export Control Act (Title 22, U.S.C. Sec. 2751, et seq.) or the Export Administration Act of 1979, as amended, Title SO, U.S.C., App 2401, et seq. Violations of these export laws can result in severe criminal penalties. Disseminate in accordance with provisions of OPNAVINST 5510.161.

10. COUNTERFEIT ELECTRONIC PARTS

- a. The terms of this Article take precedence over

conflicting terms in Article 26 of USGOVSERV + GOODS

- b. For purposes of this clause, Work consists of those parts delivered under this Contract that are the lowest level of separately identifiable items (e.g., articles, components, goods, and assemblies).
- c. SELLER agrees and shall ensure that Counterfeit Electronic Parts and/or Suspect Counterfeit Electronic Parts (defined in DFARS 252.246-7007) are strictly prohibited and will not be tendered for acceptance, shipped-in-place, delivered to, or be incorporated into deliverables to BAE SYSTEMS, Electric Boat, or their designees under this Contract. Counterfeit electronic parts and suspect counterfeit electronic parts are nonconforming to Contract requirements and are unacceptable regardless of their otherwise acceptable condition, quality, performance, functionality, and/or suitability for purpose. The term Suspect Counterfeit Electronic Parts also includes electronic parts that the U.S. Government designates as suspect including, without limitation, electronic parts listed in Governmental alerts such as those under the Government Industry Data Exchange Program (GIDEP).
- d. SELLER shall only purchase products to be delivered or to be incorporated into deliverables to BAE SYSTEMS directly from the Original Component Manufacturer (OCM)/Original Equipment Manufacturer (OEM), or through an OCM/OEM authorized distributor chain. Work shall not be acquired from independent distributors or brokers unless approved in advance in writing by BAE SYSTEMS.
- e. SELLER shall maintain and make available to BAE SYSTEMS and/or the Government documentation that authenticates traceability of the affected electronic parts throughout the supply chain to the applicable OEM/OCM, which SELLER shall provide to BAE SYSTEMS upon request. Documentation shall be maintained for a minimum of ten years after the later of final delivery of all items on the Contract or final payment of all items on the Contract.
- f. SELLER shall notify BAE SYSTEMS in writing immediately, but in no event later than 10 days, if SELLER becomes aware or suspects that it has delivered Counterfeit Electronic Parts or Suspect Counterfeit Electronic Parts.
- g. BAE SYSTEMS reserves the right to quarantine/impound any and all Counterfeit Electronic Parts or Suspect Counterfeit Electronic Parts it receives, and to notify the BAE SYSTEMS' Customer, GIDEP, and other relevant Government agencies. BAE SYSTEMS has the right to turn over the impounded Counterfeit Electronic Parts and Suspect Counterfeit Electronic Parts to the appropriate authorities and to withhold payment for the parts pending the results of the investigation.
- h. Impounded electronic parts may not be returned to the SELLER or SELLER's source.
- i. In the event that Work delivered under this Contract constitutes or includes Counterfeit Electronic Parts and/or Suspect Counterfeit Electronic Parts, SELLER shall, at its sole expense, promptly replace such Counterfeit Electronic Parts and Suspect Counterfeit Electronic Parts with genuine Electronic Parts conforming to the requirements of this Contract.

- j. Notwithstanding any other provision in this Contract, SELLER shall be liable for all costs relating to the tendering or delivery of the Counterfeit Electronic Parts and Suspect Counterfeit Electronic Parts including, without limitation, those associated with the removal, inspection, testing, investigation, retention, impoundment, and replacement of Counterfeit Electronic Parts and Suspect Counterfeit Electronic Parts, as well as any testing necessitated by the reinstallation of Work after Counterfeit/Suspect Counterfeit Electronic Parts have been exchanged.
- k. Also, notwithstanding any other provision in this Contract, BAE SYSTEMS shall be under no obligation to pay for any such items determined to be counterfeit or unacceptable. All such costs shall be deemed to be direct costs and direct damages. The remedies contained in this clause are in addition to any other remedies BAE SYSTEMS may have at law, equity or under other provisions of this Contract.
- l. SELLER shall include the paragraphs in this Article or equivalent provisions in all lower-tier subcontracts for the delivery of items that are electronic parts as well as those which require the delivery of components or subcomponents containing electronic parts that will be included in deliverables or otherwise furnished to BAE SYSTEMS or its designee in performance of this Contract.

11. MATERIAL REQUIREMENTS

- a. Mercury Exclusion (NAVSEA) (Mar 1998 (Modified)). Unless otherwise expressly agreed all goods, components, hardware, and/or supplies delivered under this Contract shall not intentionally be, contain, or have come in direct contact with mercury, mercury compounds or with any mercury containing device employing a single boundary of containment. Mercury contamination will be cause for rejection of the Work and correction or replacement shall be at SELLER's expense
- b. Polychlorinated Biphenyls Prohibition. Unless otherwise expressly agreed, SELLER shall not employ equipment that is known or suspected of containing polychlorinated biphenyls (PCBs). SELLER shall not use or deliver material that is known or suspected of containing PCBs. BAE SYSTEMS will not accept, store or dispose of any PCBs, items containing known or suspected PCBs. BAE SYSTEMS assumes no responsibility for PCB waste management that would subject it to the requirements of a commercial storing of PCB Waste (as defined in 40 C.F.R. Part 761).
- c. Radioactive PCB Waste. Radioactive PCB waste is any waste which is radioactive, as defined in NAVSEA 389-0288, "Radiological Controls for Shipyards" and which contains PCBs subject to the disposal regulations of 40 CFR 761, promulgated under the Toxic Substances Control Act (TSCA). SELLER shall not employ equipment or material which are known or suspected of containing PCBs in the performance of radiological work under this contract, without prior written approval from BAE SYSTEMS. To the extent practicable, radioactive materials shall not be mixed or adulterated with products which could cause the resulting waste to be subject to the requirements of TSCA.
- d. Toxic Substances/Hazardous Material Restrictions and Prohibitions. BAE SYSTEMS will not accept, store or

dispose of any toxic substances or hazardous material except if and to the extent, otherwise expressly agreed. In particular, paints or primers on products required by this Contract which contain the following components shall not be shipped without prior written approval by the BAE SYSTEMS: arsenic, mercury, lead, chromates, or organo-metallic material. Materials containing asbestos shall not be provided without BAE SYSTEMS' prior written approval. In addition, materials which contain any of the toxic or hazardous substances as specified by OSHA 29 CFR1910.1001 - 1910.1052 are specifically prohibited from being delivered in performance of this Contract unless prior written approval is granted by the BAE SYSTEMS, or unless the Contract, by its terms, specifies the delivery of materials listed as toxic or hazardous.

- e. Brass and Copper Black Oxide Coated Threaded Fasteners. SELLER shall not use brass or copper black oxide coated threaded fasteners when installing or replacing threaded fasteners in the accomplishment of any work required by this Contract.

12. FURNISHED PROPERTY

- a. The terms of this Article take precedence over conflicting terms in Article 33 of USGOVSERV + GOODS
- b. BAE SYSTEMS may inspect and/or remove any Furnished Property at any time at no charge to BAE SYSTEMS, and BAE SYSTEMS shall have reasonable access to Seller's premises for such purpose. SELLER shall return such Furnished Property upon BAE SYSTEMS' demand, and return expenses paid as specified on the face of the Contract.
- c. Unless otherwise agreed to in writing, SELLER shall be entitled to retain all cutting and processing waste such as chips, cuttings, borings, turnings, short ends, circles, trimmings, clippings and remnants. SELLER shall make proper credit allowances to the BAE SYSTEMS for the scrap value of such waste in determining the price of this Contract. The requirements in FAR 52.245-1 related to accounting for Furnished Property shall also apply to scrap, provided, however, that BAE SYSTEMS may authorize or direct SELLER to omit from inventory schedules any scrap consisting of faulty castings or forgings or of cutting and processing waste, such as chips, cuttings, borings, turnings, short ends, circles, trimmings, clippings, and remnants, and to dispose of such scrap in accordance with SELLER's normal practice, and account for it as a part of general overhead or other reimbursable costs in accordance with SELLER's established accounting procedures.
- f. If BAE SYSTEMS furnishes or pays for tooling or material, SELLER agrees that all dies, tools, jigs, fixtures, designs, drawings, patterns, and any other property or special items, which the BAE SYSTEMS specifically pays for or which are furnished by BAE SYSTEMS without charge, shall be and remain the property of BAE SYSTEMS or the Government, that they shall be subject to removal upon BAE SYSTEMS instructions, and that they shall be:
 - i. appropriately segregated, marked as the property of BAE SYSTEMS and in the absence of specific instructions from BAE SYSTEMS to the contrary, numbered with the part made, in order to accurately identify

same at all times;

- ii. kept in good working condition; and
 - iii. used exclusively for the production of goods for BAE SYSTEMS and subjected to no other use except with the written permission of BAE SYSTEMS.
- g. Upon completion, or termination of this Contract, all dies, tools, jigs, fixtures, designs, drawings, patterns, and any other property or special items, which the BAE SYSTEMS specifically pays for or which are furnished by BAE SYSTEMS without charge, shall be held free of charge for six months by SELLER pending instructions from BAE SYSTEMS. In the absence of such instructions after six (6) months, SELLER shall be entitled, after ten (10) days' written notice to BAE SYSTEMS, to store such material at BAE SYSTEMS' expense.
 - h. All spoiled, partially manufactured materials, parts, and assemblies, including those damaged in handling, shall remain as BAE SYSTEMS-furnished material and shall be held by SELLER for disposition by BAE SYSTEMS.
 - i. The cost of transportation of BAE SYSTEMS-furnished material to the location of the SELLER shall be paid by BAE SYSTEMS.
 - j. Title to Furnished property shall not be affected by its incorporation into or attachment to any property not owned by BAE SYSTEMS or the Government respectively, nor shall such property become a fixture or lose its identity as personal property by being attached to any real property.

13. DRAWINGS AND OTHER DATA

- a. Consistent with Article 29 of USGOVSERV + GOODS all the drawings, technical manuals, and other design data, including revisions thereof, required for performance of this Contract shall be followed and used without change or deviation. SELLER shall only deviate from such drawings, technical manuals, and other design data if expressly authorized to do so by BAE SYSTEMS in writing by incorporation of a disposition of a vendor information request (VIR) into this Contract.
- b. In the event that any drawing, technical manual, item of design data, or any revision thereof, is identified by the SELLER or its lower-tier subcontractor(s) as being in conflict or inconsistent with any other drawing, technical manual, item of design data, or any revision thereof, or with any requirements of this Contract, the SELLER shall not proceed with the work affected, and shall refer any such conflict or inconsistency to the BAE SYSTEMS for resolution.
- c. Unless otherwise specified, upon completion or termination of this Contract, SELLER shall promptly properly destroy in accordance with DOD 5220.22M all drawings, specifications, and other data furnished by BAE SYSTEMS in connection with this Contract, together with all copies in SELLER's possession or control. Notwithstanding the foregoing, Seller may retain one (1) copy of all drawings, specifications and other data or papers furnished by BAE SYSTEMS in connection with this Contract solely for archival and dispute resolution purposes. SELLER shall make no further use of any information derived from such

drawings, specifications, data, without BAE SYSTEMS' prior written consent.

- d. This restriction does not apply in the event:
 - i. The SELLER obtains such drawings, specifications, data, or any information derived from them legally from another source; or
 - ii. Such drawings, specification, data, or papers are Government property and the Government authorizes such further use by SELLER.
- e. Nothing in this clause shall be deemed to reduce or contravene any valid rights in technical data or computer software that the SELLER or a lower-tier subcontractor at any tier can assert.

14. LIENS

- a. All material, supplies, delivered goods, equipment, hardware, and software under this Contract shall be free of all liens, claims, charges and encumbrances of any kind, legal or equitable.
- b. Upon request, SELLER shall furnish BAE SYSTEMS with formal written releases from SELLER's subcontractors.
- c. If SELLER fails to discharge, or cause to be discharged, any lien, claim, charge or encumbrance after BAE SYSTEMS has requested SELLER to do so, BAE SYSTEMS may discharge, or cause to be discharged, any such lien, claim, charge or encumbrance and SELLER shall be responsible for the reasonable costs thereof, including attorney's fees.
- d. If BAE SYSTEMS has provided the SELLER with advance funding milestone payments, progress payments, or other funding prior to completion of the work required by this order and delivery, as appropriate, SELLER shall provide a lien release to BAE SYSTEMS with each milestone payment request. This lien release shall acknowledge that SELLER has performed Work and services and imparted labor and improvements upon materials provided by BAE SYSTEMS or Customer under the Contract for Work, including manufacturing improvements to and upon the materials at locations where SELLER performs authorized Work and services, and that SELLER, in consideration of receiving payment for labor and/or materials provided, releases, up through the date indicated, the materials, improvements on the materials, and materials delivered from any and all liens or encumbrances, statutory or otherwise, that SELLER may have by reason of providing Work, services, and labor, and imparting improvement upon the materials.

15. INSURANCE

- a. The terms of this Article take precedence over conflicting terms in Article 36 of USGOVSERV + GOODS
- b. Prior to the commencement of work under this Contract, SELLER shall secure and maintain, at no expense to BAE SYSTEMS, the following policy or policies of insurance:
 - i. A policy of commercial general liability (CGL) insurance, written on an insurance industry standard occurrence form, including

all the usual coverages known as: premises or operations liability; products or completed operations; personal injury; contractual liability; independent contractors liability; and, fire damage legal liability. Such policy(ies) must provide the following minimum limit: bodily injury and property damage: \$2,000,000 each occurrence; and products or completed operations: \$2,000,000 each occurrence. The cost of any claim payments falling within the deductible shall be the responsibility of SELLER.

- ii. A policy of business automobile liability, including coverage for owned, non-owned, leased or hired vehicles (if used on Customer's property) written on an insurance industry standard form. Such policy(ies) must provide the following minimum limit: bodily injury and property damage: \$1,000,000 each accident.
- iii. A policy of Workers' Compensation. This policy must meet the statutory obligations imposed by Workers' Compensation law in the state in which the Work under this Contract is to be performed. If any work under this Contract involves work to directly support the construction or repairs of any vessels, or involves work on or adjacent to navigable water, the policy must be endorsed to include federal longshore coverage. SELLER shall provide a waiver of subrogation to BAE SYSTEMS specific to the SELLER workers' compensation policy.
- iv. A policy of employer's liability insurance: minimum limits of \$1,000,000 per occurrence.
- c. SELLER shall furnish to the BAE SYSTEMS evidence of such insurance coverages required above ten (10) days prior to the start of Work. Evidence shall be in the form of a Certificate of Insurance signed by either a broker or an authorized representative of the insurance company. The Certificate of Insurance must state that Customer's site is named as the certificate holder.

16. NOTICE OF PRIOR WAIVERS AND DEVIATIONS

In the event the SELLER is providing to the BAE SYSTEMS as part of the Work an item: (i) that has previously been provided to the United States Navy for inclusion as Government Furnished Material (GFM) on a previous ship or Class of Ships; or (ii) that the SELLER is developing for the United States Navy under this or another Government program, the SELLER shall immediately notify BAE SYSTEMS in writing indicating any specification differences, waivers, and/or deviations that were or are in effect for the item(s).

17. COMPUTER SOFTWARE AND DATABASES

- a. The SELLER shall test all computer software and/or databases, as defined in DFARS 252.227-7014, Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation, for computer viruses before delivery of such software and/or databases in any medium or in any system as part of the Work. All software and/or databases delivered by SELLER shall contain no known viruses that are detectable with the latest version of commercially available virus detection software. A statement verifying

that the test for viruses has been made shall be included with the deliverable when it is delivered to the BAE SYSTEMS. Any virus problems that are discovered during the check (or later found by the BAE SYSTEMS) shall be fixed by the SELLER, at SELLER'S expense.

- b. SELLER shall test any software and/or databases received from BAE SYSTEMS or BAE SYSTEMS' customer for viruses prior to use in performing the Work. SELLER shall provide BAE SYSTEMS with immediate written notice of any viruses detected in BAE SYSTEMS-provided software and/or databases.

18. NAVAL NUCLEAR PROPULSION INFORMATION (NNPI) SECURITY CONTROLS

- a. The terms of this Article apply to the extent the Contract is for a part or service which involves Naval Nuclear Propulsion Information (NNPI).
- b. The provisions of the OPNAV Instruction No. N9210.3, Safeguarding of Naval Nuclear Propulsion Information, are applicable to all Work involving NNPI under this Contract. Definitions applicable to this Article are provided in OPNAV Instruction No. N9210.3.
- c. Disclosure of Restricted Data, as defined in the Atomic Energy Act of 1954 as amended, relating to the Naval Nuclear Propulsion Program, to employees of contractors granted Limited Clearance under the provisions of the DOD 5220.22M, National Industrial Security Program Operating Manual (NISPOM), is prohibited.
- d. SELLER shall develop and implement written policies and procedures and other safeguards for the safeguarding from actual, potential, or inadvertent release by the SELLER, or any subcontractor of any NNPI in any form, classified or unclassified. Such safeguards shall ensure that only Governmental, BAE SYSTEMS, and SELLER parties, including subcontractors that have an established need-to-know, have access to NNPI in order to perform the Work under this Contract, and then only under conditions which assure that the NNPI is properly protected in accordance with OPNAV Instruction No. N9210.3. Access to NNPI by foreign nationals or immigrant aliens is not permitted. United States citizens representing a foreign government, foreign private interest, or other foreign nationals are considered to be foreign nationals for industrial security purposes and included within the scope of this restriction. Special controls identified in OPNAV Instruction No. N9210.3 apply prior to providing NNPI to U.S. citizens with dual citizenship. SELLER shall not transmit or authorize the transmittal of any NNPI, including technical data or equipment, outside the United States.
- e. When not in direct control of an authorized individual, NNPI must be secured in a locked container (e.g., file cabinet, desk, safe, etc.). Only authorized persons shall have access to the container and the contents of the container shall not be visually detected. Containers with NNPI shall not be labeled to indicate the contents. If removed from the site, NNPI must remain in the personal possession of the authorized individual. At no time should NNPI be left unsecured in a home or automobile, unattended in a hotel room, or sent with baggage, etc. NNPI may be faxed within the continental U.S. and Hawaii provided there is an authorized individual waiting to receive the document and properly control it. NNPI may not be faxed to facilities outside the continental United States, including

military installations, unless encrypted by Naval Sea System Command-approved means. NNPI may be sent within the continental U.S. and Hawaii via first class mail in a single opaque envelope that has no markings indicating the nature of the contents.

- f. NNPI may not be processed on networked computers with outside access unless approved by the Naval Sea Systems Command. If desired, SELLER may submit a proposal for processing NNPI on its company computer systems. Personally owned computing systems, including, but not limited to, personal computers (PC), laptops, and Portable Electronic Devices (PED), are not authorized for processing NNPI. Exceptions require the specific written approval of the cognizant Designated Approving Authority (DAA) and Naval Reactors (NR)/NAVSEA OBY.
- g. Control of Visitors and Procedures to Protect NNPI.
 - i. "Visitor" as used herein refers to any person who visits the SELLER's plant, office or facility and who does not represent the SELLER, BAE SYSTEMS, Customer, or the U.S. Government in the performance of this Contract. This includes foreign nationals, whose visits require additional controls above and beyond those necessary for visits by U.S. citizens.
 - ii. Unless prior written consent of the BAE SYSTEMS is received, SELLER will not permit any Visitors to its plants, offices, or facilities to view or to examine documents, components, assemblies, or major subassemblies provided for or to be delivered under this Contract, or to obtain information or data concerning such documents, components, assemblies, or major subassemblies.
 - iii. SELLER must have procedures that will prevent the release of NNPI to Visitors or to any other person or entity, including its own employees, that are otherwise ineligible to receive NNPI or who do not have an established need-to-know for performance of this Contract. SELLER must notify the BAE SYSTEMS in advance of any Visitor to SELLER's plant, office, or facility, who may be required to view or examine documents, components, assemblies, or major subassemblies provided for or delivered under this order.
 - iv. SELLER must ensure similar controls are in effect at all lower-tier suppliers. This restriction does not apply to items, components, assemblies, or major subassemblies that: meet the definition of "commercial item" as defined in the FAR; that are not defense articles (refer to the ITAR) specifically designed, developed, modified, or altered in performance of this Contract; (3) that are otherwise in the public domain.
- h. For purposes of the Contract, the designation NOFORN indicates that the document contains unclassified NNPI. Documents that reproduce, expand, or modify marked information shall be marked and controlled in the same way as the original. Media containing NNPI, such as video tapes, disks, etc., must be marked and controlled similar to the markings on the original information.
 - i. SELLER shall mark documents containing unclassified NNPI in accordance with OPNAV Instruction No. N9210.3 and with the following NOFORN Warning

Notice: "NOFORN: This document is subject to special export controls and each transmittal to foreign governments or foreign nationals may be made only with prior approval of the NAVAL SEA SYSTEMS COMMAND." SELLER shall comply with additional special handling and marking requirements applicable to classified NNPI in accordance with OPNAV Instruction No. N9210.3.

- j. SELLER agrees that when documents provided (e.g., RFQ/RFP bid solicitations, purchase orders, specifications, drawings, etc.) are marked as containing NOFORN or other information that must be controlled pursuant to federal law or contractual requirements, the documents shall be used only for performance of this Contract. Any such information shall in no case be transmitted outside the SELLER's company (except to prospective lower-tier bidders who have a specific need to know and to whom the SELLER has flowed down the requirements of this Article and any additional NNPI-related requirements applicable to the Contract). Furthermore, the information shall not be transmitted or disclosed to any foreign national or foreign interest, whether within or outside the SELLER's company. While in use, the documents shall be protected from unauthorized observation. The information shall not be copied unless done in accordance with the provisions of the detailed guidance of the solicitation and/or Contract award requirements. Following performance of any resultant contract awarded, all the documents and copies shall be promptly returned in their entirety to BAE SYSTEMS unless authorized by BAE SYSTEMS for retention or proper disposal following completion of the Work.
- k. Classified NNPI is identified by other markings designated in OPNAV Instruction No. N9210.3. SELLER shall comply with all NNPI special marking, handling, disclosure, and disposal requirements of OPNAV Instruction No. N9210.3.
- l. SELLER is required to dispose of documents containing NNPI and components and equipment that reveal NNPI in accordance with OPNAV Instruction No. N9210.3. In addition, for components with NNPI markings, SELLER must remove all NNPI markings from material produced under this Contract but not delivered.
- m. In addition, any and all issue or release of NNPI beyond such necessary parties, whether or not ordered through an administrative or judicial tribunal, shall be brought to the attention of BAE SYSTEMS. SELLER shall immediately notify BAE SYSTEMS of any litigation, subpoenas, or requests which either seek or may result in the release of NNPI. In the event that a court or administrative order makes immediate review by BAE SYSTEMS impractical, the SELLER agrees to take all necessary steps to notify the court or administrative body of the U.S. Navy's interest in controlling the release of such information through review and concurrence in any release.
 - a. Report any attempts to elicit NNPI by unauthorized persons to the appropriate security personnel. Report any compromises of NNPI by unauthorized persons to the appropriate security personnel. This includes intentional or unintentional public release via such methods as theft, improper disposal (e.g., material not shredded, disks lost), placement on website, transmission via e-mail, or violation of the information system containing NNPI.
- n. Exceptions to these requirements may only be obtained with prior approval from the Commander, Naval Sea Systems Command (Contact SEA 09TI). SELLER shall make its request for any exceptions via BAE SYSTEMS.
- o. BAE SYSTEMS, and/or its customers and/or the Government, reserves the right to audit SELLER's facilities for compliance with the requirements of this Article.
- p. The SELLER shall flow down the provisions of this Article in all subcontracts hereunder which involve access to NNPI.