

## SUPPLEMENTAL INTELLECTUAL PROPERTY & PATENT RIGHTS AGREEMENT

NSTXL OTA CONTRACT #: N00164-19-9-0001

NSTXL PROJECT ORDER #: [Click or tap here to enter text.](#)

### Definitions:

“Computer Software” as used in this Agreement means computer programs, source code, source code listings, object code listings, design details, algorithms, processes, flow charts, formulae and related material that would enable the software to be reproduced, recreated or recompiled. Computer software does not include computer data bases or computer software documentation.

“Computer Software Documentation” means owner’s manuals, user’s manuals, installation instructions, operating instructions, and other similar items, regardless of storage medium, that explain the capabilities of the computer software or provides instructions for using the software.

“Consortium” means the National Security Technology Accelerator (hereinafter referred to as “NSTXL”).

“Consortium Member” means the signatories to the NSTXL Principles of Engagement covering NSTXL managed Other Transaction Agreements who are in good standing as a member of the NSTXL consortia.

“Data,” means recorded information, regardless of form or method of recording, which includes but is not limited to, technical data, computer software, computer software documentation, and mask works. The term does not include financial, administrative, cost, pricing or management information and does not include inventions.

“Form, Fit and Function Data” means data that describes the required overall physical, functional and performance characteristics (along with the qualification requirements, if applicable) of an item, component, or process to the extent necessary to permit identification of physically and functionally interchangeable items.

“Government Purpose” means any activity in which the United States Government is a party, including cooperative agreements with international or multi-national defense organizations, or sales or transfers by the United States Government to foreign governments or international organizations. Government purposes include competitive procurement, but do not include the rights to use, modify, reproduce, release, perform, display, or disclose Data for commercial purposes or authorize others to do so. Within a specific, agreed-upon timeframe “Government Purpose Rights” (“GPR”) may evolve into “Unlimited Rights” (see Unlimited Rights as defined below). GPR means the rights to: (a) Use, modify, reproduce, release, perform, display, or disclose Data within the Government without restriction; and (b) Release or disclose Data outside the Government and authorize persons to whom release or disclosure has been made to use, modify, reproduce, release, perform, display, or disclose that Data for United States government purposes.

“Intellectual Property” (“IP”) means any invention, discovery, trade secret, technology, scientific or technological development, computer software, or other form of expression that is in tangible form. Intellectual Property may be protected by patent, trademark, or copyright laws or it may be protected as a trade secret and/or marked with an IP legend ©, ®, TM, PATENT or License.

“Invention,” as used in this Agreement, means any innovation or discovery that is or may be patentable or otherwise protectable under title 35 of the United States Code (U.S.C.).

“Limited Rights” means the rights to use, modify, reproduce, release, perform, display, or disclose Data, in whole or in part, within the Government. The Government may not, without the written permission of the party asserting

limited rights, release or disclose the Data outside the Government, use the Data for manufacture, or authorize the Data to be used by another party, except that the Government may reproduce, release, or disclose such Data or authorize the use or reproduction of the Data by persons outside the Government if-

(i) The reproduction, release, disclosure, or use is-

(A) Necessary for emergency repair and overhaul; or

(B) A release or disclosure to-

(1) A Covered Government Support Contractor in performance of its covered Government support contract for use, modification, reproduction, performance, display, or release or disclosure to a person authorized to receive Limited Rights Data; or

(2) A foreign government, of Data other than detailed manufacturing or process data, when use of such data by the foreign government is in the interest of the Government and is required for evaluation or informational purposes;

(ii) The recipient of the Data is subject to a prohibition on the further reproduction, release, disclosure, or use of the Data; and

(iii) The Consortium, prototype level performer, or sub-agreement holder asserting the restriction is notified of such reproduction, release, disclosure, or use.

“Performer Agreement” means the agreement between NSTXL and a Performer, whose project proposal has been selected by the Government, in support of the Prototype Project.

“Patent” is a property right granted by the US Government, which gives the holder the exclusive right to exclude others from the manufacture, use and sale of the subject invention in the United States for a defined period of time. As property, the patent may be sold or assigned, pledged, mortgaged, licensed, willed, or donated, and the subject of contracts and agreements.

“Practical Application” as used in this Agreement, means to manufacture, in the case of a composition or product; to practice, in the case of a process or method; or to operate, in case of a machine or system; and, in each case, under such conditions as to establish that the invention, software, or related Data is being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public or to the Government on reasonable terms.

“Project Order” means the Government document(s) issued to NSTXL reflecting the Government’s decision to fund all or part of a selected proposal submitted in response to a Request for Solutions. The Project Order will identify the Prototype Project, the period of performance, the Statement of Work, Project Deliverable or Task Description Document, and the approved payment terms and conditions. The Project Order formalizes the scope of work and terms and conditions for performance by, and payment to, the Consortium Member as facilitated by NSTXL.

“Prototype Project” in the context of meeting the Other Transaction Authority is as follows: a prototype project addresses a proof of concept, model, reverse engineering to address obsolescence, pilot, novel application of commercial technologies for defense purposes, agile development activity, creation, design, development, demonstration of technical or operational utility, or combinations of the foregoing. A process, including a business process, may be the subject of a prototype project.

“Proprietary Information” means information and materials which are designated as proprietary in writing by the Consortium and/or Performer, 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 to the Government. Notwithstanding the foregoing, materials and other information which are orally, visually, or electronically disclosed, or are disclosed in writing without an appropriate letter, stamp, or legend, shall constitute Proprietary Information if the Consortium, within thirty (30) calendar days after such disclosure, delivers to the Government a written document or documents describing the material or information and indicating that it is proprietary, provided that any disclosure of information by the Government prior to receipt of such notice shall not constitute a breach by the Government of its obligations to protect Proprietary Information.

“Technical Data” means recorded information, regardless of the form or method of the recording, of a scientific or technical nature (including computer software documentation). The term does not include computer software or data incidental to agreement administration, such as financial and/or management information.

“Unlimited Rights,” means rights to use, modify, reproduce, perform, display, release, or disclose Data in whole or in part, in any manner, and for any purpose whatsoever, and to have or authorize others to do so, for an unlimited time. “Unlimited Rights” may evolve from “GPR” after a specified, agreed-upon date, however, “Unlimited Rights” may also be directly conferred by agreement.

## ARTICLE I. RIGHTS IN DATA, INTELLECTUAL PROPERTY

- A. In the performance of the Prototype Project funded under the Project Order, the following level and allocation of rights provided to the Government, and asserted by the PERFORMER have been agreed-to as follows:

Click or tap here to enter text.

- B. Unless otherwise specified in this Agreement, the Government shall have Government Purpose Rights (GPR) in Technical Data (as defined above), including but not limited to Computer Software, and Computer Software Documentation delivered under this Project Order, except as provided in paragraphs 1, 2, and 3 below.

1. The Government shall have Unlimited Rights in Data for the following:

- a. Form, Fit, and Function Data;
- b. Corrections or changes to Data furnished to the PERFORMER by the Government;
- c. Data otherwise publicly available or Data that has been released or disclosed by the PERFORMER without restrictions on further use, release or disclosure, other than a release or disclosure resulting from the sale, transfer, or other assignment of interest in the Data to another party or the sale or transfer of some or all of a business entity or its assets to another party;
- d. Studies, analyses, test data, or similar data produced for the Prototype Project, when the study, analysis, test, or similar work was specified as an element of performance, excluding the PERFORMER’s internal development milestones;
- e. Data necessary for operation, maintenance, installation, or training;
- f. Computer software documentation required to be delivered under the Prototype Project;
- g. Products developed solely at Government expense;
- h. Technical Data described within Section 2, “Restrictive Rights Applicability – Source of Developmental Funds”, five years after completion of the project from which such data were generated.

2. Restrictive Rights Applicability – Source of Developmental Funds.

- a. If the Government pays less than 50% of the development costs for a line replaceable unit or spare part, the Government shall receive limited or restrictive rights, unless otherwise negotiated within this Agreement. If the Government pays 50% or more of the development costs for a line replaceable unit or spare part, the Government shall receive Government Purpose Rights, unless otherwise negotiated within this Agreement.
- b. For the purpose of determining the source of developmental funds, the Government’s contribution towards development costs includes any funds paid by the Government directly under this Project Order or any funds paid by the Government under any other contracts or agreements related to the same solution proposed in support of the Prototype Project. For the purpose of determining the source of developmental funds, the PERFORMER’s contribution

towards development costs does not include funds paid by the PERFORMER to develop Data if the Data was in the public domain prior to award.

- c. Identification and Assertion of Use, Release, or Disclosure Restrictions - Except for Technical Data, including computer software documentation, or computer software in which the Government has Unlimited Rights under paragraph (B.1) of this section, the Government shall have limited rights in all Technical Data and restricted rights in computer software generated under this Agreement during the period commencing with award and ending upon the date five (5) years after the final submission of the Certificate of Completion for which such data was generated. The PERFORMER (with their subcontractors or suppliers) making a data rights assertion shall list in a Rights Assertion Table (RAT): (1) Technical Data or computer software to be furnished with restrictions; (2) basis for assertion; (3) asserted rights category; (4) name of person(s) or entity(s) asserting restrictions.
  - d. Sufficient information shall be presumed to be at least accounting records showing the source of developmental funding for each item, component, or process that is described in a Technical Data or item listed in the RAT. The identification and assertion requirements apply only to Technical Data, including computer software documentation, or computer software to be delivered with other than Unlimited Rights. Notification and identification are not required for restrictions based solely on copyright, trademark or commercial license.
3. Data or Computer Software that will be delivered, furnished, or otherwise provided to the Government under the performance of the Prototype Project and funded under the Project Order, in which the Government has previously obtained rights, shall be delivered, furnished, or provided with the pre-existing rights, unless the parties have agreed otherwise in an individual prototype project, or any restrictions on the Governments rights to use, modify, reproduce, display or disclose the data have expired or no longer apply.
  4. The PERFORMER, their sub-Agreement holders and suppliers are not required to provide the Government additional rights to use, modify, reproduce, release, perform, display, or disclose Data furnished to the Government other than those Unlimited Rights associated with Data. However, if the Government desires to obtain additional rights in Data in which it has other than Unlimited Rights, the PERFORMER agrees to promptly enter into negotiations with the Agreements Officer to determine whether there are acceptable terms for transferring such rights. All Data in which the PERFORMER has granted the Government additional rights shall be listed or described in a license agreement and added as a separate attachment to the Agreement or a part of an individual prototype project. The license shall enumerate the additional rights granted the Government in such Data and any terms of use, transferability, and rights.
  5. Except for Data covered under paragraph six (6) below, and Data delivered with Unlimited Rights, Data to be delivered under this Agreement to the Government, and subject to restrictions on use, duplication or disclosure shall be marked with the following legend:

*Agreement No.*

*National Security Technology Accelerator (NSTXL) Consortium*

*Consortium Contact Information*

*Prototype Project Expiration Date*

*The Government's rights to use, modify, reproduce, release, perform, display, or disclose these technical data are restricted. No restrictions apply after the expiration date shown above, if displayed. Any reproduction of these technical data or portions thereof marked with this legend must also reproduce this marking.*

6. Pre-existing Data markings: If the terms of a prior contract or license permitted the PERFORMER to restrict the Government's rights to use, modify, reproduce, release, perform, display, or disclose Technical Data deliverable under this Agreement, and those restrictions are still applicable, the PERFORMER may mark such Technical Data with the appropriate restrictive legend for which the Technical Data qualified under the prior contract or license unless the Government receives such Technical Data with less restrictions under this Agreement.
7. The Government shall have unlimited rights in all unmarked Technical Data. In the event that the PERFORMER learns of a release to the Government of its unmarked Technical Data that should have contained a restricted legend, the PERFORMER will have the opportunity to cure such omission going forward by providing written notice to the Agreements Officer within one year of the erroneous release.
8. Disclaimer of Liability: Notwithstanding the above, the Government shall not be restricted in, nor incur any liability for, the disclosure and use of: Technical Data not identified with a suitable notice or legend as set forth in this Section; nor, information contained in any Technical Data for which disclosure and use is restricted under the security requirements of this Agreement, if such information is or becomes generally known without breach of the above, is properly known to the Government or is generated by the Government independent of carrying out responsibilities under this Agreement, is rightfully received from a third party without restriction, or is included in Technical Data which the PERFORMER is required to furnish to the Government without restriction on disclosure and use.
9. Validation of Restrictive Markings on Technical Data
  - a. Title 10 U.S. C. § 3782- Validation of proprietary data restriction is incorporated into this Agreement by reference, with all mention of the Government, or Department of Defense to mean the Government; Contractor understood to mean the PERFORMER; and all mention of Contracting Officer understood to mean Agreements Officer.
  - b. Unjustified Data markings: The rights and obligations of the parties regarding the validation of restrictive markings on Technical Data furnished or to be furnished under this Agreement are contained in the Validation of Restrictive Markings on Technical Data section of this Agreement. Notwithstanding any provision of this Agreement concerning Inspection and Acceptance, the Government may ignore or, at the PERFORMER's expense, correct or strike a marking if, in accordance with the procedures in this Agreement, a restrictive marking is determined to be unjustified.
  - c. A nonconforming marking is a marking placed on Technical Data delivered or otherwise furnished to the Government under this Agreement that is not in the format authorized by this Agreement. Correction of nonconforming markings is not subject to the Validation of Restrictive Markings section of this agreement. However, if the Agreements Officer notifies the PERFORMER of a nonconforming marking and the PERFORMER fails to remove or correct such marking within sixty (60) days, the Government may ignore or, at the PERFORMER's expense, remove or correct any nonconforming marking. Such nonconformance would be subject to the Inspection and Acceptance terms for deliverables.
10. Throughout performance of this agreement, the PERFORMER or its suppliers that will deliver Data with other than Unlimited Rights, shall- (1) Have, maintain, and follow written procedures sufficient to assure that restrictive markings are used only when authorized by the terms of this Agreement; and, (2) Maintain records sufficient to justify the validity of any restrictive markings on Data delivered under this Agreement.
11. The PERFORMER reserves the right to protect by copyright original works developed under the Prototype Project. All such copyrights will be in the name of the PERFORMER. The PERFORMER hereby grants to the U.S. Government a non-exclusive, non-transferable, royalty-free, fully paid-up license to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, for

Governmental purposes, any copyrighted materials developed under the Prototype Project executed under the Performer Agreement and funded by the Project Order, and to authorize others to do so, subject to the limitations on disclosure contained in the Performer Agreement.

12. In the event Data is exchanged with a notice indicating that the Data is protected under copyright as a published, copyrighted work and it is also indicated on any submission that such Data existed prior to, or was produced outside of this Agreement, the party receiving the Data and others acting on its behalf may reproduce, distribute, and prepare derivative works for the sole purpose of carrying out that party's responsibilities under this Agreement and the Prototype Project executed under the Performer Agreement with the written permission of the copyright holder.
13. The PERFORMER shall not, without the written approval of the Agreements Officer, incorporate any copyrighted data in the Data to be delivered under this Agreement unless the PERFORMER is the copyright owner or has obtained for the Government the license rights necessary to perfect a license or licenses in the deliverable Data, and has affixed a statement regarding the license or licenses obtained to the Data transmittal document.
14. Copyrighted Data that existed or was produced outside of this Agreement and is unpublished - having only been provided under licensing agreement with restrictions on its use and disclosure - and is provided under this Agreement shall be marked as unpublished copyright in addition to the appropriate license rights legend restricting its use, and treated in accordance with such license rights legend markings restricting its use.
15. The PERFORMER is responsible for affixing appropriate markings indicating the rights of the Government on all Data delivered under the Prototype Project.
16. The Government agrees not to remove any copyright notices placed on Data and to include such notices on all reproductions of the Data.
17. In addition to Data specified in this Agreement and in any Prototype Project executed under the Project Order to be delivered hereunder, the Government may, at any time during the performance of the Prototype Project or within a period of three (3) years after acceptance of all items (other than Data) to be delivered under the Performer Agreement, or the termination of the Performer Agreement, order any Data generated under the Performer Agreement or any sub-Agreement hereunder, except for Data related to the PERFORMER's internal development milestones (as defined in the Statement of Work or Task Description Document). When the Data is ordered, the PERFORMER shall be compensated by the Government for converting the Data into the prescribed form, for reproduction and delivery. The obligation to deliver the Data of a sub-Agreement holder and pertaining to an item obtained from the subcontractor shall expire three (3) years after the date the PERFORMER accepts the last delivery of that item from that sub-Agreement holder under this Agreement.
18. The Government shall retain its rights in the unchanged portions of any Computer Software or Computer Software Documentation delivered under the Prototype Project that the Consortium uses to prepare, or includes in, derivative Computer Software or Computer Software Documentation.
19. The PERFORMER shall include this clause, suitably modified to identify the parties, in all sub-agreements or lower tier agreements, regardless of tier, for developmental prototype work.
20. The obligations of the Government and the PERFORMER under this Article shall survive after the expiration or termination of the Performer Agreement.
21. For purposes of determining the Government's rights in Technical Data and Computer Software developed under this Agreement, the Parties agree that developmental costs funded at Government expense under

this Agreement shall be considered development at Government expense for purposes of any follow on or future acquisition contracts, including FAR and DFARS based contracts, notwithstanding the definition of "contract" in any such FAR based contract that is used in relation to determination of the Government's data rights.

C. Right to Develop Independently

Nothing in this Agreement will impair any Party's right to independently acquire, license, develop or have developed, utilize or otherwise exploit information and technology with the same or similar uses or functions as the information or technology that is the subject of the Agreement or any Prototype Project issued pursuant to the Performer Agreement.

**ARTICLE II. PATENTS**

The PERFORMER agrees to be bound by the following rights and responsibilities with respect to any Subject Invention (i.e. any Invention made in the performance of the Statement of Work or TDD) or Prototype which is the principal objective of the Prototype Project executed under the Performer Agreement.

A. Allocation of principal rights

1. The PERFORMER shall retain ownership throughout the world to each Subject Invention consistent with the provisions of this section and 35 U.S.C. § 202, provided the PERFORMER has timely pursued a patent application and maintained any awarded patent and has not notified the Government (in accordance with subclause (B) below -- Invention Disclosure, Election of Title, and Filing of Patent Application) that the PERFORMER **does not** intend to retain title.
2. The PERFORMER shall retain ownership throughout the world to background inventions. Any invention related to, conceived of, or first reduced to practice in support of a PERFORMER's internal development milestone shall be a background invention of the PERFORMER and shall not be classified as a Subject Invention, provided that an invention conceived of in support of an internal development milestone that is first reduced to practice under the Project Order in support of **other than** internal development milestones shall be considered a Subject Invention.
3. The Government is granted a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the Subject Invention throughout the world.

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

1. If the PERFORMER -- acting on behalf of its company, institution, personnel, subcontractors and/or agents - **elects to retain title** to a Subject Invention, the PERFORMER shall disclose each Subject Invention to the Agreements Officer on a DD Form 882 within eight (8) months of actual or constructive knowledge of a Subject Invention being completed or upon the Subject Invention being disclosed to the PERFORMER's personnel responsible for patent matters, whichever is first in time.
2. If the PERFORMER determines that it **does not intend to retain title** to any Subject Invention, the PERFORMER shall notify the Agreements Officer, in writing, within eight (8) months of actual or constructive knowledge of a Subject Invention being completed or upon the disclosure of the Subject Invention to the PERFORMER's personnel responsible for patent matters, whichever is first in time. However, in any case where publication, sale, or public use has initiated the one (1) year statutory period wherein valid patent prosecution can still be obtained in the United States, the period for such notice is shortened to at least sixty (6) calendar days prior to the end of the statutory period.

- C. Upon the Agreements Officer's written request, the PERFORMER shall convey title to any Subject Invention to the Government under any of the following conditions:

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

D. Minimum Rights to the PERFORMER and protection of the PERFORMER's right to file.

1. The PERFORMER shall retain a nonexclusive, royalty-free license throughout the world in each Subject Invention to which the Government obtains title, except if the PERFORMER fails to disclose the Subject Invention within the times specified within this Article. The PERFORMER's license extends to the U.S. (including Canada) subsidiaries and affiliates, if any, within the corporate structure of which the PERFORMER is a party and includes the right to grant licenses of the same scope to the extent that the PERFORMER was legally obligated to do so at the time the Prototype Project was awarded. The license is transferable only with the approval of the Government, except when transferred to a successor of that part of the business to which the Subject Invention pertains. The Government's approval for license transfer shall not be unreasonably withheld.
2. The PERFORMER's license, as immediately described above in (D)(1), may be revoked or modified by the Government to the extent necessary to achieve expeditious practical application of the Subject Invention pursuant to an application for an exclusive license submitted consistent with appropriate provisions at 37 C.F.R. Part 404. However, the license shall not be revoked in that field of use or the geographical areas in which the PERFORMER has achieved practical application and continues to make the benefits of the Subject Invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of the Government to the extent the PERFORMER, its licensees, or its subsidiaries or affiliates have failed to achieve practical application in that foreign country.
3. Before revocation or modification of the license, the Agreements Officer shall furnish the PERFORMER a written notice of its intention to revoke or modify the license, and the PERFORMER shall be allowed thirty (30) calendar days (or such other time as may be authorized for good cause shown) after the notice to show cause why the license should not be revoked or modified.
4. Action to protect the Government's interest
  - a. The PERFORMER agrees to execute or to have executed and promptly deliver to the Agreements Officer all instruments necessary to (i) establish or confirm the rights the Government has throughout the world in those Subject Inventions to which the PERFORMER elects to retain title, and (ii) convey title to the Government when requested under and in accordance with this Article to enable the Government to obtain patent protection throughout the world in that Subject Invention.
  - b. The PERFORMER agrees to require, by written agreement, its employees, other than clerical and non-technical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the PERFORMER each Subject Invention made under the Prototype Project in order that the PERFORMER can comply with the disclosure provisions of this Article. The PERFORMER shall instruct employees, through employee

agreements or other suitable educational programs, on the importance of reporting Subject Inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.

- c. The PERFORMER shall notify the Agreements Officer of any decisions not to continue the prosecution of a patent application, pay maintenance fees, or defend in a reexamination or opposition proceedings on a patent, in any country, not less than thirty (30) calendar days before the expiration of the response period required by the relevant patent office.
- d. The PERFORMER shall include, within the specification of any United States patent application and any patent issuing thereon covering a Subject Invention, the following statement:

*"This Invention was made with Government support under Agreement No. N00164-19-9-0001, awarded by NSWC Crane Division. The Government has certain rights in the Invention."*

- 5. The PERFORMER agrees that, with respect to any Subject Invention in which it has retained title, the Government has the right to require the PERFORMER, a prototype inventor, an assignee, or exclusive licensee of a Subject Invention to grant a non-exclusive license to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the PERFORMER, a prototype inventor, an assignee, or exclusive licensee refuses such a request, the Government has the right to grant such a license itself if the Agreements Officer determines that: (1) Such action is necessary because the PERFORMER, a prototype inventor, an assignee, or a licensee has not taken effective steps, consistent with the intent of this Agreement, to achieve practical application of the Subject Invention; or (2) Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the PERFORMER, prototype inventor, an assignee, or their licensees; or (3) Such action is necessary to meet requirements for public use and such requirements are not reasonably satisfied by the PERFORMER, a prototype inventor, an assignee, or licensees.
- 6. The Government authorizes and consents to all use and manufacture of any invention described in and covered by a United States patent in the performance of the Prototype Project.
- 7. The PERFORMER shall report to the Agreements Officer, promptly and in reasonable written detail, each notice or claim of patent or copyright infringement based on or under the performance of the Prototype Project of which the PERFORMER has knowledge. In the event of any claim or suit against the Government on account of any alleged patent or copyright infringement arising out of the performance of the Prototype Project, or out of the use of any supplies furnished or work or services performed under the Prototype Project, the PERFORMER shall furnish to the Government, when requested by the Agreements Officer, all evidence and information in the PERFORMER's possession pertaining to such claim or suit. Such evidence and information shall be furnished at the expense of the Government except where the PERFORMER has agreed to indemnify the Government.
  - a. The PERFORMER shall include this clause (D)(7) suitably modified, to identify the Parties in all sub-agreements or lower tier agreements, regardless of tier, for experimental, developmental, or research work.
  - b. The obligations of the Government and the PERFORMER under this Article shall survive after the expiration or termination of the Performer Agreement.