

# **DISTRIBUTION AGREEMENT**

(For United States Government (USG) and USG Vendors)

**REQUESTING ORGANIZATION NAME:** \_\_\_\_\_

**REQUESTING USG VENDOR AUTHORIZED POINT OF CONTACT (POC):**

**NAME (Print):** \_\_\_\_\_ **Date:** \_\_\_\_\_

**TELEPHONE:** \_\_\_\_\_ **E-MAIL:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_

\_\_\_\_\_

**CAGE CODE:** \_\_\_\_\_

**SPECIFIC PRODUCT(S) BEING REQUESTED:**

The Request for Solutions: US Army Space and Missile Defense Command (SMDC) Integrated Environment Control and Power (IECP) Government Furnished Information (GFI), Government Furnisher Property (GFP) and Government Furnished Equipment (GFE).

**PURPOSE:** To be used as required information in preparation of prototype development effort in response to the Request for Solutions referenced above. Impact if not provided may result in a less than satisfactory development of SMDC IECP Prototype effort.

**ESTIMATED DATE OF COMPLETION OF USE OF THE PRODUCT(S):** Upon completion of the development of SMDC IECP Prototype effort or completion of agreement after award, whichever is applicable.

**REQUEST FOR RELEASE TO U.S. GOVERNMENT OR U.S. VENDOR:**<sup>1</sup> It is requested that the Products be released to the above-identified Government agency or vendor for the stated purpose. It is hereby certified that the agreement number, if applicable, and completion date identified above are correct and the identified vendor requires the Product for the aforementioned purpose.

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<sup>1</sup> To be completed by Sponsoring Organization.

# **DISTRIBUTION AGREEMENT**

## 1. Definitions.

a. Vendor. An individual or organization outside the U.S. Government who has accepted any type of agreement, vendor or order to provide research, supplies, or services to a U.S. Government Agency, including both prime vendors and subvendors.

b. Controlling DoD Office. The DoD activity that sponsored the work that generated the Product or received the Product on behalf of the Department of Defense and, therefore, has the responsibility for determining the distribution of the Product. For joint sponsorship, the controlling office is determined by advance agreement and may be a party, group, or committee representing the interested activities or the DoD Components.

c. Government Purpose Rights. The rights to:

(i) Use, modify, reproduce, release, perform, display, or disclose the Product within the Government without restriction; and,

(ii) Release or disclose the Product outside the Government and authorize persons to whom release or disclosure has been made to use, modify, reproduce, release, perform, display, or disclose the Product for United States Government purposes.

d. USASMDC. The US Army Space and Missile Defense Command.

e. PM. Project or Product Manager.

f. Product. The technical data, hardware or software, or combination of some or all of the above, which is provided to the U.S Government agency or USG vendor through this Distribution Agreement, as set out in Attachment A.

g. Unlimited Rights. The rights to use, modify, reproduce, release, perform, display, or disclose the Product in whole or in part, in any manner and for any purpose whatsoever, and to have or authorize others to do so.

h. U.S. DoD Vendor. Those U.S. vendors currently holding grants or vendors currently possessing service or supply contracts or agreements with the Department of Defense, or those vendors declared eligible for DoD Product(s) by a sponsoring DoD activity.

## 2. The Product is authorized for distribution in accordance with:

Distribution Statement A. Approved for public release. Other requests shall be referred for consideration to the controlling DoD office specified in Attachment A.

Distribution Statement B. Distribution authorized to U.S. Government agencies only (fill in reason) (date of determination). Other requests shall be referred for consideration to the controlling DoD office specified in Attachment A.

Distribution Statement C. Distribution authorized to U.S. Government Agencies and their contractors. Other requests shall be referred for consideration to the controlling DoD office specified in Attachment A.

Distribution Statement D. Distribution authorized to the Department of Defense and U.S. DoD vendors only. Other requests shall be referred to the controlling DoD office specified in Attachment A.

Distribution Statement E. Distribution authorized to DoD Components only. Other requests shall be referred for consideration to the controlling DoD office specified in Attachment A.

Distribution Statement F. Further dissemination only as directed by the controlling DoD office specified in Attachment A or higher DoD authority.

Export Control Warning. This document refers to technical data, hardware or non-commercial computer software, or a combination of some or all of the above, the export of which is restricted by the Arms Control Act (Title 22, U.S.C., Sec. 2751), et. seq, or the Export Administration Act of 1979, as amended, Title 50, U.S.C., App. 2401, et. seq. Violations of these export laws are subject to severe criminal penalties. Disseminate in accordance with provisions of DoD Directive 5230.25.

3. Subject to approval by a Government Sponsor, the Product may be used for the purpose(s) stated with the following general conditions. Any special terms and conditions applicable to a specific Product are provided in Attachment A.

a. The Product will be handled and maintained in accordance with For Official Use Only, Export Control and Army Regulation 380-5 requirements.

b. The Product will be used only in accordance with this Distribution Agreement.

c. The Product itself will not be modified, adapted, or otherwise altered except as required under the terms of a vendor with the U.S. Government.

d. The Product may be distributed with Product(s) from other USG agencies. Additional restrictions may apply to software not owned or controlled by SMDC.

e. The Product shall not be re-distributed, sold, or used for commercial purposes or practices by the recipient, in whole or in part, without the express permission of the PM listed in Attachment A. The recipient is prohibited from using any open source code delivered within the product for commercial practices and profitable gains. The recipient may reproduce copies of the Product for use within his/her organization, or to perform under the

terms and conditions of a USG vendor for the specific purpose set out in Attachment A. A copy of this approved Distribution Agreement shall be provided and maintained with each authorized copy of the Product and appropriate personnel shall be briefed regarding the Distribution Agreement requirements. In addition, the controlling DoD office is to be formally notified of the name, address and designated point of contact of all authorized U.S. vendors and subvendors to whom a copy is provided. The original recipient of the Product shall be responsible for compliance with the terms of this Distribution Agreement related to all authorized copies.

f. Changes to any software source code may not be further distributed by the recipient without the approval of the controlling DoD office. Recipients wishing to distribute changes, which they have developed, may submit such changes to the controlling DoD office with government purpose rights.

g. U.S. vendors and sub-vendors will return or destroy all Product(s) upon agreement award. The agreement awardee may retain all Product(s) until completion of the prototype completion of the agreement under which the work is authorized.

h. The Product may be developmental in nature (see Attachment A).

i. The U.S. Government and its agents shall not be liable for any harm, damage, or injury that may result from the use or untimely receipt of the Product.

j. The controlling DoD office may revoke permission or hereinafter make permission subject to additional conditions as dictated by Government interests.

k. The individual who will act as recipient of the Product on behalf of the U.S. vendor is a U.S. citizen.

l. The U.S. vendor acknowledges his responsibilities under the U.S. export control laws and regulations and agrees that it will not disseminate any export-controlled Product subject to this agreement in a manner that would violate applicable export control laws and regulations.

m. The U.S. vendor agrees that he will not provide access to this material to persons other than its employees or persons acting on its behalf, without permission of the controlling DoD office.

n. To the extent of his knowledge and belief, the requesting U.S. vendor knows of no person employed by it, or acting on its behalf, who will have access to the Product, who is debarred, suspended, or otherwise ineligible from performing on U.S. Government agreements, or has violated U.S. export control laws.

o. The U.S. vendor is not debarred, suspended or otherwise determined ineligible by any agency of the U.S. Government to perform on U.S. Government agreements, has not been convicted of export control law violations, and has not been disqualified under the provisions of DoD Directive 5230.25.

4. As consideration for the distribution of the Product, the approved recipient shall provide to the controlling DoD office any and all changes, enhancements, improvements or modifications which may be made to the Product while in the approved recipient's possession. The changes, enhancements, improvements or modifications made to the Product, along with all software source code, will be provided to the controlling DoD office with at least Government Purpose Rights. If the enhancements, improvements or modifications made to the Product are not received by the controlling DoD office with at least Government Purpose Rights, the controlling DoD office will demand the return and/or destruction of the Product in the approved recipient's possession. A failure to return and/or destroy the Product will be deemed a breach of this agreement and may result in prosecution of the USG's rights in the applicable forum. The vendor agrees that it will not assert that such return and/or destruction is a Government-caused delay under any vendor with the U.S. Government.

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**ATTACHMENT A**

**Program Management Office:** The following is the point of contact for the program management office.

Bernard Kerstiens		Cedric Bailey
Program Manager	or	Product Manager
SMDC		SMDC
bernard.l.kerstiens.civ@mail.mil		cedric.bailey.civ@mail.mil

**PRODUCTS:** The following list of technical data will be provided upon completion of the distribution agreement.

- 1 -
- 2 -
- 3 -
- 4 -
- 5 -
- 6 -
- 7 -
- 8 -
- 9 -

**SPECIAL TERMS AND CONDITIONS**

There are no additional special terms and conditions.

I HEREBY AGREE TO THE TERMS AND CONDITIONS OF THIS DISTRIBUTION AGREEMENT AND WILL UTILIZE THE PRODUCT ONLY FOR THE PURPOSE/USE DESCRIBED ABOVE. I UNDERSTAND THAT PROCESSING OR TRANSMITTING THIS EXPORT CONTROLLED MATERIAL VIA ANY PUBLIC ELECTRONIC MEDIUM IS STRICTLY PROHIBITED.

SIGNATURE: \_\_\_\_\_

**(Requesting USG Vendor)**

**NSXTL OFFICIAL APPROVAL: The above request is approved for the purpose stated by the requester.** : The above request is approved for the purpose stated by the requester.

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(Project/Product Manager for the Project)

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(Date)