

## RIGHTS IN DATA - SPECIAL WORKS

[CT, FP – NR&D, FP – R&D, CIS, LH/T&M, T&MC, CREI, – 09/04] [FAR 52.227-17 – 06/87]

### (a) Definitions.

- (1) "Data," as used in this Article, means recorded information regardless of form or the medium on which it may be recorded. The term includes technical data and computer software. The term does not include information incidental to Subcontracts Manager administration, such as financial, administrative, cost or pricing or management information.
- (2) "Unlimited rights," as used in this Article, means the right of the Government and, in support and furtherance of its Government Subcontracts Manager obligations, the Institute, to use, disclose, reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, in any manner and for any purpose whatsoever, and to have or permit others to do so.

### (b) Allocation of Rights.

- (1) The Government and, in support and furtherance of its Government Subcontracts Manager obligations, the Institute, shall have:
  - (A) Unlimited rights in all data delivered under this Subcontracts Manager, and in all data first produced in the performance of this Subcontracts Manager, except as provided in paragraph (c) of this Article for copyright.
  - (B) The right to limit exercise of claim to copyright in data first produced in the performance of this Subcontracts Manager, and to obtain assignment of copyright in such data, in accordance with subparagraph (c)(1) of this Article.
  - (C) The right to limit the release and use of certain data in accordance with paragraph (d) of this Article.
- (2) The Subcontracts Manager or shall have, to the extent permission is granted in accordance with subparagraph (c)(1) of this Article, the right to establish claim to copyright subsisting in data first produced in the performance of this Subcontracts Manager.

### (c) Copyright.

- (1) Data first produced in the performance of this Subcontract.
  - (A) The Subcontracts Manager or agrees not to assert, establish, or authorize others to assert or establish, any claim to copyright subsisting in any data first produced in the performance of this Subcontracts Manager without prior written permission of the Contracting Officer through JPL. When claim to copyright is made, the Subcontracts Manager or shall affix the appropriate copyright notice of 17 U.S.C. 401 or 402 and acknowledgment of Government sponsorship (including Subcontracts Manager number) to such data when delivered to JPL, as well as when the data are published or deposited for registration as a published work in the U.S. Copyright Office. The Subcontracts Manager or grants to the Government, and, in support and furtherance of its Government contract obligations, the Institute, and others acting on their behalf, a paid-up nonexclusive, irrevocable, worldwide license for all such data to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, by or on behalf of the Government.
  - (B) If the Government desires to obtain copyright in data first produced in the performance of this Subcontracts Manager and permission has not been granted as set forth in subdivision (c)(1)(A) of this Article, JPL may direct the Subcontracts Manager or to establish, or authorize the establishment of, claim to copyright in such data and to assign, or obtain the assignment of, such copyright to the Government or its designated assignees. Any copyright license required in order to perform work under this First-tier Subcontract is freely transferable to any successor-in-interest of the Subcontracts Manager or, a successor Subcontracts Manager or to operate JPL, or the Government
- (2) Data not first produced in the performance of this Subcontracts Manager. The Subcontractor shall not, without prior written permission of JPL, incorporate in data delivered under this Subcontracts Manager any data not first produced in the performance of this Subcontracts Manager and which contain the copyright

notice of 17 U.S.C. 401 or 402, unless the Subcontracts Manager or identifies such data and grants to the Government, and, in support and furtherance of its Government Subcontracts Manager obligations, the Institute, or acquires on their behalf, a license of the same scope as set forth in subparagraph (c)(1) of this Article.

- (d) Release and Use Restrictions. Except as otherwise specifically provided for in this Subcontracts Manager, the Subcontracts Manager or shall not use for purposes other than the performance of this Subcontract, nor shall the Subcontracts Manager or release, reproduce, distribute, or publish any data first produced in the performance of this Subcontract, nor authorize others to do so, without written permission of JPL.
- (e) Indemnity. The Subcontracts Manager or shall indemnify the Government, the Institute, and their officers, agents, and employees acting for the Government or JPL against any liability, including costs and expenses, incurred as the result of the violation of trade secrets, copyrights, or right of privacy or publicity, arising out of the creation, delivery, publication, or use of any data furnished under this Subcontracts Manager; or any libelous or other unlawful matter contained in such data. The provisions of this paragraph do not apply unless the Government or the Institute provides notice to the Subcontracts Manager or as soon as practicable of any claim or suit, affords the Subcontracts Manager or an opportunity under applicable laws, rules, or regulations to participate in the defense thereof, and obtains the Subcontractor's consent to the settlement of any suit or claim other than as required by final decree of a court of competent jurisdiction; nor do these provisions apply to material furnished to the Subcontracts Manager or by JPL and incorporated in data to which this Article applies.
- (f) Whenever the words "establish" and "establishment" are used in this clause, with reference to a claim to copyright, they shall be construed to mean "assert" and "assertion," respectively.