**RESTRICTIVE AERIAL EASEMENT**

**Between**

**UNITED STATES OF AMERICA**

**DEPARTMENT OF TRANSPORTATION**

**FEDERAL AVIATION ADMINISTRATION**

**And**

**[INSERT GRANTOR(S) NAME]**

**FAA CONTRACT NO: [69XXX-XX-L-XXXXX]**

**[INSERT ATID/FACILITY TYPE]**

**[INSERT CITY/STATE]**

**SECTION 6.1: OPENING  
  
6.1.1-4 Restrictive Easement Preamble (09/2020)** This clause is required in all Restrictive Aerial Easements. Note that other versions are available for Lease/License/Permit/Perpetual Easement/Agreement.This Restrictive Aerial Easement Agreement is made by and between <insert name of Grantor> (hereinafter referred to as the “Grantor(s)”), and the Federal Aviation Administration, an agency of the United States of America (hereinafter referred to as "the Government").

For purposes of this Easement, the term contractor, lessor, and grantor and contract, lease, and easement are interchangeable with each other.  
  
**6.1.2 Succeeding Contract (09/2020)** This clause is required when applicable if this is a succeeding real estate contract. Note that this is addressed within the Witnesseth clause for MOA's.  
  
This Real Estate Contract succeeds < No. DTFAXX-XX-L-XXXXX> and all other previous agreements between the parties for the property described in this document.   
  
Or  
  
**6.1.2-1 Superseding Contract (09/2020)**This clause is required when applicable if this is a superseding real estate contract (where the effective date of the term is PRIOR to the expiration of the prior contract term). Note that this is addressed within the Witnesseth clause for MOA's.  
  
This Real Estate Contract supersedes < No. DTFAXX-XX-L-XXXXX> and all other previous agreements between the parties for the property described in this document.  
  
**6.1.3-4 Easement Witnesseth (09/2020)** This clause is required in all Restrictive Aerial Easements. Note that other versions are available for Lease/License/Permit/Agreement.  
  
The parties hereto, and for the consideration hereinafter mentioned, agree as follows:

Grantor owns a certain <insert # of acre(s)> acre tract of land located at <insert location>, in the City of <insert city>, County of <insert county>, and State of <insert state> (“Grantor’s property”).

Grantor desires to grant to the Government a Restrictive Aerial Easement over a portion of the Grantor’s property, that being a certain <insert # of acre(s)> acre tract more particularly described below.

The Grantor and the Government acknowledge that the proposed Aerial Easement will benefit the Grantor while helping to advance the Government’s mission.   
  
**6.1.4-6 Description of the Easement Area (09/2020)** This clause is required in all Easements. Note there are other versions of this clause depending on contract type. CO should use the most appropriate version for scenario.  
  
The lands encumbered by this Easement, hereinafter referred to as the "Easement Area", are described in the legal description, which is attached hereto and incorporated herein.

<Insert metes and bounds legal description of the easement area>

Together with a right of access for ingress and egress to the Easement Area across adjacent or other properties of the Grantor. Such a right-of-way for access purposes is described in the legal description, which is attached hereto and incorporated herein.   
  
**SECTION 6.2: TERMS**  
  
**6.2.1 Restrictive Easement Purpose (09/2020)** This clause is required in all Restrictive Aerial Easements. Note there are other versions of this clause depending on contract type. CO should use the most appropriate version for scenario.  
  
An Aerial Easement to restrict the Grantor’s use of the Easement property for the purpose of the continued operation of the Government’s facility.   
  
**6.2.2 Grant of Easement (09/2020)** This clause is required in all Restrictive Aerial Easements  
  
Grantor hereby confirms, establishes, grants, and conveys to the Government and its successors and assigns an exclusive Aerial Easement in, on, over, and across the easement property. The Agreement includes the right to prohibit all obstructions above ground surface as shown on [identify attachment/exhibit- for example: “VOR Aerial Easement/Clear-Zone Criteria” identified as Exhibit “A”], attached hereto and made a part hereof, together with the right to trim, cut, fell, and remove trees, underbrush, obstructions and other obstacles (e.g., vegetation structures) or obstacles that abridge the rights hereby granted. The Government shall provide the Grantor at least fifteen (15) days’ notice prior to any work being performed by the Government. The Agreement herein granted does not convey any right or interest in the Easement property, except as stated herein. The Grantor shall not be prevented from use of the Easement property for the type and height of the permitted exceptions shown on [Exhibit “A”]. Further, this Aerial Easement is subject to existing structures in place under existing easements for public roads and highways, public utilities, railroads, and pipelines, and any present or future use by Grantor and assigns, provided such use does not interfere with the operation of the Government's facility and with prior concurrence by the Government. Grantor or Grantor’s contractor/agent is required to go to website <https://oeaaa.faa.gov> to submit essential data for Federal Aviation Administration (FAA) evaluation prior to any construction or alteration, including any construction activities planned/performed by third parties.   
  
**6.2.3 Legal Authority (09/2020)** This clause is required in all Easements  
  
This Easement is entered into under the authority of 49 U.S.C. 106(l) and (n), which authorize the Administrator of the FAA to enter into contracts, acquisitions of interests in real property, agreements, and other transactions on such terms and conditions as the Administrator determines necessary.  
  
**6.2.4 Scope of Easement (09/2020)** This clause is required in all Restrictive Aerial Easements  
  
The easements, covenants, and restrictions contained herein are appurtenant to, run with, and inure to the benefit of all or any portion of the Grantor’s property, whether or not the easement is referenced or described in any conveyance of all or such portion of Grantor’s property. This Easement is exclusive to the Government.   
  
**6.2.5 Term (09/2020)** This clause is required in all leases or restrictive easements for commencement/expiration. Note there is an optional related clauses "Option to Extend Term" that may be used in conjunction with 6.2.5.  
  
To have and to hold, for the term commencing on <Start Date> and continuing through <End Date> inclusive, provided that adequate appropriations are available from year to year for the consideration herein.   
  
**6.2.5-3 Option(s) to Extend Term of Easement (09/2020)** This clause may be used in restrictive aerial easements in conjunction with 6.2.5 at the option of the CO.  
  
The Easement may, at the option of the Government, be extended beyond <Fill in Date> at the rental rate established in the "Consideration" clause herein. The extension shall be upon the terms and conditions herein specified and no extension shall extend beyond <Fill in Date>. The Government shall notify the Grantor in writing, no later than ninety (90) days before the expiration of the Easement term, of its intent to exercise the option(s) or of its intent to vacate the premises at the end of said term. Any extension exercised by the Government pursuant to this clause shall be subject to the availability of adequate appropriations from year to year for the payment of rentals.   
  
**6.2.6 Consideration (09/2020)** This clause is required when applicable in all Leases and Easements when the FAA is paying rent. The rent breakdown may be removed or edited as needed to fit the scenario. Note there are alternate versions of this clause for no cost/outgrants/perpetual easements. The CO should select the most appropriate version for their scenario. REMOVE this clause if 6.2.6-1 Consideration (No Cost) is used.  
  
The Government shall pay rent for the premises in the amount of $<Insert Dollar Amount> per annum payable as follows: <Insert narrative, e.g. $600.00 payable annually to John Smith and “$600.00 payable annually to Jane Smith” or “$1200.00 payable to John Smith at the monthly rate of $100.00.> Payment shall be in arrears, without the submission of invoices or vouchers. Payments are due on the first business day following the end of the payment period and are subject to available appropriations. The payments shall be directly deposited in accordance with the "Payment by Electronic Funds Transfer" clause in this Real Estate contract. Payments shall be considered paid on the day an electronic funds transfer is made.

<Insert rental breakdown, if applicable (sample below)

Rent per SF Rent per Annum   
Base Rent $\_\_\_\_\_\_ $\_\_\_\_\_\_  
Operating Costs $\_\_\_\_\_\_ $\_\_\_\_\_\_

Tenant Improvements $\_\_\_\_\_\_ $\_\_\_\_\_\_

Total $\_\_\_\_\_\_ $\_\_\_\_\_\_ >

OR  
  
**6.2.6-1 Consideration (No Cost) (09/2020)** This clause is Required when applicable in real estate contracts where the FAA is NOT paying rent. Note there are alternate versions of this clause for no cost/outgrants/perpetual easements. The CO should select the most appropriate version for their scenario.  
  
The Government shall pay the Grantor no monetary consideration in the form of rental. It is mutually agreed that the rights extended to the Government herein are in consideration of the obligations assumed by the Government in its establishment, operation and maintenance of facilities upon the premises hereby leased.   
  
**6.2.7 Termination (09/2020)** This clause is required in all real estate leases and restrictive easements.   
  
The Government may terminate this real estate contract at any time, in whole or in part, if the Real Estate Contracting Officer (RECO) determines that a termination is in the best interest of the Government. The RECO shall terminate this contract by delivering a written notice specifying the effective date of the termination. The termination notice shall be delivered at least [insert number of days; 30, 60, or 90] days before the effective termination date.   
  
**6.2.8 Binding Effect (09/2020)** This clause is required in all Restrictive Aerial Easements  
  
The provisions of this Easement shall run with the land, and be binding upon, and for the benefit of, the parties and their successors and assigns. In the event of any sale or transfer of ownership of the Easement property or any portion thereof, the Government will be deemed to have attorned to any purchaser, successor, assign, or transferee. The succeeding owner will be deemed to have assumed all rights and obligations of the Grantor under this Easement establishing direct privity of estate and contract between the Government and said succeeding owner, with the same force, effect, and relative priority in time and right as if the Easement had initially been entered into between such succeeding owner and the Government.   
  
**6.2.10 Interest for Late Payment (09/2020)** This clause is an option for leases and easements where the FAA pays rent and may be used that the CO's discretion.  
  
If requested by the Grantor in writing, the Government will pay an interest penalty when payment is not made within 90 days of the due date.

Payment shall be considered as being made on the day a check is dated or an electronic funds transfer is made. All days referred to in this clause are calendar days, unless otherwise specified. Rent shall be paid monthly in arrears and will be due on the first workday of each month and only as provided for by the real estate contract.

The interest penalty shall be at the rate established by the Secretary of the Treasury under Section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) that is in effect on the day after the due date. This rate is referred to as the "Renegotiation Board Interest Rate" and it is published in the Federal Register semiannually on or about January 1 and July 1. Interest penalties of less than $1.00 need not be paid.

Interest penalties will not be paid on delays due to disagreement between the Government and Grantor over the payment amount, requests for additional information, or for other issues involving contract compliance, or on amounts temporally withheld or retained in accordance with the terms of the contract.

For payments other than rent, the Grantor shall prepare and submit an invoice to the RECO or the RECO’s designated representative for approval not later than 60 days after completion and acceptance of the work. An invoice shall include the following items:

1. Name and address of the Lessor or Grantor

2. Invoice date

3. Lease Number

4. Government’s order number or other authorization.

5. Description, price, and quantity of work or services delivered.

6. Name and address of Lessor or Grantor official to whom payment is to be sent   
  
**6.2.14 Holdover (09/2020)** Required for land or space leases for mission critical safety equipment. May be included for other space leases in accordance with AMS. If 6.2.14-1 is used, RECO must delete this clause.  
  
If after the expiration of the Contract, the Government shall retain possession of the premises, the Contract shall continue in full force and effect on a month-to-month basis. Payment shall be made in accordance with the Consideration clause of the Contract, in arrears on a prorated basis, at the rate paid during the Contract term. This period shall continue until the Government shall have signed a new contract with the contractor, acquired the property in fee, or vacated the premises.   
  
OR  
  
**6.2.14-1 Fixed Holdover (09/2020)** Required for Standard Space Lease and is optional for other contract types where Indefinite Holdover is not used. If 6.2.14 is used, RECO must delete this clause  
  
If after the expiration of the contract, the Government shall retain possession of the premises, the contract shall continue in full force and effect on a month-to-month basis for a period not to exceed <insert number of days>. Payment shall be made in accordance with the Consideration clause of the contract, in arrears on a prorated basis, at the rate paid during the Lease term. This period shall continue until the Government shall have signed a new lease with the contractor, acquired the property in fee, or vacated the premises.   
  
**6.2.16-1 Grantor’s Successors (09/2020)** This clause is required in all easements to protect the lease rights of the Government in case of change in ownership of the property. Note there is alternate version of this clause for leases.  
  
The terms and provisions of this Easement and the conditions herein bind the Grantor and the Grantor's heirs, executors, administrators, successors, and assigns.   
  
**SECTION 3: GENERAL CLAUSES**  
  
**3.2.5-1 Officials Not To Benefit (09/2020)** Must be used in all SIRs and contracts (in accordance with 41 U.S.C. 22).  
  
No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this contract, or to any benefit arising from it. However, this clause does not apply to this contract to the extent that this contract is made with a corporation for the corporation's general benefit.   
  
**3.3.1-15A1 RE Assignment of Claims (09/2020)** Required in all Real Estate Contracts except outgrants, MOAs, and perpetual easements.  
  
Pursuant to the Assignment of Claims Act, as amended, 31 U.S.C. § 3727, 41 U.S.C. § 6305 the Lessor may assign his rights to be paid under this lease.   
  
**3.10.1-22 Contracting Officer's Representative (09/2020)** This clause is optional in all real estate contracts and may be used at the RECO's discretion when a COR is appointed.  
  
(a) The Contracting Officer may designate other Government personnel (known as the Contracting Officer's Representative) to act as his or her authorized representative for contract administration functions which do not involve changes to the scope, price, schedule, or terms and conditions of the contract. The designation will be in writing, signed by the Contracting Officer, and will set forth the authorities and limitations of the representative(s) under the contract. Such designation will not contain authority to sign contractual documents, order contract changes, modify contract terms, or create any commitment or liability on the part of the Government different from that set forth in the contract.

(b) The Contractor shall immediately contact the Contracting Officer if there is any question regarding the authority of an individual to act on behalf of the Contracting Officer under this contract.  
  
**6.3.25 Quiet Enjoyment (09/2020)** This clause is required in all land leases and easements under the basic contracting principle to protect the FAA's full rights to the property.  
  
The Lessor warrants that they have good and valid title to the premises, and rights of ingress and egress, and warrants and covenants to defend the Government’s use and enjoyment of said premises against third party claims.   
  
**6.3.29-1 Integrated Agreement (Easement) (09/2020)** This clause is required in all easements.  
  
This Easement, upon execution, contains the entire agreement of the parties, and no prior written or oral agreement, express or implied shall be admissible to contradict the provisions of this Easement.  
  
**6.3.33-3 Covenant Against Contingent Fees (Easement) (09/2020)** This clause is required in all easements.  
  
The Grantor warrants that no person or agency has been employed or retained to solicit or obtain this contract upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Government shall have the right to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration, or otherwise recover the full amount of the contingent fee.   
  
**6.3.34 RE Anti-Kickback (09/2020)** Required in all Real Estate Contracts.  
  
The Anti-Kickback Act of 1986 (41 U.S.C. 51-58), prohibits any person from (1) Providing or attempting to provide or offering to provide any kickback; (2) Soliciting, accepting, or attempting to accept any kickback; or (3) Including, directly or indirectly, the amount of any kickback in the contract price charged by a prime Contractor to the United States or in the contract price charged by a subcontractor to a prime Contractor or higher tier subcontractor.   
  
**6.3.35 Examination of Records (09/2020)** This clause is required when applicable in all real estate contracts where the FAA pays rent.   
  
The Comptroller General of the United States, the Administrator of FAA or a duly authorized representative from either shall, until three (3) years after final payment under this contract have access to and the right to examine any of the Lessor’s directly pertinent books, documents, paper, or other records involving transactions related to this contract.  
  
**6.3.36 Subordination, Nondisturbance and Attornment (09/2020)** This clause is required in all real estate contracts except outgrants.  
  
A. The Government agrees, in consideration of the warranties and conditions set forth in this clause, that this contract is subject and subordinate to any and all recorded mortgages, deeds of trust and other liens now or hereafter existing or imposed upon the premises, and to any renewal, modification or extension thereof. It is the intention of the parties that this provision shall be self-operative and that no further instrument shall be required to effect the present or subsequent subordination of this contract. Based on a written demand received by the RECO, the Government will review and, if acceptable, execute such instruments as the contractor may reasonably request to evidence further the subordination of this contract to any existing or future mortgage, deed of trust or other security interest pertaining to the premises, and to any water, sewer or access easement necessary or desirable to serve the premises or adjoining property owned in whole or in part by the contractor if such easement does not interfere with the full enjoyment of any right granted the Government under this contract.

B. No such subordination, to either existing or future mortgages, deeds of trust or other lien or security instrument shall operate to affect adversely any right of the Government under this contract so long as the Government is not in default under this contract. Contractor will include in any future mortgage, deed of trust or other security instrument to which this contract becomes subordinate, or in a separate non-disturbance agreement, a provision to the foregoing effect. Contractor warrants that the holders of all notes or other obligations secured by existing mortgages, deeds of trust or other security instruments have consented to the provisions of this clause, and agrees to provide true copies of all such consents to the RECO promptly upon demand.

C. In the event of any sale of the premises or any portion thereof by foreclosure of the lien of any such mortgage, deed of trust or other security instrument, or the giving of a deed in lieu of foreclosure, the Government will be deemed to have attorned to any purchaser, purchasers, transferee or transferees of the premises or any portion thereof and its or their successors and assigns, and any such purchasers and transferees will be deemed to have assumed all obligations of the contractor under this contract, so as to establish direct privity of estate and contract between Government and such purchasers or transferees, with the same force, effect and relative priority in time and right as if the contract had initially been entered into between such purchasers or transferees and the Government; provided, further, that the RECO and such purchasers or transferees shall, with reasonable promptness following any such sale or deed delivery in lieu of foreclosure, execute all such revisions to this contract, or other writings, as shall be necessary to document the foregoing relationship.

D. None of the foregoing provisions may be deemed or construed to imply a waiver of the Government's rights as a sovereign.  
  
**6.3.37-1 Notification of Change in Ownership or Control of Land (09/2020)** This clause is required in all easements.  
  
If the Grantor sells, dies or becomes incapacitated, or otherwise conveys to another party or parties any interest in the aforesaid land, rights of way thereto, and any areas affecting the premises, the Government shall be notified in writing, of any such transfer or conveyance within 30 calendar days after completion of the change in property rights. Concurrent with the written notification, the Grantor or Grantor's heirs, representatives, assignees, or trustees shall provide the Government copies of the associated legal document(s) (acceptable to local authorities) for transferring and/or conveying the property rights.  
  
**6.3.45-3 RE Contract Disputes (Easement) (09/2020)** Required in all RE Easements (note that other versions are available for use in Leases/Permits/Licenses/Agreements).  
  
All contract disputes arising under or related to this Easement will be resolved through the FAA dispute resolution system at the Office of Dispute Resolution for Acquisition (ODRA) and will be governed by the procedures set forth in 14 C.F.R. Parts 14 and 17, which are hereby incorporated by reference. Judicial review, where available, will be in accordance with 49 U.S.C. 46110 and will apply only to final agency decisions. A Grantor may seek review of a final Government decision only after its administrative remedies have been exhausted.

All contract disputes will be in writing and will be filed at the following address:

Office of Dispute Resolution for Acquisition, AGC-70

Federal Aviation Administration

800 Independence Avenue, S.W., Room 323

Washington, DC 20591

Telephone: (202) 267-3290

A contract dispute against the FAA will be filed with the ODRA within two (2) years of the accrual of the lease claim involved. A contract dispute is considered to be filed on the date it is received by the ODRA.

The full text of the Contract Disputes clause is incorporated by reference. Upon request the full text will be provided by the RECO.  
  
**6.3.46-1 Mineral Rights (09/2020)** This clause is optional for easements if mineral rights are requested by the grantor.  
  
The Grantor hereby reserves all mineral rights in, on, and under the leased premises. Should the Grantor find it necessary to drill for minerals, consent hereto shall first be secured from the Government in writing. The Grantor will coordinate with the Government necessary schedules, etc. and agree not to erect or allow to be erected any structure of obstruction that may interfere with the proper operation of the Government’s Facility. The Grantor's removal of any minerals shall be only by means of drilling from adjacent or nearby lands.   
  
**6.3.47-2 Clearing/Disposing of Debris (09/2020)** This clause is optional for Easements.  
  
A. The Government shall notify the Grantor in writing ten (10) days prior to the start of any clearing of trees and/or brush and tree cuttings.

B. The Grantor grants the Government the right and privilege to enter upon the Grantor's land in order to cut, trim, tip, shape and maintain to the maximum, height of 5’4” above ground level, any trees situated within the <Type of Facility> and said cutting privilege granted to the Government shall include native grasses, scrub brush, and scrub to trees. Only those trees that are determined by the Government to interfere with the operation and proper function of the Government’s <Type of Facility> facility will be subject to the Government’s granted privilege. Coordination with the Grantor will be made prior to any cutting of any selected trees.

C. The Government agrees to dispose of all grass, brush, and tree cuttings by its contractor. All tree logs, limbs, or branches 2 or more inches in diameter and 5 feet in length, shall be stacked in an area selected by the Grantor. The Government’s disposal of debris, grass, branches, etc., shall comply with regulatory requirements.   
  
**6.3.48 Road Maintenance - Alternate I (09/2020)** This clause is optional for use in land leases and easements where multiple users are accessing the road and the Lessor/Grantor agrees to maintain the road as part of rental consideration. NOTE: This clause should be deleted if 6.3.48-1 is used.  
  
The Government does not have exclusive use of the access road; but, shall share the use of the access road with Grantor and Grantor’s contractors. Compensation for use of the access road shall be included in the rent. Grantor agrees to maintain the access road to a standard to be determined by the Government.   
  
OR  
  
**6.3.48-1 Road Maintenance - Alternate II (09/2020)** This clause is optional for use in land leases and easements where the Government reserves the right to maintain the access road. NOTE: This clause should be deleted if 6.3.48 is used.  
  
The Government shall have the right, but not the obligation, to maintain and/or reconstruct the existing access road. All road maintenance/construction shall be of the most economical type that will provide satisfactory and safe transportation of personnel, equipment and material in the type of weather and climatic conditions normally encountered at this location. The Government shall not maintain or contribute to the maintenance of said access road beyond Government standards or requirements.  
  
**SECTION 6.4: FINANCIAL CLAUSES**  
  
**6.4.1 System for Award Management - Real Property (SAM Waiver) (09/2020)**   
This clause is required when applicable in all real property contracts when the FAA has waived the SAM requirements for payment information. \*\*NOTE: If the vendor is registered in SAM clause 6.4.1-1 MUST be used and this clause, 6.4.1 "System for Award Management (SAM Waiver)" MUST be removed.  
Please also note that if clause 6.2.6-3 "Consideration (No Cost)" is used this clause MUST be removed as it is not applicable.

The System for Award Management (SAM) is the Government's required method to receive vendor information. However, you have been granted an exception to SAM and therefore must provide your initial payment information and any future changes to your payment information to the RECO on a completed and signed "Vendor Miscellaneous Payment Information" form, together with any other required notice under this lease.   
  
OR

**6.4.1-1 System for Award Management- Real Property (09/2020)** This clause is required when applicable in "cost" leases or bilateral modifications to existing leases.  
\*\*NOTE: If the vendor is exempted from the use of SAM, clause 6.4.1 "System for Award Management (SAM Waiver)" MUST be used and this clause, clause 6.4.1-1, MUST be removed.  
Please also note that if clause 6.2.6-3 "Consideration (No Cost)" is used this clause MUST be removed as it is not applicable.  
  
The FAA uses the System for Award Management (SAM) as the primary means to maintain contractor information required for payment under any FAA lease.

A. Definitions. As used in this clause:

1. "SAM database" means the primary Government repository for contractor information required to the conduct of business with the Government.

2. "Contractor" is synonymous with "Lessor" or "Grantor" for real property leases, easements, or other contracts.

3. "Data Universal Numbering System (DUNS) number" means the 9-digit number assigned by Dun and Bradstreet, Inc. (D&B) to identify unique business entities.

4. "Data Universal Numbering System +4 (DUNS+4) number" means the DUNS number assigned by D&B plus a 4-character suffix that may be assigned by a business concern. (D&B has no affiliation with this 4-character suffix.) This 4-character suffix may be assigned at the discretion of the business concern to establish additional SAM records for identifying alternative Electronic Funds Transfer (EFT) accounts for the same parent concern.

5. "Registered in the SAM database" means that the Contractor has entered all mandatory information, including the DUNS number or the DUNS+4 number, into the SAM database.

B. By submission of an offer, the Contractor acknowledges that:

1. A prospective awardee will be registered in the SAM database prior to award, during performance, and through final payment.

2. The Contractor will enter, in the space below, the Contractor's DUNS or DUNS+4 number that identifies the Contractor's name and address exactly as stated in the offer. The DUNS number will be used by the RECO to verify that the Contractor is registered in the SAM database DUNS or DUNS+4 Number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

C. If the Contractor does not have a DUNS number, it will contact Dun and Bradstreet directly to obtain one.

1. A Contractor may obtain a DUNS number:

a. If located within the United States, by calling Dun and Bradstreet at 1-866-705-5711 or via the Internet at http://www.dnb.com; or

b. If located outside the United States, by contacting the local Dun and Bradstreet office.

2. The Contractor will be prepared to provide the following information:

a. Company\* legal business.

b. Tradestyle, doing business, or other name by which your entity is commonly recognized.

c. Company Physical Street Address, City, State, and Zip Code.

d. Company Mailing Address, City, State and Zip Code (if separate from physical).

e. Company Telephone Number.

f. Date the company was started.

g. Number of employees at your location.

h. Chief executive officer/key manager.

i. Line of business (industry).

j. Company Headquarters name and address (reporting relationship within your entity).

\* Individual (non-corporate) Lessors/Grantors of real property that are not normally in the business of leasing real property: You should consider your leasing to the Government as a separate business (usually a sole proprietorship) then provide the pertinent ownership information as a sole proprietor when providing this information to Dunn & Bradstreet.

D. If an otherwise successful Offeror does not become registered in the SAM database in the time prescribed by the RECO, the RECO may proceed to award to the next otherwise successful registered Offeror, if the RECO determines it to be in the best interests of the Government.

E. Processing time, normally 48 hours, will be taken into consideration when registering. Offerors who are not registered will consider applying for registration immediately upon receipt of this solicitation.

F. The Contractor is responsible for the accuracy and completeness of the data within the SAM database, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in the SAM database the Contractor is required to review and update, on an annual basis from the date of initial registration or subsequent updates, its information in the SAM database to ensure it is current, accurate and complete. Updating information in the SAM does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

G. Changes

1. Name or Ownership Changes

a. If a contractor has legally changed its business name, "doing business as" name, or division name (whichever is shown on the lease), or has transferred the assets used in performing the lease, the contractor will provide the responsible RECO a minimum of one business day's written notification of its intention to:

i. Change the name in the SAM database;

ii. Agree in writing to the timeline and procedures the RECO specifies to document the requested change in the contract. With notification, the contractor will provide sufficient documentation to support the legally changed name then execute the appropriate supplemental agreement to document the name change provided by the RECO.

b. The Contractor's entry of the name/ownership change in SAM does not relieve the Contractor of responsibility to provide proper notice of the name change to the RECO. The change in SAM cannot be made effective until the appropriate documentation/ supplemental agreement is executed by the RECO. Any discrepancy in payee information in SAM caused by a failure to fulfill the requirements will result in a discrepancy that is incorrect information, this will result in suspension of payment as described in the "Payment by Electronic Funds Transfer" clause in this contract.

H. Exceptions to SAM. As provided for in AMS, certain contractors may qualify by limited exceptions to SAM waiver. If a contractor is determined by the RECO to merit justification of a waiver from SAM, then the contractor will provide initial payment information and any future vendor information changes to the RECO on the "Vendor Miscellaneous Payment Information" form, provided by the RECO. An alternate clause, "System for Award Management (SAM Waiver)" will be included in the contract and the contractor will comply with the terms of that clause. Having an exception from SAM does not excuse a vendor from EFT payment requirements, as required in the "Payment by Electronic Funds Transfer" clause in this Lease.

1. Contractors may obtain information on registration and annual confirmation requirements via the internet at http://www.sam.gov or by calling 866-606-8220.  
  
**6.4.2-1 Payment by Electronic Funds Transfer for Easements (09/2020)** This clause is required when applicable for all easements where the government is paying rent or one-time costs.   
  
All payments by the Government under this Easement will be made by electronic funds transfer (EFT). The Government will make payment by EFT through the Automated Clearing House (ACH) network, subject to the rules of the National Automated Clearing House Association. The rules governing federal payments through the ACH are contained in 31 CFR Part 210. The Grantor is responsible for maintaining correct payment information with the Government. If the Grantor's EFT information is incorrect or outdated, the Government is not required to make payments to the Grantor until correct/current EFT information is submitted to the Government for payment distribution.  
  
**SECTION 6.5: DESIGN & CONSTRUCTION CLAUSES- NOT APPLICABLE  
  
SECTION 6.6: GENERAL BUILDING REQUIREMENTS & SPECIFICATIONS CLAUSES- NOT APPLICABLE  
  
SECTION 6.7: SERVICES, UTILITIES, & MAINTENANCE CLAUSES- NOT APPLICABLE  
  
SECTION 6.8: ENVIRONMENTAL & OCCUPATIONAL SAFETY & HEALTH CLAUSES- NOT APPLICABLE  
  
SECTION 6.9: SECURITY CLAUSES**  
  
**6.9.5 Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment (01/2021)** Must be used in all SIRs, including SFOs, contracts, and leases. Must be used prior to placing, extending, or renewing any contract or order. Must be used prior to placing a new, superseding, or succeeding lease or extending or renewing any lease.

CLAUSE:

(a) Definitions. As used in this clause--

*Backhaul* means intermediate links between the core network, or backbone network, and the small subnetworks at the edge of the network (*e.g.*, connecting cell phones/towers to the core telephone network). Backhaul can be wireless (e.g., microwave) or wired (*e.g.*, fiber optic, coaxial cable, Ethernet).

*Covered foreign country* means The People's Republic of China.

*Covered telecommunications equipment or services* means—

(1) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities);

(2) For the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);

(3) Telecommunications or video surveillance services provided by such entities or using such equipment; or

(4) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably

believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

*Critical technology* means—

(1) Defense articles or defense services included on the United States Munitions List set forth in the International Traffic in Arms Regulations under subchapter M of chapter I of title 22, Code of Federal Regulations;

(2) Items included on the Commerce Control List set forth in Supplement No. 1 to part 774 of the Export Administration Regulations under subchapter C of chapter VII of title 15, Code of Federal Regulations, and controlled—

(i) Pursuant to multilateral regimes, including for reasons relating to national security, chemical and biological weapons proliferation, nuclear nonproliferation, or missile technology; or

(ii) For reasons relating to regional stability or surreptitious listening.

(3) Specially designed and prepared nuclear equipment, parts and components, materials, software, and technology covered by part 810 of title 10, Code of Federal Regulations (relating to assistance to foreign atomic energy activities);

(4) Nuclear facilities, equipment, and material covered by part 110 of title 10, Code of Federal Regulations (relating to export and import of nuclear equipment and material);

(5) Select agents and toxins covered by part 331 of title 7, Code of Federal Regulations, part 121 of title 9 of such Code, or part 73 of title 42 of such Code; or

(6) Emerging and foundational technologies controlled pursuant to section 1758 of the Export Control Reform Act of 2018 (50 U.S.C. 4817).

*Interconnection arrangements* means arrangements governing the physical connection of two or more networks to allow the use of another's network to hand off traffic where it is ultimately delivered (*e.g.*, connection of a customer of telephone provider A to a customer of telephone company B) or sharing data and other information resources.

*Reasonable inquiry* means an inquiry designed to uncover any information in the entity's possession about the identity of the producer or provider of covered telecommunications equipment or services used by the entity that excludes the need to include an internal or third-party audit.

*Roaming* means cellular communications services (*e.g.*, voice, video, data) received from a visited network when unable to connect to the facilities of the home network either because signal coverage is too weak or because traffic is too high.

*Substantial or essential component* means any component necessary for the proper function or performance of a piece of equipment, system, or service.

(b) Prohibitions.

(1) Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13,

2019, from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. The Contractor is prohibited from providing to the Government any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in AMS T3.6.4 A 16.e.

(2) Section 889(a)(1)(B) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2020 from entering into a contract, or extending or renewing a contract, with an entity that uses any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in AMS T3.6.4A.16.e. This prohibition applies to an entity that uses covered telecommunications equipment or services, including use not in support of the Government.

(c) Exceptions. This clause does not prohibit contractors from providing—

(1) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(2) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(d) Reporting requirement.

(1) In the event the Contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the Contractor is notified of such by a subcontractor at any tier or by any other source, the Contractor must report the information in paragraph (d)(2) of this clause to the Contracting Officer, unless elsewhere in this contract are established procedures for reporting the information. For indefinite delivery contracts, the Contractor must report to the Contracting Officer for the indefinite delivery contract and the Contracting Officer(s) for any affected order.

(2) The Contractor must report the following information pursuant to paragraph (d)(1) of this clause:

(i) Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.

(ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions

undertaken or recommended. In addition, the Contractor must describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

(e) Subcontracts. The Contractor must insert the substance of this clause, including this paragraph (e), in all subcontracts and other contractual instruments, including subcontracts for the acquisition of commercial items.

**6.9.5-1 Covered Telecommunications Equipment or Services- Representations (01/2021)**

Must be used in all SIRs, including SFO and in all Real Estate contracts and leases. If the answer to the representation in (c)(1) is “does”, the offeror must also complete the (d)(1) representation under AMS 6.9.5-2 “Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment”. If the answer to the representation in (c)(2) is “does”, the offeror must also complete the (d)(2) representation under AMS 6.9.5-2 “Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment”.

PROVISION/CLAUSE:

(a) *Definitions*. As used in this provision, “covered telecommunications equipment or services” has the meaning per the clause 6.9.5 Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment”.

(b) *Procedures*. The offeror must review the list of excluded parties in the System for Award Management (SAM) (<https://www.sam.gov>) for entities excluded from receiving federal awards for covered telecommunications equipment or services.

(c) *Representations*.

1. The offeror represents that it \_\_\_\_\_\_\_\_\_ does, \_\_\_\_\_\_\_\_\_ does not provide covered telecommunications equipment or services as part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument.
2. After conducting a reasonable inquiry for purposes of this representation, the offeror represents that it \_\_\_\_\_\_\_\_\_\_\_\_\_ does, \_\_\_\_\_\_\_\_\_\_\_\_\_\_ does not use covered telecommunications equipment or services, or any equipment, system, or service that uses telecommunications equipment or services.

**6.9.5-2 Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment (01/2021)**

Must be used in all SIRs/SFOs, and in all Real Estate contracts and leases, including purchases under the micro-purchase threshold. Must be used in conjunction with AMS Real Property Contracts Clause 6.9.5 Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

NOTE: The offeror must not complete the representation at paragraph (d)(1) in this provision if the offeror has represented that it does not provide covered telecommunications equipment or services as part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument in provision 6.9.5-1 Covered Telecommunications Equipment or Services – Representation (c)(1). Additionally, The offeror must not complete the representation at paragraph (d)(2) in this provision if the offeror has represented that it does not use covered telecommunications equipment or services, or any equipment, system, or service that uses telecommunications equipment or services in provision 6.9.5-1 Covered Telecommunications Equipment or Services – Representation (c)(2).

PROVISION/CLAUSE:

(a) Definitions. As used in this provision--

*Backhaul, covered telecommunications equipment or services, critical technology, interconnection arrangements, reasonable inquiry, roaming, and substantial or essential component* have the meanings provided in the clause AMS clause 6.9.5, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

(b) Prohibitions.

(1) Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2019, from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

Nothing in this prohibition will be construed to—

(i) Prohibit the head of the agency from procuring with an entity to provide a service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(ii) Cover telecommunications equipment that cannot route or redirect user data traffic or cannot permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(2) Section 889(a)(1)(B) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2020 from entering into a contract or renewing a contract with an entity that uses any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential part of any system or as critical technology as part of any system. This prohibition applies to any entity that uses covered telecommunications equipment or services, including uses not in support of the Government.

Nothing in this prohibition will be construed to-

(i) Prohibit the head of the agency from procuring with an entity to provide a service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(ii) Cover telecommunications equipment that cannot route or redirect user data traffic or cannot permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(c) Procedures: The offeror must review the list of excluded parties in the System for Award Management (SAM) (https://www.sam.gov) for entities excluded from Federal awards for covered telecommunications equipment or services.

(d) Representations.

(1) The Offeror represents that it [ ] will, [ ] will not provide covered telecommunications equipment or services to the Government in the performance of any contract, subcontract or other contractual instrument resulting from this solicitation.

(2) After conducting a reasonable inquiry for purposes of this representation, the Offeror represents that it does [ ] does not [ ] USE covered telecommunications equipment or services, or use any equipment, system, or service that uses covered telecommunications equipment or services. The Offeror must provide the additional disclosure information required at paragraph (e) if the Offeror indicates “does”.

(e) Disclosures. Disclosure for the representation in paragraph (d) (1) of this provision-

If the Offeror has responded “will” in the representation in paragraph (d) (1) of this provision, the Offeror must provide the following information as part of the offer—

(1) For covered equipment

(i) The entity that produced the covered telecommunications equipment (include entity name, unique entity identifier, CAGE code, and whether the entity was the original equipment manufacturer (OEM) or a distributor, if known;

(ii) A description of all covered telecommunications equipment offered (include brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); and

(iii) Explanation of the proposed use of covered telecommunications equipment and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b) (1) of this provision;

(2) For covered services-

(i) If the service is related to item maintenance, a description of all covered telecommunications services offered (include on the item being maintained: brand, model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable; or

(ii) If not associated with maintenance, the Product Service Code (PSC) of the service being provided; and explanation of the proposed uses of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(1) of this provision.

Disclosure for representation in paragraph (d) (2) of this provision. If the Offeror has responded “does” to paragraph (d)(2) of this provision, the offeror must provide the following information as part of the offer—

(3) For covered equipment

(i)The entity that produced the covered telecommunications equipment (include entity name, unique entity identifier, CAGE code, and whether the entity was the OEM or a distributor, if known;

(ii) A description of all covered telecommunications equipment offered (include brand; model number, such as original equipment manufacturer (OEM) number, manufacturer part number, or wholesaler number; and item description, as applicable); and

(iii) Explanation of the proposed use of covered telecommunications equipment and services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b) (2) of this provision.

(4) For covered services-

(i) If the service is related to item maintenance, a description of all covered telecommunications services offered (include on the item being maintained: brand, model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); or

(ii) If not associated with maintenance, the Product Service Code (PSC) of the service being provided; and explanation of the proposed uses of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(2) of this provision.

**SECTION 6.10: CLOSING**  
  
**6.10.1-1 Notices for Easements (09/2020)** This clause is required in all Easements  
  
All notices/correspondence must be in writing, reference the Easement number, and shall be deemed to be given when delivered personally or when deposited in the United States mail, certified or registered, postage prepaid, and addressed as follows:

TO GRANTOR:

<insert name>

<insert address>  
<Insert City, State, Zip code>

TO GOVERNMENT:

Federal Aviation Administration

<Insert Service Area Name>

Real Estate & Utilities Group, <Insert appropriate routing code>  
<Insert appropriate FAA Address>

<Insert City, State, Zip code>   
  
**6.10.3 -3 Easement Signature Block (09/2020)** This clause is required in all Easements. RECO may adjust as needed for multiple signatures/notaries/etc.  
  
In witness whereof, Grantor and the Government have executed this Agreement as of the dates set forth below.

[INSERT GRANTOR NAME]

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Print Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: [\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_]

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

UNITED STATES OF AMERICA

DEPARTMENT OF TRANSPORTATION

FEDERAL AVIATION ADMINISTRATION

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Print Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: Real Estate Contracting Officer

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
  
**SECTION 6.11- ATTACHMENTS/EXHIBITS/SPECIAL STIPULATIONS**   
  
**[RECO SHOULD UPDATE/ADD/REMOVE AS NEEDED]**

|  |  |  |  |
| --- | --- | --- | --- |
| Number | Title | Date | Number of Pages |
| 1 | EXHIBIT “A”- VOR Aerial Easement/Clear-Zone Criteria” |  |  |
| 2 |  |  |  |
| 3 |  |  |  |
| 4 |  |  |  |
| 5 |  |  |  |