

OTHER TRANSACTION AGREEMENT
BETWEEN
THE FEDERAL AVIATION ADMINISTRATION (FAA) AND
THE NATIONAL CENTER FOR ADVANCED TECHNOLOGIES (NCAT)

March 2005

TABLE OF CONTENTS

ARTICLE 1 PARTIES 3
ARTICLE 2 LEGAL AUTHORITY 3
ARTICLE 3 SCOPE 3
ARTICLE 4 MANAGEMENT OF THE NGATS INSTITUTE 5
ARTICLE 5 EFFECTIVE DATE AND TERM 12
ARTICLE 6 MILESTONES 12
ARTICLE 7 REPORTING REQUIREMENTS 12
ARTICLE 8 INTELLECTUAL PROPERTY 13
ARTICLE 9 POINTS OF CONTACT 14
ARTICLE 10 FUNDING AND PAYMENT 14
ARTICLE 11 LIMITATION OF FUNDS 15
ARTICLE 12 AUDITS 15
ARTICLE 13 CHANGES, MODIFICATIONS 16
ARTICLE 14 TERMINATION 16
ARTICLE 15 ORDER OF PRECEDENCE 16
ARTICLE 16 CONSTRUCTION OF THE AGREEMENT 16
ARTICLE 17 DISPUTES 16
ARTICLE 18 WARRANTIES 17
ARTICLE 19 INSURANCE 17
ARTICLE 20 LIMITATION OF LIABILITY 17
ARTICLE 21 LOWER TIER AGREEMENTS 17
ARTICLE 22 CIVIL RIGHTS ACT 18
ARTICLE 23 OFFICIALS NOT TO BENEFIT 18
ARTICLE 24 NGATS INSTITUTE/CONTRACTOR PERSONNEL SECURITY
REQUIREMENTS 18
ARTICLE 25 PROTECTION OF INFORMATION 18
ARTICLE 26 INCORPORATION BY REFERENCE 19
ARTICLE 27 DEFINITIONS 19

APPENDIX A -- Mandatory Information for Electronic Funds Transfer (EFT) Payment -
Central Contractor Registration (CCR)

APPENDIX B – NGATS Institute/Contractor Personnel Security Requirements

**AGREEMENT BETWEEN
THE FEDERAL AVIATION ADMINISTRATION AND
THE NATIONAL CENTER FOR ADVANCED TECHNOLOGIES**

BACKGROUND

“Vision 100—Century of Aviation Reauthorization Act,” Pub. L. 108-176, created the Joint Planning and Development Office (JPDO). The Act provides that JPDO’s responsibilities shall include:

- (a) creating and carrying out an integrated plan for a Next Generation Air Transportation System...;
- (b) overseeing research and development on that system;
- (c) creating a transition plan for the implementation of that system;
- (d) coordinating aviation and aeronautics research programs to achieve the goal of more effective and directed programs that will result in applicable research;
- (e) coordinating goals and priorities and coordinating research activities within the Federal Government with United States aviation and aeronautical firms;
- (f) coordinating the development and utilization of new technologies to ensure that when available, they may be used to their fullest potential in aircraft and in the air traffic control system;
- (g) facilitating the transfer of technology from research programs such as those conducted by the National Aeronautics and Space Administration and the Department of Defense Advanced Research Projects Agency to Federal agencies with operational responsibilities and to the private sector; and
- (h) reviewing activities relating to noise, emissions, fuel consumption, and safety conducted by Federal agencies, including the Federal Aviation Administration, the National Aeronautics and Space Administration, the Department of Commerce, and the Department of Defense.

“Vision 100” provides that the Next Generation Air Transportation System (NGATS) shall:

- (1) improve the level of safety, security, efficiency, quality, and affordability of the National Airspace System and aviation services;
- (2) take advantage of data from emerging ground-based and space-based communications, navigation, and surveillance technologies;
- (3) integrate data streams from multiple agencies and sources to enable situational awareness and seamless global operations for all appropriate users of the system, including users responsible for civil aviation, homeland security, and national security;
- (4) leverage investments in civil aviation, homeland security, and national security and build upon current air traffic management and infrastructure initiatives to meet system performance requirements for all system users;

- (5) be scalable to accommodate and encourage substantial growth in domestic and international transportation and anticipate and accommodate continuing technology upgrades and advances;
- (6) accommodate a wide range of aircraft operations, including airlines, air taxis, helicopters, general aviation, and unmanned aerial vehicles; and
- (7) take into consideration, to the greatest extent practicable, design of airport approach and departure flight paths to reduce exposure of noise and emissions pollution on affected residents.

“Vision 100” directs that, “[i]n developing and carrying out its plans, the Office shall consult with the public and ensure participation of experts from the private sector including representatives of commercial aviation, general aviation, aviation labor groups, aviation research and development entities, aircraft and air traffic control suppliers, and the space industry.”

ARTICLE 1 PARTIES

The parties to this Agreement are the Federal Aviation Administration (FAA) and the National Center for Advanced Technologies, Inc. (NCAT), a corporation organized pursuant to the laws of the District of Columbia and exempt from Federal taxation pursuant to Section 501 (c) (3) of the Internal Revenue Code.

ARTICLE 2 LEGAL AUTHORITY

This Agreement is an “other transaction agreement” within the meaning of 49 U.S.C., §106 (l) (6). It is not intended to be, nor shall it be construed as a partnership (in the strict legal sense), corporation, or other business organization. This Agreement is entered into on such terms and conditions as the Administrator determines necessary.

ARTICLE 3 SCOPE

- A. *Purpose.* The purposes of this Agreement between FAA and NCAT are:
 - (i) To enable collective enterprise between government and the private sector in order to coordinate goals and priorities, and to define, develop, and implement a Next Generation Air Transportation System (NGATS) capable of meeting the safety, security, capacity, efficiency, and productivity demands of 2025;
 - (ii) To establish a mechanism for gathering the best expertise and applying such expertise and other resources to studying, researching, planning, developing, demonstrating, evaluating, and implementing advanced concepts and technologies in support of the NGATS;

- (iii) To encourage the accommodation of transformative ideas by managing interfaces between stakeholder organizations; and
- (iv) To sustain a long-term shared undertaking by promoting jointly supported solutions and coordinated investments.

B. *Specific Goals and Objectives to Be Accomplished*

- (i) Establish the NGATS Institute, as described herein, as the mechanism through which the JPDO will access world-class private sector expertise, tools, and facilities for application to NGATS activities and tasks;
- (ii) Conduct work through the NGATS Institute as requested by JPDO in support of planning, research, analysis, assessment, architecture, functional requirements setting, prototyping, simulation, and demonstrating future system attributes;
- (iii) Validate new concepts and approaches by identifying impacts and dependencies across organizations and disciplines; encouraging and assessing innovations; and leveraging knowledge and resources to accomplish meaningful goals and objectives; and
- (iv) Establish a collaborative relationship between Government and the private sector that will serve as a catalyst for fostering a shared vision of the NGATS and the combining of talents and resources of Government, industry, and academia.

C. *Roles and Responsibilities of the Parties to this Agreement*

- (i) The parties are bound by a duty of good faith and best effort in achieving the goals of this Agreement.
- (ii) The National Center for Advanced Technologies (NCAT) will establish and administer an entity known as the NGATS Institute in accordance with the goals and objectives, organizational principles and procedures, and management guidelines stated herein.
- (iii) NCAT shall apply the NGATS Institute mechanism herein agreed, and use NGATS Institute resources to perform tasks, functions, and projects required by the JPDO Director, and according to terms, conditions and schedules negotiated and agreed with the JPDO Director and the NGATS Institute Executive Director.

- (iv) The FAA will provide NCAT with resources, as agreed, to support operations of the NGATS Institute, and will work with the JPDO and NGATS to achieve the purposes and goals set forth in this agreement.
- (v) The JPDO Director, and/or his/her designee shall confer regularly with the Executive Director to plan and agree upon appropriate and useful tasks in which the NGATS Institute shall engage in support of the NGATS. They also shall communicate on a regular basis to ensure that the NGATS Institute is cognizant and responsive to JPDO requirements, and that Government and Industry are functioning collaboratively and effectively as a collective enterprise.
- (vi) The JPDO Director will ensure regular briefings are provided to the Institute Management Council on the progress of the JPDO including the IPTs and other working groups.

D. *Contributions of the Parties to this Agreement*

- (i) The FAA, through the JPDO, will provide to the NGATS Institute free of charge office space at its JPDO location, and such equipment as necessary for operations of the NGATS Institute. This may include, as available, facilities and equipment for administrative offices; meeting rooms, audiovisual, and teleconferencing facilities; incidental administrative and clerical support. The FAA, through the JPDO, also will provide funding to support the administration of the NGATS Institute in accordance with Article 10 of this Agreement.
- (ii) Subject to the availability of funding under Article 10 of this Agreement, NCAT will provide the necessary time and efforts of its Board of Directors and staff to support the NGATS Institute.

ARTICLE 4 MANAGEMENT OF THE NGATS INSTITUTE

- A. *Participants; Manner of Acting.*** The NGATS Institute will be comprised of Participants, which may include any individual or entity. Participation will be open continuously, unless other terms and conditions are approved in writing by the JPDO. The NGATS Institute will make reasonable business efforts to solicit participation.
- (i) *No Dues.* There shall be no dues charged by the NGATS Institute to participants, unless expressly approved in writing by the JPDO.
 - (ii) *Public Meeting.* The NGATS Institute shall hold at least one public meeting per year to review the status of the Institute's activities and obtain public comment. The time and place for the meeting are to be determined by the Executive Director and approved by the Institute Management

Council. Timely notice of the Annual Meeting will be announced on the NGATS website and provided directly to registered participants. Registration fees, if any, for public meetings shall not exceed direct costs plus reasonable G&A. Income and expenses associated with public meetings shall be accounted for separately and reported on FAA invoices.

- B. *Institute Management Council: Composition.* The Institute Management Council (Council) shall be composed of sixteen (16) members selected to provide within the limited size of the Council a broad representation of the civil aviation community and a commitment to the transformation of the national air transportation system. The composition of Council members should reflect the senior-level leadership of the aviation community. Individual members of the Institute Management Council are expected to primarily promote the national interest.
- (i) Seats on the Institute Management Council shall be allocated as follows:
- (1) Council Co-Chairs shall be the President, Air Traffic Control Association and the President, Air Transport Association.
 - (2) The JPDO Director, or his/her designee, shall serve as an Ex-Officio Member in a non-voting capacity.
 - (3) There shall be one seat each for:
 - Regional commercial airline operations;
 - Business aircraft operations;
 - Helicopter operations;
 - Small aircraft general aviation;
 - Commercial pilots;
 - Air traffic controllers
 - Airport operators
 - (4) There shall be two seats total for manufacturers of air vehicles (including piloted and unpiloted vehicles), and airborne/space-borne and ground based equipment.
 - (5) There shall be two seats total for federal advisory committees, universities, and nonprofit research organizations.
 - (6) There shall be two seats total for participants at large.

- C. *Institute Management Council: Initial Selection Process.* The Institute Management Council should be formed as expeditiously as possible following initiation of this Agreement. Selection of Institute Management Council members shall be made in the following manner:
- (i) The Co-Chairs shall be the President of the Air Traffic Control Association and the President of the Air Transport Association.
 - (ii) The JPDO Ex-Officio member shall be the JPDO Director, or his/her designee.
 - (iii) All other members of the Institute Management Council shall be selected from a pool of participants who have applied to serve as a member of the Institute Management Council. Participants will be notified on the Institute website and in any other appropriate manner of the opportunity to serve, the terms and conditions of service, and the manner of application.
 - (iv) There shall be an Executive Committee, with duties as set forth in Paragraph F below, consisting of the Co-Chairs, the JPDO Ex-Officio member, and three additional members selected by the Co-Chairs from among the pool of participant applicants.
 - (v) The Executive Committee will select seven members from among the pool of participant applicants.
 - (vi) The resulting thirteen (13) Institute Management Council members shall then select two persons to serve as members at-large.
 - (vii) Except for the Co-Chairs and JPDO Ex-Officio member, terms of office Institute Management Council members are for one year, but initially, one-half of the members shall serve a two year term. The initial terms shall be determined by lottery. Successive terms are permitted.
 - (viii) The final composition of, and names of persons selected to serve on, the Institute Management Council and the nature of the seat each fills shall be posted on the Institute web site.
- D. *Ongoing Selection Process.* After the initial empanelling of the Institute Management Council, members will be selected from the pool of participant applicants by a majority vote of the Institute Management Council members as required to maintain the composition of the Council as set forth in Paragraph B above.

- E. *Institute Management Council; Compensation.* Members of the Institute Management Council shall receive no monetary compensation for service on the Council.
- F. *Institute Management Council; Executive Committee.* The Executive Committee will be composed of the Co-Chairs and three members of the Institute Management Council selected by them, and the JPDO Ex-Officio member (in a non-voting capacity). The Executive Committee will be empowered by the Institute Management Council to conduct business on its behalf, such as providing guidance to the Executive Director, providing interim decisions, or acting as a working subcommittee of the Council, in the period between full Institute Management Council meetings. All actions and decisions of the Executive Committee will be subject to the full review and ratification by the Institute Management Council. After the initial empanelling, the members of the Executive Committee, except for the Co-Chairs and the JPDO Ex-Officio member, will be elected annually by the majority vote of the Institute Management Council. In the event of a vacancy, the Institute Management Council will select by majority vote a member to serve the remaining term.
- G. *Executive Director.*
- (i) *Selection.* The Executive Committee will select an Executive Director, subject to approval by the JPDO Director and subsequent hiring by NCAT. During periods of vacancy, the Executive Committee may appoint an individual, subject to the approval of the JPDO Director, to act as the Interim Executive Director. The Interim Executive Director shall serve in a temporary capacity until the selection of an Executive Director can be made. The Interim Executive Director is vested with the same authority and responsibilities as the Executive Director.
- (ii) *Duties.* The Executive Director is the chief administrator and executive officer of the NGATS Institute. The Executive Director will be responsible for maintaining and operating the NGATS Institute's offices, keeping its books and records, employing and supervising technical, professional, and administrative staff for the NGATS Institute's activities, and performing duties delegated by the Institute Management Council, and such other duties specified in this Agreement. The Executive Director shall report and be held accountable to the NCAT Board for proper financial management of the NGATS Institute. He/she shall make such periodic reports as the Institute Management Council shall require. He/she shall be responsible for assuring performance of all technical and professional activities undertaken by the NGATS Institute. He/she shall also be responsible for actively encouraging participants to leverage resources in support of the NGATS initiative. He/she shall confer with the JPDO Director, or his/her designee, concerning what tasks, issues, studies, and other assignments the NGATS Institute shall undertake, what products

will be produced, the schedule for milestones and completion of the tasks, and what resources will be necessary and available to successfully complete those tasks. The Executive Director shall be responsible for soliciting, selecting, employing and assigning experts to tasks; staffing working groups, and assuring quality control of their products; organizing meetings, symposia, and roundtables; recording and maintaining minutes of the Institute Management Council; publishing reports, working and white papers, summaries of proceedings, and other documents; and performing, or having performed, any and all other tasks and services required to satisfy the NGATS Institute obligations to the JPDO.

- (iii) *Removal.* The Executive Director may be removed by the Institute Management Council at will upon a vote of two-thirds of the members. NCAT may remove the Executive Director for cause.

- H. *Review of Institute Management Council Composition and Selection Process.* The Institute Management Council shall annually review the composition of the Institute Management Council and the selection process, as provided for in Paragraphs B and D, for continuing appropriateness. Changes to the composition or selection process may be recommended by a two-thirds vote of the Institute Management Council. NCAT will thereupon seek a modification of this Agreement and present justification to the FAA, which will respond expeditiously.
- I. *Institute Management Council: Manner of Acting.* The Institute Management Council shall oversee the policy, recommendations, and products of the NGATS Institute. The Institute Management Council shall also be responsible for review of the Institute's contract selection process to ensure that it remains fair and effective. The Institute Management Council shall meet at least annually, at a time and place to be determined. The Council Co-Chairs, independently or jointly, may call other meetings as needed to conduct its affairs. At least fourteen (14) days advance notice will be provided by the Executive Director to Council Members by written or electronic mail communication for all meetings of the Council. Meetings may be conducted on less than fourteen days notice, but only by written consent of all Council Members. At all meetings of the Council, a majority of the total number of Council Members then in office shall constitute a quorum for transaction of business, and the act of a majority of Council Members present at any meeting at which there is a quorum shall be the act of the entire Council. Subject to notice requirements, the Council may meet in person, by telephone conference in which each Council Member can hear the voices of all others, or by electronic communication in which each Council Member simultaneously is privy to every communication of all others (e.g. "web meeting"). The Council may take action by mail ballot, distributed to all members of the Council by first-class mail postage prepaid or by electronic mail; however no such action shall be considered final until ten (10) business days after mailing or electronic distribution of the ballot; and at least a majority of Council

- Members then in office must approve the action. The Council shall keep accurate Minutes of all its proceedings, and these minutes shall be accessible to all Council Members during regular business hours. The entire Council, by majority of the entire Council, may designate such committees of the Council as it deems necessary and desirable, and may delegate to such committees such authority as deemed appropriate.
- J. *Contract Awards.* The Institute shall solicit competitive bids from parties interested in performing contractual work for NCAT that has been requested by the JPDO. Requests for bids on JDPO-sponsored work will be posted on the NGATS Institute web site, identify NCAT as the contracting party for such work, and held open for an appropriate period. Following receipt of bids, the Executive Director shall convene one or more panels, comprised of no less than three qualified individuals from the Institute's Participants, to assist the Executive Director in making the selection of contractual awards based on such factors as cost, contractor capability, and contractor performance. All contractual awards made by the NGATS Institute will be posted on its web site for an appropriate period not less than 15 days. The Institute Management Council shall assign a standing subcommittee, the Contractual Awards Oversight Group, to regularly review the awards process and validate that awards are made in a fair manner. Any contracts awarded by the NGATS Institute are subject to review by the Contractual Awards Oversight Group, at its discretion. Any concerns identified by the Contractual Awards Oversight Group with the NGATS Institute's contractual awards process or specific awards will be forwarded concurrently to the Institute Management Council for their consideration and to the Executive Director for information.
- K. *Protest of Contractual Awards.* Any party that submitted a timely bid but was not selected for specific contractual awards may file a protest if the party disputes the basis for the award. The process for filing protests shall be posted on the NGATS web site. To be valid, all protests must meet the posted process in its entirety and be filed in writing as directed within 10 business days of the announcement of the specific contractual award on the Institute web site. All protests received by the NGATS Institute shall be expeditiously forwarded by the NGATS Institute staff to the Contractual Awards Oversight Board for its review and determination of recommended disposition. Any protest found invalid by the Contractual Awards Oversight Board shall be rejected and no further review of that protest submission shall occur. Within 30 business days of receipt of any valid protest, the Contractual Awards Oversight Board shall provide its recommended disposition to the Institute Management Council. The Institute Management Council has responsibility for the final determination of the outcome of any valid protest of a contractual award. If, after 45 business days from receipt of recommendations from the Contractual Review Oversight Board, the Institute Management Council does not approve, disapprove, or modify those recommendations, the recommendations of the Contractual Review Oversight Board shall become final. Following the disposition of a protest, the NGATS Institute shall provide the

- affected parties notice in writing. If the contract work is needed immediately and the time allocated above for reviews is detrimental, then reviews will be expedited.
- L. *Uncompensated Representation on Integrated Product Teams and Other Working Groups.* The JPDO Director shall provide the NGATS Institute with requests for uncompensated industry stakeholder participation on the JPDO Integrated Product Teams (IPTs) or other technical or policy working groups identified by the JPDO. The JPDO request shall include the required expertise and skill mix for each team, required time commitment, and expected products and schedule. The Executive Director shall notify Participants of each request through the NGATS Institute website or other appropriate means. Each call for applicants and nominations shall, at a minimum, clearly specify the task of the group, required expertise and time commitment, expected timeline of delivery of products, and the application procedures. All appropriately submitted applications will be evaluated against the requirements set forth in the JPDO request. The Executive Director shall convene one or more panels, comprised of no less than three qualified individuals from the Institute's Participants, to assist the Executive Director in making the selection of representatives based on such factors such as individual qualifications and group balance. The selection of representatives may be reviewed by the Institute Management Council at its discretion.
- M. *IPT and Working Group Rosters.* The Executive Director will be responsible for maintaining a complete and accurate roster of representatives, including their affiliation, assigned to JPDO IPTs and NGATS Institute working groups.
- N. *Interim Reviews of Institute & IPT Outputs.* At the request of the JPDO Director, the Executive Director may appoint a group of appropriate composition, including executive level, from the Institute's Participants to perform interim reviews of materials, approaches, and solutions under development by specific IPTs and other working groups generated by the JPDO and provide guidance before the materials, approaches, and solutions are carried forward. In cases where broad-based coalitions already exist that can fulfill this role, the Executive Director may call upon them to perform the function.
- O. *Periodic Review of NGATS Institute.* The NGATS Institute represents a critical aspect of the JPDO's program to transform the National Air Transportation System. The parties agree to a periodic joint assessment of the efficacy of the NGATS Institute, and in particular, the management approach described above in Article 4, Management of the NGATS Institute. The initial assessment will occur six months from the signing of this Agreement, and each six months thereafter during the first two years. Thereafter, the assessment will occur annually. The parties agree to use the assessment to make adjustment to the management approach as required to more fully achieve the purposes of this Agreement.

ARTICLE 5 EFFECTIVE DATE AND TERM

The effective date of this Agreement is the date on which it is signed by the FAA and NCAT. This Agreement shall continue in effect for two years or until earlier terminated by the parties as provided herein. This Agreement may be repeatedly extended for additional two-year terms by written agreement of the parties.

ARTICLE 6 MILESTONES

Initial activities shall be accomplished according to the following milestones.

MILESTONE	COMPLETION DATE	RESPONSIBLE PARTY
Solicitation to Potential Participants	One week after agreement is executed	NCAT
Co-Chairs Appoint Initial Three Members of IMC to Complete the Executive Committee	Two weeks after agreement is executed	Institute
Complete Selection of Institute Management Council Members	8 weeks after execution of agreement	Institute
Executive Director Proposed to JPDO Director	8 weeks after execution of agreement	NCAT
Executive Director Announced	10 weeks after execution of agreement	NCAT
JPDO Sends Initial Task Order(s) to NGATS Institute	1 week after execution of agreement	JPDO

ARTICLE 7 REPORTING REQUIREMENTS

- A. The NCAT Chairman, the Institute Co-Chairs, and the Executive Director will meet annually with the JPDO Director, or his or her designee(s), on a date to be mutually agreed upon, to furnish an annual report on the activities of the NGATS Institute. In addition to reporting, NCAT and the JDPO will address the forthcoming year goals and objectives, funding requirements, and any issues and concerns.
- B. The NGATS Institute will annually submit a written report to the JPDO Director that summarizes the NGATS Institute's annual activities, and identifies work performed in accordance with this OTA, funding and recipients, reports or other documents generated, and issues, concerns, or recommendations raised.

- C. The NGATS Institute will submit financial reports as required by the FAA.
- D. Reporting on funded work efforts will comply with requirements set forth by the JPDO and FAA. The NGATS Institute will incorporate flow-down provisions in JPDO Sponsored Work Agreements with Participants that ensures compliance by funding recipients.

ARTICLE 8 INTELLECTUAL PROPERTY

- A. The NGATS Institute will incorporate in all JPDO Sponsored Work Agreements provisions with respect to intellectual property that follow these guidelines:
 - (i) Neither the NGATS Institute or NCAT will assert on its own behalf ownership or use rights to intellectual property developed by a Participant under this Agreement;
 - (ii) Neither the NGATS Institute or NCAT acquires any rights to a Participant's Background Intellectual Property as a result of entering into this Agreement, except as expressly provided for by a Sponsored Work Agreement. A Participant may, in its discretion, disclose its Background Intellectual Property to the NGATS Institute, the JPDO, or others under a separate agreement.
 - (iii) In any subject invention made pursuant to this Agreement, the Government reserves an irrevocable, non-exclusive, nontransferable, royalty-free license for the practice of such invention throughout the world by or on behalf of the United States or any foreign government in accordance with any treaty or agreement with the United States. The inventing party 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 (identify the agreement) awarded by the FAA. The Government has certain rights in the invention."
 - (iv) *Inventions Made by Non-Federal Parties--Rights to Title.* The inventing non-Federal Participant shall have the right to pursue title to a patentable invention as provided:
 - (a) A Participant, if a small business, university, or nonprofit organization, may retain the right, title, and interest throughout the world to each subject invention.
 - (b) A Participant, if other than a small business firm or nonprofit organization, may request prior to execution of a Sponsored Work Agreement or within thirty (30) days after its execution, for the

Government to waive its rights to inventions, or such thereafter, the Party may petition the FAA for waiver of Government rights.

- (v) Data exchanged between a Participant and the Government pursuant to this Agreement will be exchanged without restriction as to its disclosure, use, or duplication, except as otherwise marked or as otherwise provided below in this provision. No preexisting proprietary data will be provided to under this Agreement unless specifically authorized, in writing, by the owner of the proprietary data.

ARTICLE 9 POINTS OF CONTACT

Jim Blades
ATO-A Office of Acquisition Policy & Contracting
ATO-A Executive & Managerial Support Services Contracting Branch
Manager/Contracting Officer
Orville Wright Building
800 Independence Avenue, S.W.
Washington, DC 20591
Room 402
Phone: 202-267-8267
Fax: 202-267-5142
jim.blades@faa.gov

Joe W. Elliott
Joint Planning & Development Office Contracting Officer's Technical Representative
Suite 500
1500 K Street, N.W.
Washington, DC 20005
Phone: 202-220-3300
Fax: 202-220-3476
joe.w.elliott@faa.gov

Ginette Colot
National Center for Advanced Technologies Contracting Officer
1000 Wilson Blvd., Suite 1700
Arlington, VA 22209-3901
Phone: 703-358-1020
Fax: 703-358-1120
ginette.colot@air-aerospace.org

ARTICLE 10 FUNDING AND PAYMENT

- A. The FAA will contribute funds to support the administration of the NGATS Institute, as agreed with NCAT, pursuant to PR# WA-05-02048. Funds in the

- amount of \$250,000 are hereby committed for GFY 05. NCAT shall bill actual expenses not to exceed this amount. On an annual basis thereafter, the NCAT and JPDO will agree on the administrative funding requirements and such funding will be applied to this Agreement by formal amendment. Funding to administer the NGATS Institute does not include any funding for work requested by the JPDO to be performed by the private sector.
- B. Work requested by the JPDO to be performed by the private sector for NCAT and administered through the NGATS Institute will be funded by the United States Government under this Agreement. The JPDO shall approve work products and find them to be acceptable prior to making payment. A properly executed request for payment should be submitted to the FAA at the billing address identified below. A properly submitted invoice shall contain the following information: (a) NCAT's name, (b) invoice number and date, (c) OTA number, and (d) complete mailing address or electronic funds transfer (EFT) information of to whom and where the payment will be sent. See Appendix A for EFT requirements. The FAA CO will make payment within thirty (30) days after receipt of a properly submitted invoice.
- C. Billing Address:
- Federal Aviation Administration
AFM-220, Accounts Payable Branch
800 Independence Avenue, SW
Washington, DC 20591
Attn: Ms. Carol Rose (202) 267-8948
- D. In the event of termination or expiration of this Agreement, any FAA funds which have not been spent or obligated for allowable expenses prior to the date of termination, and are not reasonably necessary to cover termination expenses shall be returned to the FAA.

ARTICLE 11 LIMITATION OF FUNDS

The Government's liability to make payments to the NGATS Institute is limited to the amount of funds obligated hereunder, including written modifications to this Agreement.

ARTICLE 12 AUDITS

The Government has the right to examine or audit relevant financial records for a period not to exceed three years after expiration of the term of this Agreement. The NCAT will maintain an established accounting system that complies with generally accepted accounting principles. The NCAT will cause the NGATS Institute to require organizations that perform JPDO-sponsored work to ensure their record retention policies comply with this policy.

ARTICLE 13 CHANGES, MODIFICATIONS

Changes and/or modifications to this Agreement shall be in writing and signed by a FAA Contracting Officer and the authorized representative of the NCAT. The modification shall cite the subject Agreement, and shall state the exact nature of the modification. No oral statement by any person shall be interpreted as modifying or otherwise affecting the terms of this Agreement.

ARTICLE 14 TERMINATION

- A. Either party may terminate this Agreement at any time prior to its expiration date, with or without cause, and without incurring any liability or obligation to the terminated party (other than payment of amounts due and owing and performance of obligations accrued, in each case on or prior to the termination date) by giving the other party at least thirty (30) days prior written notice of termination. Upon receipt of a notice of termination, the receiving party shall take immediate steps to stop the accrual of any additional obligations, which might require payment.
- B. In the event this Agreement is terminated by either party, the NCAT will take immediate steps to vacate office space furnished by the JPDO to the NGATS Institute.

ARTICLE 15 ORDER OF PRECEDENCE

In the event of any inconsistency between the terms of the Agreement, the inconsistency shall be resolved by giving preference in the following order:

- A. The Agreement,
- B. The Appendices.

ARTICLE 16 CONSTRUCTION OF THE AGREEMENT

- A. This Agreement is an "other transaction" issued under 49 U.S.C 106 (1) and (m) is not a procurement contract, grant or cooperative agreement. Nothing in this Agreement shall be construed as incorporating by reference or implication any provision of Federal acquisition law or regulation.
- B. Each party acknowledges that all parties hereto participated equally in the negotiation and drafting of this Agreement and any amendments thereto, and that, accordingly, this Agreement shall not be construed more stringently against one party than against the other.

ARTICLE 17 DISPUTES

Where possible, disputes will be resolved by informal discussion between the parties. In the event the parties are unable to resolve any disagreement under this Agreement

through good faith negotiations, the parties agree that any dispute will be resolved by the FAA's Office of Disputes Resolution for Acquisition (ODRA). Information and guidance about the ODRA dispute resolution process for agreement disputes can be found on the FAA ODRA Website at <http://www.faa.gov/agc/odra> or Part 17 of Title 14 of the Code of Federal Regulations (CFR). The decision resulting from the FAA ODRA process is final unless it is timely appealed to the FAA Administrator, whose decision is not subject to further administrative review and, to the extent permitted by law, is final and binding.

ARTICLE 18 WARRANTIES

Neither the FAA nor the NCAT makes any express or implied warranties as to any matter arising under this Agreement, or as to the ownership, merchantability, or fitness for a particular purpose of any property, including any equipment, device, or software that may be provided under this Agreement.

ARTICLE 19 INSURANCE

The NCAT shall arrange by insurance or otherwise for the full protection from and against all liability to third parties arising out of, or related to, its performance of this Agreement. The FAA assumes no liability under this Agreement for any losses arising out of any action or inaction by the NCAT, its employees, or contractors, or any third party acting on its behalf. The NCAT agrees to hold the United States harmless against any claim by third persons for injury, death or property damage arising out of or in connection with its performance under this Agreement. Nothing in this Agreement precludes NCAT from requiring that contractors performing JDPO-sponsored work agree to hold NCAT harmless against (i) any losses arising out of any action or inaction by NCAT or its employees contracting parties and/or (ii) any claim by third persons for injury, death or property damage arising out of or in connection with its performance of JDPO-sponsored work.

ARTICLE 20 LIMITATION OF LIABILITY

Claims for damages of any nature whatsoever pursued under this Agreement shall be limited to direct damages only up to the aggregate amount of \$250,000 funding obligated under this Agreement at the time the dispute arises. In no event shall the FAA be liable for claims for consequential, punitive, special and incidental damages, claims for lost profits, or other indirect damages.

ARTICLE 21 LOWER TIER AGREEMENTS

The NCAT shall instruct the NGATS Institute to include appropriate Articles herein, suitably modified, in all lower tier Agreements, regardless of tier (especially in Sponsored Work Agreements between the NGATS Institute and a fund recipient).

ARTICLE 22 CIVIL RIGHTS ACT

The NCAT shall comply with Title VI of the Civil Rights Act of 1964 relating to nondiscrimination in Federally assisted programs and provide a certification to that effect.

ARTICLE 23 OFFICIALS NOT TO BENEFIT

AMS Clause 3.2.5-1, "Officials Not to Benefit" and Clause 3.2.5-7, "Disclosure Regarding Payments to Influence Certain Federal Transactions" are incorporated by reference into this Agreement.

ARTICLE 24 NGATS INSTITUTE/CONTRACTOR PERSONNEL SECURITY REQUIREMENTS

- A. This Article applies to the extent that this Agreement requires NCAT employees, contractors, or consultants to have unescorted access to FAA: (1) facilities, (2) sensitive information, and/or (3) resources regardless of the location where such access occurs, and none of the exceptions of FAA Order 1600.72, Contractor and Industrial Security Program, chapter 4, paragraphs 403h, 403i, and/or 409, pertains. Definitions of applicable terminology are contained in the corresponding guidance and Order 1600.72, Appendix 1.
- B. The security requirements outlined in Appendix B hereto are hereby made applicable to the NCAT and any work agreements the institute issues in furtherance of the institute's stated mission during the term of this OTA.

ARTICLE 25 PROTECTION OF INFORMATION

- A. The parties agree that they shall take appropriate measures to protect proprietary, privileged, or otherwise confidential information that may come into their possession as a result of this Agreement. The parties agree to use commercially reasonable efforts (or for the Government, the equivalent level of care) to safeguard the confidentiality of each other's or a Participant's confidential, proprietary, or commercially sensitive information if clearly identified as such when received pursuant to this Agreement. The recipient party agrees not to disclose confidential, proprietary, or commercially sensitive information to anyone, nor to use it for any purpose other than to carry out his/her designated role in pursuant to this Agreement.
- B. This restriction on disclosure and use of confidential information survives the recipient Party's withdrawal or termination from this Agreement for five (5) years. The previously stated obligations of confidentiality do not apply to any information that (1) becomes a matter of public knowledge by means other than a wrongful act, omission or fault of the recipient party, its employees, or agents; (2) is rightfully received from a third party without restriction; (3) is approved for

release by the submitting party; or (4) is disclosed pursuant to a requirement of a court of law.

- C. Disclosure in breach of this Article may result in irreparable harm to the party whose confidential information has been disclosed, for which monetary damages alone would not be an adequate remedy. An aggrieved party shall have the right to seek an immediate injunction enjoining breach of this provision, in addition to all other remedies to which it may also be entitled. This clause will be incorporated by reference in each Sponsored Work Agreement.

ARTICLE 26 INCORPORATION BY REFERENCE

The Appendices, if any, identified in this Agreement are incorporated herein by reference.

ARTICLE 27 DEFINITIONS

- (1) *Administration of The NGATS Institute* means the day to day management and operations of the activities outlined in this Agreement.
- (2) *Administrator* means the Administrator of the Federal Aviation Administration.
- (3) [Contractual Awards Oversight Group means the subset of the Institute Management Council that reviews the awards process and validates that awards are made in a fair manner.](#)
- (4) *Executive Committee* means the subset of the Institute Management Council composed of six members empowered to act on behalf of the Institute Management Council.
- (5) *Executive Director* means the individual employed by the NCAT and appointed by the Institute Management Council to manage the day to day operations of the NGATS Institute.
- (6) *Institute Management Council (IMC)* means the group that has responsibility for the overall management of the NGATS Institute.
- (7) *IR&D* means independent research & development as pertains to the federal program allowing 100 percent recovery of incurred IR&D costs through overhead on government contracts.
- (8) *JPDO* means the Joint Planning and Development Office created by Public Law 108-176
- (9) *JPDO Director* means the individual with management authority over the Joint Planning and Development Office.
- (10) *NGATS Institute* means the Next Generation Air Transportation System NGATS Institute, a program administered by the NCAT as outlined in this Agreement.
- (11) *Participant* means an individual or organization that expresses interest in participation in the NGATS Institute.
- (12) *Senior Policy Council (SPC)* means the body chaired by the Secretary of Transportation and composed of the federal agency and department heads that oversee the JPDO.

- (13) *Sponsored Work Agreement* means a binding contract between the NCAT (as administrator of The NGATS Institute) and a participant under which the participant performs work required, initiated, and funded by the JPDO.
- (14) *Subject Invention* means any invention conceived or first actually reduced to practice in the performance of work under this Agreement.
- (15) *Task Order* means a written request for assistance from the JPDO to NCAT, whether for uncompensated representation on Integrated Product Teams or other working groups, or for sponsored work.

AGREED:

**National Center for Advanced Technologies,
Inc. (NCAT)**

**Federal Aviation Administration
(FAA)**

BY: _____

BY: _____

TITLE: _____

TITLE: _____

DATE: _____

DATE: _____

APPENDIX A

3.3.1-25 Mandatory Information for Electronic Funds Transfer (EFT) Payment - Central Contractor Registration (CCR) (June 2001)

- a. Method of payment. For any payment to be made after June 1, 2001, the Contractor shall provide EFT information to the CCR database. Payments by the Federal Aviation Administration (FAA) under this contract, including invoice and contract financing payments, will be made by EFT, except as provided in paragraph (a)(1). If payment is made by EFT, the FAA may, at its option, also forward the associated payment information by electronic transfer. As used in this clause, the term "EFT" refers to the funds transfer and may also include the information transfer.

(1) In the event the FAA is unable to release one or more payments by EFT, the Contractor agrees to either:

(i) accept payment by check or some other mutually agreeable method of payment; or

(ii) Request the FAA to extend the payment due date until such time as the FAA can make payment by EFT (but see paragraph (d) of this clause).

(b) Mandatory submission of Contractor's EFT information.

(1) The Contractor is required, as a condition to any payment under this contract, to provide the Central Contractor Registration (CCR) database with the information required in the CCR to make payment by EFT. The Contractor may register to the CCR online at <http://www.ccr.gov/>, or call the CCR Assistance Center toll free at (888)-227-2423 and request the necessary registration forms. The Contractor must have a DUNS number to begin registration. To obtain a DUNS number, call Dun & Bradstreet, Inc. at (800) 234-3867. In the event that the EFT information changes, the Contractor shall be responsible for providing the updated information to the CCR database.

(2) If the Contractor has identified multiple payment receiving points (i.e., more than one remittance address and/or EFT information set) in the CCR database, and the Contractor has not notified the FAA of the payment receiving point applicable to this contract, the FAA shall make payment to the first payment receiving point (EFT information set or remittance address as applicable) listed in the CCR database.

(c) Mechanisms for EFT payment. The FAA may make payment by EFT through either an Automated Clearing House (ACH) subject to the banking laws of the United States or the Federal Reserve Wire Transfer System at the FAA's option. The rules governing Federal payments through the ACH are contained in 31 CFR part 210.

(d) Suspension of payment.

(1) Notwithstanding the provisions of any other clause of this contract, the FAA is not required to make any payment under this contract until after the correct EFT payment information from the Contractor has been provided to the CCR database. No invoice or contract financing request shall be deemed to be valid,

as defined by the Prompt Payment Act, until correct EFT information is received into the CCR database.

(2) Changes made to an existing record in the CCR database will become effective not later than the 30th day after receipt in the CCR database. However, the Contractor may request that no further payments be made until the changed EFT information is implemented into the CCR database. If such suspension would result in a late payment under the Prompt Payment clause of this contract, the Contractor's request for suspension shall extend the due date for payment by the number of days of the suspension.

(e) Contractor EFT arrangements. The Contractor shall designate a single financial agent capable of receiving and processing the electronic funds transfer using the EFT methods described in paragraph (c) of this clause. The Contractor shall pay all fees and charges for receipt and processing of transfers.

(f) Liability for uncompleted or erroneous transfers.

(1) If an uncompleted or erroneous transfer occurs because the FAA failed to use the Contractor-provided EFT information in the CCR database in the correct manner, the FAA remains responsible for

(i) making a correct payment,

(ii) paying any prompt payment penalty due, and

(iii) recovering any erroneously directed funds.

(2) If an uncompleted or erroneous transfer occurs because Contractor-provided EFT information in the CCR database was incorrect, or was revised within 30 days at the time of FAA release of the EFT payment transaction instruction to the Federal Reserve System, and:

(i) If the funds are no longer under the control of the payment office, the FAA is deemed to have made payment and the Contractor is responsible for recovery of any erroneously directed funds; or

(ii) If the funds remain under the control of the payment office, the FAA retains the right to either make payment by mail or suspend the payment in accordance with paragraph (d) of this clause.

(g) EFT and prompt payment.

(1) A payment shall be deemed to have been made in a timely manner in accordance with the Prompt Payment clause of this contract if, in the EFT payment transaction instruction given to the Federal Reserve System, the date specified for settlement of the payment is on or before the prompt payment due date, provided the specified payment date is a valid date under the rules of the Federal Reserve System.

(2) When payment cannot be made by EFT because of incorrect EFT information provided by the Contractor to the CCR database, no interest penalty is due after the date of the uncompleted or erroneous payment transaction, provided that notice of the defective EFT information is issued to the Contractor within 7 days after the FAA is notified of the defective EFT information.

(h) EFT and assignment of claims. If the Contractor assigns the proceeds of this contract as provided for in the Assignment of Claims clause of this contract, the Contractor shall require as a condition of any such assignment, that the assignee shall register in the CCR database and shall be paid by EFT in accordance with the terms of this clause. In all respects, the requirements of this clause shall apply to the assignee as if it were the Contractor. EFT information, which shows the ultimate recipient of the transfer to be other than the Contractor, in the absence of a proper assignment of claims acceptable to the FAA, is incorrect EFT information within the meaning of paragraph (d) of this clause.

(i) Liability for change of EFT information by financial agent. The Contractor agrees that the Contractor's financial agent may notify the FAA of a change to the routing transit number, Contractor account number, or account type. The FAA shall use the changed data in accordance with paragraph (d)(2) of this clause. The Contractor agrees that the information provided by the agent is deemed to be correct information as if it were provided by the Contractor. The Contractor agrees that the agent's notice of changed EFT data is deemed to be a request by the Contractor in accordance with paragraph (d)(2) that no further payments be made until the changed EFT information is implemented by the payment office. The FAA is not liable for errors resulting from changes to EFT information made by the Contractor's financial agent.

(End of clause)

See the following website for access to standard form (SF) 3881 "Payment Information Form ACH Vendor Payment System"

<http://www.gsa.gov/Portal/gsa/ep/forms>

APPENDIX B

NGATS Institute/Contractor Personnel Security Requirements

1. Security Requirements-Classified Contracts

(a) This clause applies to the extent that this contract involves access to information that is classified as "Confidential," "Secret," or "Top Secret."

(b) The Contractor shall comply with the requirements in (1) the Contract Security Classification Specification (DD Form 254) included in the current edition of the National Industrial Security Operating Manual (DOD 5220.22-M) for the protection of classified information at its cleared facility, if applicable, as directed by the Defense Security Service. If the Contractor has access to classified information at an FAA owned or FAA leased facility, it shall comply with the security requirements of the FAA.

(c) If, subsequent to the date of this contract, the security classification or security requirements under this contract are changed by the Government and if the changes cause an increase or decrease in security costs or otherwise affect any other term or condition of this contract, the contract shall be subject to an equitable adjustment.

(d) The Contractor agrees to insert terms that conform substantially to the language of this clause, including this paragraph d) but excluding any reference to the "Changes" clause of this contract, in all subcontracts under this contract that involve access to classified information.

2. Contractor Personnel Suitability Requirements

(a) This clause applies to the extent that this contract requires contractor employees, subcontractors, or consultants to have unescorted access to FAA:

(1) facilities,

(2) sensitive information, and/or

(3) resources regardless of the location where such access occurs, and none of the exceptions of FAA Order 1600.72, Contractor and Industrial Security Program, chapter 4, paragraphs 403g, 403i-I, and/or 409, pertains.

Definitions of applicable terminology are contained in the corresponding guidance and Order 1600.72, appendix 1.

(b) Consistent with FAA Order 1600.72, the FAA Servicing Security Element (SSE) has approved designated risk levels for the following positions under the contract:

Position Risk Level:

Executive Director, Low
NCAT Contracting Officer, Low

Other positions TBD.

(c) Not later than [CO to insert information here] days, not to exceed a maximum of 30 days, after contract award (or date of modification, if this provision is included by modification to an existing contract), for each employee in a listed position, provided, no previous background investigations can be supported as described below, the contractor shall submit the following documentation to the SSE for an employment suitability determination:

- Standard Form (SF) 85P, Questionnaire for Public Trust Positions, revised September 1995. The SF 85P shall be completed (all questions answered) in accordance with the instruction sheet.

- One fingerprint card (FD-258). Fingerprinting facilities are available through the SSE and local police department. All fingerprint cards shall be written in black ink or typewritten with all answerable question blocks completed and shall be signed and dated within the 60-day period preceding the submission.

The type of investigation conducted will be determined by the position risk level designation for all duties, functions, and/or tasks performed and shall serve as the basis for granting a favorable employment suitability authorization as described in FAA Order 1600.72. If an employee has had a previous Government-directed background investigation which meets the requirements of Chapter 4 of FAA Order 1600.72, it will be accepted by the FAA. However, the FAA reserves the right to conduct further investigations, if necessary. For each contractor employee for which a previous background investigation was completed, the Contractor shall provide, in writing to the SSE, the name, date of birth, place of birth, and social security number of the employee, the name of the investigating entity, type of background investigation conducted, and approximate date the previous background investigation was completed.

The Contractor shall submit the required information with a transmittal letter referencing the contract number and this request to:

Headquarters Contracts:

Manager, Personnel Security Division, ASN-200
Office of Investigations
400 7th Street, SW, Room 5402a
Washington, D.C. 20591

The transmittal letter shall also include a list of all of the names of contractor employees and their positions for which completed forms will be submitted to the SSE pursuant to this Clause. A copy of the transmittal letter shall also be provided to the Contracting Officer.

(d) The contractor shall submit the information required by Section (c) of this Clause for any new employee not listed in the Contractor's initial thirty (30) day submission who is hired into any position identified in Section (c) of this Clause.

(e) The contracting officer will provide notice to the contractor when any contractor employee is found to be unsuitable or otherwise objectionable, or whose conduct appears contrary to the public interest, or inconsistent with the best interest of national security. The contractor shall take appropriate action, including the removal of such employee from working on this FAA contract, at their own expense.

(f) No contractor employee shall work in a high, moderate, or low risk position unless the SSE has received all forms necessary to conduct any required investigation and has authorized the contractor employee to begin work. However, if this provision is added by modification to an existing contract, contractor employees performing in the positions listed above may continue work on the contract pending:

(1) The submittal of all necessary forms within [CO to insert information] days, but not to exceed a

maximum of 30 days, and

(2) completion of a suitability investigation by the SSE, subject to the following conditions:

(State any SSE conditions such as restricted access to sensitive information or facilities. Specify information or facilities. If the SSE imposes no conditions, state "None").

(3) If the necessary forms are not submitted by the Contractor to the SSE within 30 days of the effective date of the modification, the contractor employee shall be denied access to FAA facilities, sensitive information and/or resources until such time as the forms are submitted and the SSE has approved the contractor employee to begin work.

(g) As applicable, the Contractor shall submit quarterly reports to the Contracting Officer with a copy to the SSE and the Operating Office on or before the fifth (5th) day following each report period. This report shall include a complete alphabetical listing of all current contractors who have access to FAA facilities, sensitive information, and/or resources.

(h) The Contractor shall notify the CO within one (1) day after any employee identified pursuant to Section (c) of this Clause is terminated from performance on the contract.

(i) The Contracting Officer may also, after coordination with the SSE and other security specialists, require contractor employees to submit any other security information (including additional fingerprinting) deemed reasonably necessary to protect the interests of the FAA. In this event, the Contractor shall provide, or cause each of its employees to provide such security information to the SSE, and the same transmittal letter requirements of Section (c) of this Clause shall apply.

(j) The contractor and/or subcontractor(s) will immediately contact the Servicing Security Elements (Regional and/or Center Security Divisions) or ASN-200 at Headquarters in the event an employee is arrested (detained by law enforcement for any offenses, other than minor traffic offenses) or is involved in theft of government property or the contractor becomes aware of any information that may raise a question about the suitability of a contractor employee.

(k) Failure to submit information required by this clause within the time required may be determined by the Contracting Officer a material breach of the contract.

(l) If subsequent to the effective date of this contract, the security classification or security requirements under this contract are changed by the Government and if the changes cause an increase or decrease in direct contract costs or otherwise affect any other term or condition of this contract, the contract shall be subject to an equitable adjustment.

(m) The contractor agrees to insert terms that conform substantially to the language of this clause, including this paragraph (l) but excluding any reference to the Changes clause of this contract, in all subcontracts under this contract that involve access and where the exceptions under Chapter 4, paragraphs 403g, 403i-l, and 409 of FAA Order 1600.72 do not apply.

(n) The contracting officer shall ensure the SSE receives a list of all proposed contractor employees, the name of the contracting company, contract number, duty location, identification of the funding line of business, and the names of the contracting officers and COTR for each contract within 5 days of contract award.

(o) Contractor employees who have not undergone a background investigation must be escorted at all times. In some instances, a contractor employee may be required to serve as an escort. In this situation, the contractor employee must have a completed and favorably adjudicated National Agency Check with Inquiries (NACI).

Shall be inserted into all FAA SIRs and contract actions when the contractor may require access to FAA facilities, sensitive information and/or resources, and is applicable

3. Foreign Nationals as Contractor Employees

(a) Each employee of the Contractor shall be a citizen of the United States of America, or an alien who has been lawfully admitted for permanent residence as evidenced by Alien Registration Receipt Card Form I-151, or who presents other evidence from the U.S. Citizenship and Immigration Service that employment will not affect his/her immigration status.

(b) Aliens and foreign nationals proposed under this contract must meet the following conditions in accordance with FAA Order 1600.72, chapter 4, paragraph 407:

(1) must have resided within the United States for 3 of the last 5 years unless a waiver of this requirement is requested and approved in accordance with the requirements stated in FAA Order 1600.72, chapter 4, paragraph 409(b)(3);

(2) a risk or sensitivity level designation can be made for the position; and

(3) the appropriate security screening can be adequately conducted.

4. Government-Issued Keys, Identification Badges, and Vehicle Decals

(a) It may become necessary for the Government to issue keys, identification (ID) cards, vehicle decals, and/or access control cards to contractor employees. Prior to or upon completion or termination of the work required hereunder, the contractor shall return all such Government-issued items to the issuing office with notification to the Contracting Officer's Technical Representative (COTR). When contractor employees who have been issued such items are terminated or no longer required to perform the work, the Government-issued items shall be returned to the Government within three workdays or upon termination of the contract or the employee. Improper use, possession or alteration of FAA issued keys, ID cards and/or vehicle decals is subject to penalties under Title 18, USC 499, 506, and 701.

(b) In the event such keys, ID cards, or vehicle decals are not returned, the contractor understands and agrees that the Government may, in addition to any other withholding provision of the contract, withhold [CO to enter appropriate amount] for each key, ID card, and vehicle decal not returned. If the keys, ID cards, or vehicle decals are not returned within 30 days from the date the withholding action was initiated, any amount so withheld will be forfeited by the contractor.

(c) Access to aircraft ramp/hangar areas is authorized only to those persons displaying a flight line identification card and for vehicles, a current ramp permit issued pursuant to Part 107 of the Federal Aviation Regulations.

(d) The Government retains the right to inspect inventory, or audit ID cards, keys, vehicle decals, and access control cards issued to the contractor in connection with the contract at the convenience of the Government. Any items not accounted for, to the satisfaction of the Government shall be assumed to be lost and the provisions of section (b) shall apply.

(e) Keys shall be obtained from the COTR who will require the contractor to sign a receipt for each key obtained. Lost keys, ID cards, vehicle decals, and access control cards shall immediately be reported concurrently to the Contracting Officer (CO), COTR, and [CO to insert name of local security division or staff and facility management office]. Electronic keying cards are handled in the same manner as metal keys.

(f) Each contract employee, during all times of on-site performance at the [CO to insert location] shall prominently display his/her current and valid identification card on the front portion of his/her body between the neck and waist.

(1) Prior to any contractor employee obtaining any ID media or vehicle decals, the contractor shall submit complete documentation required under AMS clause 3.14-2, Contractor Personnel Suitability Requirements and shall be approved to begin work by the SSE.

(2) To obtain the ID card, contractor employee shall submit an identification Card/Credential Application (DOT 1681) signed by the contractor employee and authorized by the CO or the COTR. . The DOT 1681 shall be submitted at the same time the personnel security investigation paperwork required by AMS clause 3.14-2, Contractor Personnel Suitability Requirements is submitted. The DOT 1681 shall contain, as a minimum, under the "Credential Justification" heading, the name of the contractor/company, the contract number or the appropriate acquisition identification number, the expiration date of the contract or the task (whichever is sooner), and the required signatures. This paperwork shall be submitted to [CO to insert name and location of security division or staff] by the contractor in a sealed envelope either hand carried by the contractor or sent via U.S. mail to: [CO to insert mailing address]. The contractor will be notified when the DOT 1681 has been approved and is ready for processing by the [CO to insert name and location of the person who will process the document]. Arrangement for processing the identification cards, including photographs and lamination can be made by the contacting [CO to insert point of contact with phone number].

(3) The contractor's project manager shall receive and sign for each ID card issued on the reverse of the DOT 1681. The DOT 1681 will be tracked by the Government for accountability purposes.

(g) The contractor is responsible for ensuring final out-processing is accomplished for all departing contractor employees. Final out-processing will be accomplished by close of business the final workday of the contractor employee or the next day under special conditions. [CO to insert name of local contract employee clearance form] will be completed by the contractor and copies will be distributed to the COTR, CO, and [CO to insert security division or staff] after completion.

5. Sensitive Unclassified Information (SUI)

(a) Sensitive information shall be restricted to specific contractors who:

- (1) have a need "to know" to perform contract tasks;
- (2) meet personnel suitability security requirements to access sensitive information; and
- (3) successfully complete a non-disclosure agreement (NDA).

(b) The contractor shall develop and implement procedures to ensure that sensitive information is handled in accordance with FAA requirements and at a minimum, will address:

- (1) steps to minimize risk of access by unauthorized persons during business and non-business hours to include storage capability;

(2) procedures for safeguarding during electronic transmission (voice, data, fax) mailing or hand carrying;

(3) procedures for protecting against co-mingling of information with general contractor data system/files;

(4) procedures for marking documents with both the protective marking and the distribution limitation statement as needed;

(5) procedures for the reproduction of subject material;

(6) procedures for reporting unauthorized access; and

(7) procedures for the destruction and/or sanitization of such material.