**ATTACHMENT 07**

# NONDISCLOSURE AGREEMENT (NDA) FOR OPERATION OF CMU'S SOFTWARE ENGINEERING INSTITUTE

**CONTRACT: FA870225DB003**

**CARNEGIE MELLON UNIVERSITY - SOFTWARE ENGINEERING INSTITUTE (CMU-SEI)**

**01 July 2025**

NONDISCLOSURE AGREEMENT FOR OPERATION OF CMU'S SOFTWARE ENGINEERING INSTITUTE.

This nondisclosure Agreement (the "Agreement") is entered into as of the stamped mailing date of the award which incorporates it into Federal Contract FA870225DB003 ("Effective Date"), by and between Carnegie Mellon University, a Pennsylvania nonprofit corporation, acting through its Software Engineering Institute ("CMU-SEI") located at 4500 Fifth Avenue, Pittsburgh, PA 15213, and U.S. Air Force, acting by and through the Air Force Life Cycle Management Center ("AFLCMC"), Enterprise Acquisition Division ("AZS"), located at Hanscom AFB, Massachusetts 01731 (each or both of which shall hereinafter be referred to individually as "Party" and collectively as "Parties"). The modification shall be entered into pursuant to FAR 43.103(a) Mutual Agreement Between Parties.

RECITALS

A. Carnegie Mellon University ("CMU") operates the Software Engineering Institute ("SEI") a Federally Funded Research and Development Center ("FFRDC") sponsored by the Department of Defense and administered by the U.S. Air Force. The mission of CMU-SEI is to support the Nation's defense by advancing the science, technologies, and practices needed to acquire, develop, operate, and sustain software systems that are innovative, affordable, trustworthy, and enduring. To provide these services, CMU entered into U.S. Air Force Contract No. FA870225DB003, which includes a five-year base period and one five-year option period.

B. To facilitate the timely and effective discharge of CMU-SEI's FFRDC responsibilities, the U.S. government desires that CMU-SEI be given special access to Government, contractor, subcontractor, and supplier proprietary and sensitive information ("Proprietary Information") contemplated in Federal Acquisition Regulation ("FAR") Section 35.017(a)(2) and to protect such information for as long as it remains proprietary. To relieve CMU-SEI from the burden of negotiating separate, program-specific confidentiality or nondisclosure agreements with contractors, subcontractors, and suppliers, as well as U.S. Government program offices, it is the intention of the Parties that this Agreement set forth the rights and obligations of CMU-SEI and the U.S. Government and the various prime contractors, subcontracts, and suppliers ("Disclosing Party" or "Disclosing Parties," as applicable) with respect to the use, handling, protection, and safeguarding of the Proprietary Information furnished to CMU-SEI for use on U.S. Government Programs ("Purpose"). To that end, the contractors, subcontractors, and suppliers who disclose Proprietary Information to CMU-SEI pursuant to their U.S. Government contracts are specifically intended to be third-party beneficiaries of this agreement.

TERMS AND CONDITIONS

1. "Proprietary Information" as used in this Agreement means all scientific, engineering, technical, and cost information including, but not limited to, U.S. Government planning information, competition sensitive information, trade secrets, techniques, drawings, design details, inventions, know-how, processes, apparatus, equipment, algorithms, software programs, computer models, future and proposed products and services, research and development, experimental work, specifications, financial information, and marketing plans owned or used by the disclosing Parties, as well as Limited Rights Data as defined in the Defense Federal Acquisition Regulation Supplement ("DFARS") Clause 252.227-7013 and

similar FAR clauses, Restricted Rights software as defined in DFARS 252.227-7014 and similar FAR clauses, and Source Selection information that has been developed by a Disclosing Party for U.S. Government Programs.

2. CMU-SEI agrees to keep in confidence and protect from unauthorized use or disclosure all Proprietary Information furnished to CMU-SEI by the disclosing Parties for as long as it remains proprietary. Except as set forth elsewhere in this agreement, CMU-SEI shall make the Proprietary Information available only to its directors, officers, employees, contract labor, consultants, and attorneys who have a need to now and CMU-SEI shall maintain between itself and its directors, officers, employees, contract labor, consultants, and attorneys binding agreements as may be necessary to fulfill their obligations under this Agreement. CMU-SEI shall exercise the same degree of care to protect the Proprietary Information as it uses to protect its own proprietary information of like importance. This protection shall not be less than a reasonable degree of care.

3. Any Proprietary Information furnished to CMU-SEI by the Disclosing Parties must be: (a) disclosed in writing and marked "Proprietary," "Confidential," "Competitive Sensitive," or marked with words similar meaning; or (b) disclosed orally or visually (for instance, in a plant tour or demonstration) and identified as Proprietary Information at the time of the oral or visual disclosure and, subsequently reduced to a written summary, marked as Proprietary Information, and provided to CMU-SEI within thirty (30) days of the first oral or visual disclosure, and during this thirty-day period, such orally or visually disclosed Proprietary Information shall be protected in accordance with this Agreement: or (c) disclosed in the form of magnetic recordings or some other machine-readable form, and identified when transmitted and, if possible, the container or form of the Proprietary Information will be conspicuously marked; or (d) is disclosed to CMU-SEI under circumstances in which such information would be reasonably identifiable by CMU- SEI as Proprietary Information.

4. Notwithstanding Article 2 above:

(a) CMU-SEI is authorized to discuss and disclose Proprietary Information that it receives for a particular U.S. government Program to representatives of that particular U.S. Government Program office that CMU-SEI supports pursuant to U.S. Air Force Contract No. FA8702 DB003 or any follow-on contract (including their FFRDC, support contractors and consultants, as well as the commanders and directors of the applicable U.S. Government organizations, and the applicable program element monitors, the Office of the Secretary of Defense and his/her staff, the applicable service secretaries and their staffs, and U.S. Government auditors), provided that any written Proprietary Information continues to bear the same legend affixed by the Disclosing Party whether provided to the foregoing in its original form or some other format. As a condition to disclosing such Proprietary Information to its FFRDC, support contractors and consultant on such U.S. Government Programs, the FFRDC, support contractors and consultants shall have a Nondisclosure Agreement with the U.S. government or the various prime contractors, subcontractors, and suppliers, as applicable.

(b) In addition, so that CMU-SEI can apply Proprietary Information and lessons learned CMU-SEI is authorized to discuss and disclose Proprietary Information it receives for a particular Program to other U.S. Government Program offices that CMU-SEI supports pursuant to U.S. Air Force Contract No. FA8702-25-D-B003 or any follow-on contract (including its FFRDC, support contractors and consultants, as well as the commanders and directors of

the applicable U.S. Government organizations, and the applicable program element monitors, the Office of the Secretary of Defense and his/her staff, the applicable service secretaries and their staffs, and U.S. Government auditors) which, if not disclosed to the U.S. Government, could have adverse effects on the reliability and on the reliability and mission success of such U.S. Government Programs, provided that any written Proprietary Information continues to bear the same legend affixed by the Disclosing Party, whether provided to the foregoing in its original form or some other format. Prior to disclosing Proprietary Information to any other U.S. Government Program Office CMU-SEI, as applicable, will obtain prior written approval from the particular U.S. Government Program from which, or for which, it initially received the Proprietary Information. As a condition to disclosing such Proprietary Information to its FFRDC, support contractors and consultants on such U.S. Government Programs, the FFRDC, support contractors and consultants shall have a Nondisclosure Agreement with the U.S. Government, or the various prime contractors, subcontractors, and suppliers, as applicable.

5. The above restrictions on disclosure do not apply to Proprietary Information that CMU- SEI can demonstrate by written documentation or other competent evidence: (i) was already known to CMU-SEI without restriction on its use or disclosure; (ii) was in the public domain or becomes publicly known through no wrongful act of CMU-SEI; (iii) was disclosed by CMU- SEI with the prior written approval of the disclosing Party that originated the Proprietary Information; (iv) was independently developed by CMU-SEI by a third party who CMU-SEI reasonably believes was not under any obligation of confidentiality to the Disclosing Party that originated the Proprietary Information; or (vi) was disclosed to the U.S. Government with unlimited rights.

6. Nothing contained in this Agreement shall be construed as granting to CMU-SEI a license or right to use the Proprietary Information, either express or implied, under any patent, copyright, trade secret, or other Intellectual property right.

7. The contractors, subcontractors, and suppliers who provide CMU-SEI with Proprietary Information make no warranties or representations as to the accuracy, completeness, or technical or scientific quality of any of their Proprietary Information. WITHOUT RESTRICTING THE GENERALITY OF THE FOREGOING, NOW ARRANTY OR REPRESENTATION IS MADE BY ANY CONTRACTOR, SUBCONTRACTOR, OR SUPPLIER AS TO THE MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NONINFRINGMENT OF ANY PROPRIETARY INFORMATION DISCLOSED TO CMU- SEI.

8. In the event that CMU-SEI is required by law, regulatory or legislative authority or otherwise becomes legally compelled by subpoenas, criminal or civil investigative demands, or similar processes (collectively "Order") to disclose any Proprietary Information, CMU-SEI shall provide the Disclosing Party that originated the Proprietary Information with prompt written notice so that the Disclosing Party may seek a protective order or other appropriate remedy. In the absence of a timely protective order, CMU-SEI will furnish only that portion of the Proprietary Information legally required. Except in connection with the failure to discharge its responsibilities set forth in this article, CMU-SEI shall not be liable in damages for disclosure pursuant to any such Order.

9. This Agreement is not intended to constitute, create, give effect to, or otherwise recognize a joint venture, partnership or formal business entity of any kind. The disclosing Parties and

CMU-SEI are independent contractors and not agents of the other for any purpose whatsoever.

10. Unless otherwise authorized by the applicable U.S. Government Program, CMU-SEI shall not export (including disclosing or providing access to a "foreign person" located anywhere as defined in 22 C.F.R.§120.16) any technical information furnished by the Disclosing Party without first complying with all applicable U.S. export control laws and regulations, including the requirements if the International Traffic in Arms Regulations ("ITAR") and the Export Administration Regulations ("EAR"). CMU-SEI will first obtain the written consent of the Disclosing Party who originated the Proprietary Information before submitting an application to export such Proprietary Information. Notwithstanding the foregoing, a Disclosing Party shall not bring export-controlled materials onto CMU-SEI's premises or pass such materials to any CMU-SEI personnel without first (a) informing CMU- SEI, (b) receiving CMU-SEI's written consent to accept such materials, and (c) determining with CMU-SEI the specific mechanism by which such materials will be provided to and received by CMU-SEI.

11. Any notice required or contemplated by this Agreement from or to any of the Disclosing Parties and CMU-SEI shall be in writing and shall be deemed to have been given; (i) on the third day after being deposited in the U.S. mail, postage prepaid; and (ii) on the date sent if sent by facsimile transmission or e-mail with an electronic PDF copy. All such notices to CMU-SEI shall be directed to the Legal and Contracts Office.

12. CMU-SEI acknowledges that its obligations hereunder are necessary and reasonable in order to protect the Disclosing Party and the Disclosing Party's business and that monetary damages may be inadequate to compensate the Disclosing Party for any breach or threatened breach by CMU-SEI. Accordingly, CMU-SEI acknowledges that any such breach or threatened breach may cause irreparable injury to the Disclosing Party and that, in addition to any other remedies that may be available, in law, in equity or otherwise, the Disclosing Party will be entitled to seek injunctive relief against a breach of this Agreement, a threatened breach or the continuation of any such breach, without the necessity of proving damages. No bond or other security will be required for obtaining such equitable relief.

13. All Proprietary Information furnished to CMU-SEI shall remain the property of the disclosing Party, and shall be destroyed or otherwise returned promptly at the request of the Disclosing Party, together with any copies thereof, and CMU-SEI will certify that it has done so. Notwithstanding the foregoing, CMU-SEI may retain archival copies to discharge its responsibilities to the U.S. Government on existing and future U.S. Government Programs as well as copies of any reports prepared for the U.S. Government that contain or refer to the Proprietary Information. The Disclosing Party acknowledges that CMU-SEI maintains multiple automated network-wide backups that may include copies of the Proprietary Information. The Proprietary Information contained on the backups will be destroyed at the time the backups are no longer required.

14. This Agreement contains the entire agreement between the Parties with respect to this subject matter and may not be altered except by written agreement. No waiver of a breach of any provision of this Agreement shall constitute a waiver of any subsequent breach of the provision. If any provisions of this Agreement or part of such provision is or becomes invalid or unenforceable, then the remaining provisions shall continue to be effective. This agreement also supersedes any existing individual nondisclosure agreement signed by

CMU-SEI for any U.S. Government Programs to which this Agreement applies.

15. This Agreement shall commence on the Effective Date and expires upon the expiration or termination of U.S. Air Force Contract No. FA870225DB003, except that it may be terminated by the U.S. Air Force or CMU-SEI at any by giving thirty (30) days prior written notice to the other Party. The confidentiality provisions shall survive expiration of termination of this Agreement.

16. With respect to disputes with contractors, subcontractors, and suppliers providing Proprietary Information to CMU-SEI, this Agreement shall be interpreted in accordance with the laws of the Commonwealth of Pennsylvania, applicable to agreements made and to be performed wholly within such jurisdiction, and without regard to its conflict of law rules. With respect to disputes with the U.S. Government, this Agreement shall be interpreted in Accordance with Federal Law.