

PART II – CONTRACT CLAUSES

SECTION I-CONTRACT CLAUSES

I.1 LISTING OF CLAUSES INCORPORATED BY REFERENCE

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

FAR Clauses:

<http://www.arnet.gov/far/>

NASA FAR Supplement clauses:

<http://www.hq.nasa.gov/office/procurement/regs/nfstoc.htm>

MSFC Clauses:

http://ec.msfc.nasa.gov/msfc/msfc_uni.html

(End of Clause)

NOTICE: The following clauses are hereby incorporated by reference:

I. FEDERAL ACQUISITION REGULATION (48 CFR Chapter 1) CLAUSES

Number	Clause Title	Date
52.202-1	Definitions	Jul 2004
52.203-3	Gratuities	Apr 1984
52.203-5	Covenant Against Contingent Fees	Apr 1984
52.203-6	Restrictions on Subcontractor Sales to the Government	Sep 2006
52.203-7	Anti-Kickback Procedures	Jul 1995
52.203-8	Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity	Jan 1997
52.203-10	Price or Fee Adjustment for Illegal or Improper Activity	Jan 1997
52.203-12	Limitation on Payments to Influence Certain Federal Transactions	Sep 2005
52.203-13	Contractor Code of Business Ethics and Conduct	Dec 2007
52.204-4	Printed or Copied Double-Sided on Recycled Paper	Aug 2000
52.204-7	Central Contract Registration	Jul 2006
52.204-9	Personal Identity Verification of Contractor Personnel	Nov 2006
52.209-6	Protecting the Government’s Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment	Jul 1995

<u>Number</u>	<u>Clause Title</u>	<u>Date</u>
52.211-15	Defense Priority and Allocation Requirements	Sep 1990

<u>Number</u>	<u>Clause Title</u>	<u>Date</u>
52.215-2	Audit and Records – Negotiation	Jun 1999
52.215-8	Order of Precedence – Uniform Contract Format	Oct 1997
52.215-14	Integrity of Unit Prices	Oct 1997
52.217-8	Option to Extend Services <i>Insert in paragraph: <u>30 days</u></i>	Nov 1999
52.217-9	Option To Extend the Term of the Contract <i>Insert in paragraph (a): <u>30 days</u> and <u>60 days</u> <i>Insert in paragraph (c):<u>96 months</u></i></i>	Mar 2000
52.219-8	Utilization of Small Business Concerns	May 2004
52.219-9	Small Business Subcontract – Alternate II (Oct 2001)	Sep 2006
52.219-16	Liquidated Damages – Small Business Subcontracting Plan	Jan 1999
52.219-25	Small Disadvantaged Business Participation Program – Disadvantaged Status and Reporting	Oct 1999
52.222-1	Notice to the Government of Labor Disputes	Feb 1997
52.222-3	Convict Labor	Jun 2003
52.222-4	Contract Work Hours and Safety Standards Act- Overtime Compensation	Jul 2005
52.222-21	Prohibition of Segregated Facilities	Feb 1999
52.222-26	Equal Opportunity	Mar 2007
52.222-35	Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans	Dec 2001
52.222-36	Affirmative Action for Workers with Disabilities	Jun 1998
52.222-37	Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans	Sept 2006
52.222-41	Service Contract Act of 1965, As Amended	May 1989
52.222-43	Fair Labor Standards Act and Service Contract Act— Price Adjustment (Multiple Year and Option Contracts).	Nov 2006
52.222-50	Combatting Trafficking in Persons	Aug 2007
52.223-2	Affirmative Procurement of Biobased Products Under Service And Construction Contracts	Dec 2007
52.223-5	Pollution Prevention and Right-to-Know Information (Alternate II) (Aug 2003)	Aug 2003
52.223-6	Drug-Free Workplace	May 2001

<u>Number</u>	<u>Clause Title</u>	<u>Date</u>
52.223-9	Estimate of Percentage of Recovered Material Content for EPA Designated Products Insert in (b)(2) "AD10/Environmental Engineering Department, Marshall Space Flight Center, AL 35812	Aug 2000
52.223-10	Waste Reduction Program	Aug 2000
52-223-12	Refrigeration Equipment and Air Conditioners	May 1995
52.223-14	Toxic Chemical Release Reporting	Aug 2003
52.223-15	Energy Efficiency in Energy-Consuming Products	Dec 2007
52.225-13	Restrictions on Certain Foreign Purchases	Feb 2006
52.227-1	Authorization & Consent	Jul 1995
52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement	Aug 1996
52.227-14	Rights in Data-General –As modified by NASA FAR SUPPLEMENT 1852.227-14	Jun 1987
52.227-19	Commercial Computer Software-Restricted Rights. As modified by NASA FAR SUPPLEMENT 1852.227-19	
52.228-5	Insurance—Work on a Government Installation	Jan 1997
52.229-3	Federal, State, and Local Taxes	Apr 2003
52.230-2	Cost Accounting Standards	Apr 1998
52.232-1	Payments	Apr 1984
52.232-7	Payments Under Time-and-Materials and Labor-Hour Contracts – Payments under Time-and-Materials and Labor-Hour Contracts: Insert “30 th Day” in Paragraph 2	Feb 2007
52.232-8	Discounts for Prompt Payment	Feb 2002
52.232-11	Extras	Apr 1984
52.232-16	Progress Payments	April 2003
52.232-17	Interest	Jun 1996
52.232-18	Availability of Funds	Apr 1984
52.232-23	Assignment Of Claims	Jan 1986
52.232-25	Prompt Payment	Oct 2003
52.232-33	Payment By Electronic Funds Transfer- Central Contractor Registration	Oct 2003
52.233-1	Disputes (Alternate I) (Dec 1991)	Jul 2002
52.233-3	Protest After Award	Aug 1996
52.233-4	Applicable Law for Breach of Contract Claim	Oct 2004
52.237-2	Protection Of Government Buildings, Equipment, And Vegetation	Apr 1984
52.237-3	Continuity of Services	Jan 1991

Number	Clause Title	Date
52.239-1	Privacy Or Security Safeguards	Aug 1996
52.242-1	Notice Of Intent To Disallow Costs	Apr 1984
52.242-3	Penalties For Unallowable Costs	May 2001
52.242-4	Certification Of Final Indirect Costs	Jan 1997
52.242-13	Bankruptcy	Jul 1995
52.243-1	Changes – Fixed Price – As modified by NASA FAR SUPPLEMENT 1843.205 – Alternate II (Apr 1984): Insert “60 Days” In Lieu of “30 Days” in paragraph c.	Aug 1987
52.243-3	Changes – Time-and-Materials or Labor Hours	Sep 2000
52.244-2	Subcontracts: Insert “Exceeding \$500,000 in paragraph d.	Jun 2007
52-244-6	Subcontracts for Commercial Items	Sep 2006
52.245-1	Government Property	Jun 2007
52.245-9	Use and Charges	Jun 2007
52.246-4	Inspection of Services—Fixed-Price	Aug 1996
52.246-20	Warranty of Services	May 2001
52.246-25	Limitation Of Liability-Services	Feb 1997
52.247-1	Commercial Bill Of Lading Notations	Feb 2006
52.248-1	Value Engineering	Feb 2000
52.249-2	Termination for Convenience of the Government (Fixed-Price)	May 2004
52.249-8	Default (Fixed-Price Supply and Service).	Apr 1984
52.249-14	Excusable Delays	Apr 1984
52.253-1	Computer Generated Forms	Jan 1991

II. NASA FAR SUPPLEMENT (48 CFR CHAPTER 18) CLAUSES

Number	Clause Title	Date
1852.219-74	Use of Rural Area Small Businesses	Sep 1990
1852.219-75	Small Business and Small Disadvantaged Business Subcontracting Reporting	May 1999
1852.219-76	NASA 8 Percent Goal	Jul 1997
1852.223-74	Drug and Alcohol-Free Workforce	Mar 1996
1852.237-70	Emergency Evacuation Procedures	Dec 1988
1852.243-71	Shared Savings	Mar 1997

(End of Clause)

I.2 REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS OF OFFERORS OR QUOTERS INCORPORATED BY REFERENCE (MSFC 52.252-90) (FEB 2001)

The Representations, Certifications, and Other Statements of Offerors or Quoters (Section K of the solicitation document) as completed by the Contractor are hereby

incorporated in their entirety by reference, with the same force and effect as if they were given in full text.

(End of Clause)

I.3 APPROVAL OF CONTRACT (FAR 52.204-1) (DEC 1989)

This contract is subject to the written approval of the Procurement Officer and shall not be binding until so approved.

(End of Clause)

I.4 ORDERING (FAR 52.216-18) (OCT 1995)

- A. Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the Schedule. Such orders may be issued from the date of contract award through the end of contract performance.
- B. All delivery orders or task orders are subject to the terms and conditions of this contract. In the event of conflict between a delivery order or task order and this contract, the contract shall control.
- C. If mailed, a delivery order or task order is considered "issued" when the Government deposits the order in the mail. Orders may be issued orally, by facsimile, or by electronic commerce methods only if authorized in the Schedule.

(End of Clause)

I.5 ORDER LIMITATIONS (FAR 52.216-19) (OCT 1995)

- A. Minimum Order. When the Government requires supplies and services covered by this contract in an amount of less than \$100, the Government is not obligated to purchase, nor is the Contractor obligated to furnish, those supplies or services

under the contract.

- B. **Maximum Order.** The Contractor is not obligated to honor any order for a single item in excess of \$5,000,000.
- C. If this is a requirements contract (i.e. includes the Requirements clause at subsection 52.216-21 of the Federal Acquisition Regulation (FAR), the Government is not required to order a part of any one requirement from the Contractor if that requirement exceeds the maximum-order limitations in paragraph B., of this section.
- D. Notwithstanding paragraphs B. and C. of this section, the Contractor shall honor any order exceeding the maximum order limitations in paragraph B., unless that order (or orders) is returned to the ordering office within five (5) days after issuance, with written notice stating the Contractor's intent not to perform the requested services and the reasons. Upon receiving this notice, the Government may acquire the supplies or services from another source.

(End of Clause)

I.6 INDEFINITE QUANTITY (FAR 52.216-22) (OCT 1995)

- A. This is an indefinite-quantity contract for the supplies or services specified, and effective for the period stated, in the Schedule. The quantities of supplies and services specified in the Schedule are estimates only and are not purchased by this contract.
- B. Delivery or performance shall be made only as authorized by orders issued in accordance with the Ordering clause. The Contractor shall furnish to the Government, when and if ordered, the supplies or services specified in the Schedule up to and including the quantity designated in the Schedule as the "maximum." The Government shall order at least the quantity of supplies or services designated in the Schedule as the "minimum."
- C. Except for any limitations on quantities in the Order Limitations clause or in the Schedule, there is no limit on the number of orders that may be issued. The Government may issue orders requiring delivery to multiple destinations or performance at multiple locations.
- D. Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order to the same extent

as if the order were completed during the contract's effective period; provided, that the Contractor shall not be required to make any deliveries under this contract after 30 calendar days after the effective period ends.

(End of Clause)

I.7 NOTICE OF PRICE EVALUATION PREFERENCE FOR HUBZONE SMALL BUSINESS CONCERNS (FAR 52.219-4) (JUL 2005)

- A. Definition. "HUBZone small business concern," as used in this clause, means a small business concern that appears on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration.
- B. Evaluation preference.
1. Offers will be evaluated by adding a factor of 10 percent to the price of all offers, except-
 - (a) Offers from HUBZone small business concerns that have not waived the evaluation preference;
 - (b) Otherwise successful offers from small business concerns;
 2. The factor of 10 percent shall be applied on a line item basis or to any group of items on which award may be made. Other evaluation factors described in the solicitation shall be applied before application of the factor.
 3. A concern that is both a HUBZone small business concern and a small disadvantaged business concern will receive the benefit of both the HUBZone small business price evaluation preference and the small disadvantaged business price evaluation adjustment (see FAR clause 52.219-23). Each applicable price evaluation preference or adjustment shall be calculated independently against an offeror's base offer. These individual preference amounts shall be added together to arrive at the total evaluated price for that offer.
- C. Waiver of evaluation preference. A HUBZone small business concern may elect to waive the evaluation preference, in which case the factor will be added to its offer for evaluation purposes. The agreements in paragraph (d) of this clause do not apply if the offeror has waived the evaluation preference.
- Offeror elects to waive the evaluation preference.

- D. Agreement. A HUBZone small business concern agrees that in the performance of the contract, in the case of a contract for:
1. Services (except construction), at least 50 percent of the cost of personnel for contract performance will be spent for employees of the concern or employees of other HUBZone small business concerns;
 2. Supplies (other than procurement from a nonmanufacturer of such supplies), at least 50 percent of the cost of manufacturing, excluding the cost of materials, will be performed by the concern or other HUBZone small business concerns;
 3. General construction, at least 15 percent of the cost of the contract performance incurred for personnel will be will be spent on the concern's employees or the employees of other HUBZone small business concerns; or
 4. Construction by special trade contractors, at least 25 percent of the cost of the contract performance incurred for personnel will be spent on the concern's employees or the employees of other HUBZone small business concerns.
- E. A HUBZone joint venture agrees that in the performance of the contract, the applicable percentage specified in paragraph D. of this clause will be performed by the HUBZone small business participant or participants.
- F. A HUBZone small business concern nonmanufacturer agrees to furnish in performing this contract only end items manufactured or produced by HUBZone small business manufacturer concerns. This paragraph does not apply in connection with construction or service contracts.

(End of clause)

I.8 NOTICE OF PRICE EVALUATION ADJUSTMENT FOR SMALL DISADVANTAGED BUSINESS CONCERNS (FAR 52.219-23) (SEP 2005)

- A. Definitions. As used in this clause-

"Small disadvantaged business concern" means an offeror that represents, as part of its offer, that it is a small business under the size standard applicable to this acquisition; and either-

1. It has received certification by the Small Business Administration as a small disadvantaged business concern consistent with 13 CFR part 124, subpart B; and
 - (a) No material change in disadvantaged ownership and control has occurred since its certification;
 - (b) Where the concern is owned by one or more disadvantaged individuals, the net worth of each individual upon whom the certification is based does not exceed \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and
 - (c) It is identified, on the date of its representation, as a certified small disadvantaged business concern in the database maintained by the Small Business Administration (PRO-Net).
2. It has submitted a completed application to the Small Business Administration or a Private Certifier to be certified as a small disadvantaged business concern in accordance with 13 CFR part 124, subpart B, and a decision on that application is pending, and that no material change in disadvantaged ownership and control has occurred since its application was submitted. In this case, in order to receive the benefit of a price evaluation adjustment, an offeror must receive certification as a small disadvantaged business concern by the Small Business Administration prior to contract award; or
3. Is a joint venture as defined in 13 CFR 124.1002(f).

"Historically black college or university" means an institution determined by the Secretary of Education to meet the requirements of 34 CFR 608.2. For the Department of Defense (DoD), the National Aeronautics and Space Administration (NASA), and the Coast Guard, the term also includes any nonprofit research institution that was an integral part of such a college or university before November 14, 1986.

"Minority institution" means an institution of higher education meeting the requirements of Section 1046(3) of the Higher Education Act of 1965 (20 U.S.C. 1067k, including a Hispanic-serving institution of higher education, as defined in Section 316(b)(1) of the Act (20 U.S.C. 1101a)).

"United States" means the United States, its territories and possessions, the Commonwealth of Puerto Rico, the U.S. Trust Territory of the Pacific Islands, and the District of Columbia.

B. Evaluation adjustment.

1. The Contracting Officer will evaluate offers by adding a factor of 10 percent to the price of all offers, except-
 - (a) Offerors from small disadvantaged concerns, that have not waived the adjustment, and
 - (b) An otherwise successful offer from a historically black college or university or minority institution.
 2. The Contracting Officer will apply the factor to a line item or a group of line items on which award may be made. The Contracting Officer will apply other evaluation factors described in the solicitation before application of the factor. The factor may not be applied if using the adjustment would cause the contract award to be made at a price that exceeds the fair market price by more than the factor in paragraph (b)(1) of this clause.
- C. Waiver of evaluation adjustment. A small disadvantaged business concern may elect to waive the adjustment, in which case the factor will be added to its offer for evaluation purposes. The agreements in paragraph (d) of this clause do not apply to offers that waive the adjustment.
- Offeror elects to waive the adjustment.
- D. Agreements.
1. A small disadvantaged business concern, that did not waive the adjustment, agrees that in performance of the contract, in the case of a contract for-
 - (a) Services, except construction, at least 50 percent of the cost of personnel for contract performance will be spent for employees of the concern;
 - (b) Supplies (other than procurement from a nonmanufacturer of such supplies), at least 50 percent of the cost of manufacturing, excluding the cost of materials, will be performed by the concern;
 - (c) General construction, at least 15 percent of the cost of the contract, excluding the cost of materials, will be performed by employees of the concern; or
 - (d) Construction by special trade contractors, at least 25 percent of the cost of the contract, excluding the cost of materials, will be performed by employees of the concern.
 2. A small disadvantaged business concern submitting an offer in its own name shall furnish in performing this contract only end items manufactured or

produced by small business concerns in the United States or its outlying areas. This paragraph does not apply in connection with construction or service contracts.

(End of clause)

**I.9 STATEMENT OF EQUIVALENT RATES FOR FEDERAL HIRES
(FAR 52.222-42) (MAY 1989)**

In compliance with the Service Contract Act of 1965, as amended, and the regulations of the Secretary of Labor (29 CFR Part 4), this clause identifies the classes of service employees expected to be employed under the contract and states the wages and fringe benefits payable to each if they were employed by the contracting agency subject to the provisions of 5 U.S.C. 5341 or 5332.

THIS STATEMENT IS FOR INFORMATION ONLY: IT IS NOT A WAGE DETERMINATION

A. Classification, Grades and Rates

<u>Employee Classification</u>	<u>Grade</u>	<u>Rates (dollars)</u> <u>Including</u> <u>Fringe Benefits</u>
Boiler Tender	WG-10	20.51
Accounting Clerk II	GS-04	12.47
General Clerk III	GS-04	11.10
Personnel Assistant III	GS-06	15.55
Service Order Dispatcher	GS-04	12.47
Pest Controller	WG-07	17.86
Stock Clerk	WG-04	12.47
Order Clerk II	GS-03	11.10
Secretary I	GS-04	12.47
Secretary II	GS-05	13.95

Bricklayer (Mason)	WG-10	20.51
Carpenter, Foreman	WS-07	24.07
Non-Exempt Classifications Union Represented (Building Trades Council-continued)		
Carpenter, Maintenance	WG-09	19.61
Operating Engineers (Diesel/Crane Mech.)	WG-09	19.61
Operating Engineer (Diesel/Crane Mech) Foreman	WS-07	24.07
Electrician	WG-11	21.39
Electrician (Apprentice 3 year)	WG-07	17.86
Electrician (Elevator Mechanic)	WG-11	21.39
HVAC Mechanic, Electrical	WG-11	21.39
Operating Engineers (Equipment Operator)	WG-10	20.51
HVAC Mechanic Foreman Electrical	WS-07	24.07
HVAC Mechanic Foreman Pipefitter	WS-07	24.07
Pipefitter (HVAC Mechanic)	WG-10	20.51
Insulator	WG-09	19.61
Insulator (Apprentice 3 year)	WG-06	16.97
Insulator (Apprentice 4 year)	WG-07	17.86
Laborer	WG-03	13.64
Laborer Foreman	WS-01	17.86

Millwright	WG-11	21.39
Millwright Tool and Die Maker (Machinist)	WG-11	21.39
Millwright (Foreman)	WS-07	24.07

**Non-Exempt Classifications Union
Represented
(Building Trades Council-continued)**

Electrician Foreman	WS-08	24.94
Millwright (Apprentice 2 year)	WG-07	17.86
Millwright (welder)	WG-11	21.39
Painter, Foreman	WS-07	24.07
Painter	WG-09	19.61
Pipefitter	WG-10	20.51
Pipefitter (Apprentice II)	WG-08	18.70
Pipefitter (Apprentice IV)	WG-09	19.61
Pipefitter (Plumber)	WG-10	20.51
Pipefitter (Welder)	WG-10	20.51
Pipefitter Foreman	WS-07	23.53
Sheet Metal Worker Foreman	WS-07	24.07
Sheet Metal Worker	WG-10	20.51
Sheet Metal Worker (Apprentice IV)	WG-09	19.61
Utility Person	WG-04	14.95

**Non-Exempt Classifications Union
Represented
(International Brotherhood of Electrical
Workers, Local 558)**

Valve Specialist	WG-10	20.51
Electrical Facility Technician	WG-09	19.61
Mechanical Facility Technician	WG-09	19.61
De-Ionized Water Treatment Technician	WG-09	19.61
Wastewater Treatment Technician	WG-09	19.61

B. Fringe Benefits (applicable to all classifications)

1. Health and Insurance

Life, accident and health insurance and sick leave program, 25 percent of basic hourly rate.

2. Holidays

- | | |
|----------------------------------|---------------------|
| a. New Year's Day | f. Labor Day |
| b. Martin Luther King's Birthday | g. Columbus Day |
| c. President's Birthday | h. Veterans Day |
| d. Memorial Day | i. Thanksgiving Day |
| e. Independence Day | j. Christmas Day |

3. Vacation or Paid Leave

- a. 2 hours of annual leave each week for an employee with less than 3 years of service.
- b. 3 hours of annual leave each week for an employee with 3 but less than 15 years of service.
- c. 4 hours of annual leave each week for an employee with 15 or more years of service.

4. Retirement

1-1/2 percent of basic hourly rate plus Thrift Savings Plan plus Social Security.

(End of Clause)

I.10 NOTIFICATION OF EMPLOYEE RIGHTS CONCERNING PAYMENT OF UNION DUES OR FEES (FAR 52.222-39) (DEC 2004)

A. *Definition.* As used in this clause-

"United States" means the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.

B. Except as provided in paragraph (e) of this clause, during the term of this contract, the Contractor shall post a notice, in the form of a poster, informing employees of

their rights concerning union membership and payment of union dues and fees, in conspicuous places in and about all its plants and offices, including all places where notices to employees are customarily posted. The notice shall include the following information (except that the information pertaining to National Labor Relations Board shall not be included in notices posted in the plants or offices of carriers subject to the Railway Labor Act, as amended (45 U.S.C. 151-188)).

Notice to Employees

Under Federal law, employees cannot be required to join a union or maintain membership in a union in order to retain their jobs. Under certain conditions, the law permits a union and an employer to enter into a union-security agreement requiring employees to pay uniform periodic dues and initiation fees. However, employees who are not union members can object to the use of their payments for certain purposes and can only be required to pay their share of union costs relating to collective bargaining, contract administration, and grievance adjustment.

If you do not want to pay that portion of dues or fees used to support activities not related to collective bargaining, contract administration, or grievance adjustment, you are entitled to an appropriate reduction in your payment. If you believe that you have been required to pay dues or fees used in part to support activities not related to collective bargaining, contract administration, or grievance adjustment, you may be entitled to a refund and to an appropriate reduction in future payments. For further information concerning your rights, you may wish to contact the National Labor Relations Board (NLRB) either at one of its Regional offices or at the following address or toll free number:

*National Labor Relations Board
Division of Information
1099 14th Street, N.W.
Washington DC, 20570
1-866-667-6572
1-866-316-6572 (TTY)*

To locate the nearest NLRB office, see NLRB's website at <http://www.nlr.gov>.

- C. The Contractor shall comply with all provisions of Executive Order 13201 of February 17, 2001, and related implementing regulations at 29 CFR part 470, and orders of the Secretary of Labor.
- D. In the event that the Contractor does not comply with any of the requirements set forth in paragraphs (b), (c), or (g), the Secretary may direct that this contract be cancelled, terminated, or suspended in whole or in part, and declare the

Contractor ineligible for further Government contracts in accordance with procedures at 29 CFR part 470, Subpart B-Compliance Evaluations, Complaint Investigations and Enforcement Procedures. Such other sanctions or remedies may be imposed as are provided by 29 CFR part 470, which implements Executive Order 13201, or as are otherwise provided by law.

- E. The requirement to post the employee notice in paragraph (b) does not apply to-
- (1) Contractors and subcontractors that employ fewer than 15 persons;
 - (2) Contractor establishments or construction work sites where no union has been formally recognized by the Contractor or certified as the exclusive bargaining representative of the Contractor's employees;
 - (3) Contractor establishments or construction work sites located in a jurisdiction named in the definition of the United States in which the law of that jurisdiction forbids enforcement of union-security agreements;
 - (4) Contractor facilities where upon the written request of the Contractor, the Department of Labor Deputy Assistant Secretary for Labor-Management Programs has waived the posting requirements with respect to any of the Contractor's facilities if the Deputy Assistant Secretary finds that the Contractor has demonstrated that-
 - (a) The facility is in all respects separate and distinct from activities of the Contractor related to the performance of a contract; and
 - (b) Such a waiver will not interfere with or impede the effectuation of the Executive order; or
 - (5) Work outside the United States that does not involve the recruitment or employment of workers within the United States.
- F. The Department of Labor publishes the official employee notice in two variations; one for contractors covered by the Railway Labor Act and a second for all other contractors. The Contractor shall-
- (1) Obtain the required employee notice poster from the Division of Interpretations and Standards, Office of Labor-Management Standards, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N-5605, Washington, DC 20210, or from any field office of the Department's Office of Labor-Management Standards or Office of Federal Contract Compliance Programs;

- (2) Download a copy of the poster from the Office of Labor-Management Standards website at <http://www.olms.dol.gov> ; or
- (3) Reproduce and use exact duplicate copies of the Department of Labor's official poster.

G. The Contractor shall include the substance of this clause in every subcontract or purchase order that exceeds the simplified acquisition threshold, entered into in connection with this contract, unless exempted by the Department of Labor Deputy Assistant Secretary for Labor-Management Programs on account of special circumstances in the national interest under authority of 29 CFR 470.3(c). For indefinite quantity subcontracts, the Contractor shall include the substance of this clause if the value of orders in any calendar year of the subcontract is expected to exceed the simplified acquisition threshold. Pursuant to 29 CFR part 470, Subpart B-Compliance Evaluations, Complaint Investigations and Enforcement Procedures, the Secretary of Labor may direct the Contractor to take such action in the enforcement of these regulations, including the imposition of sanctions for noncompliance with respect to any such subcontract or purchase order. If the Contractor becomes involved in litigation with a subcontractor or vendor, or is threatened with such involvement, as a result of such direction, the Contractor may request the United States, through the Secretary of Labor, to enter into such litigation to protect the interests of the United States.

(End of Clause)

**I.11 SECURITY REQUIREMENTS FOR UNCLASSIFIED INFORMATION
TECHNOLOGY RESOURCES (NFS 1852.204-76) (MAY 2008) (DEVIATION)**

- A. The Contractor shall be responsible for information and information technology (IT) security when –
- (1) The Contractor or its subcontractors must obtain physical or electronic (i.e., authentication level 2 and above as defined in National Institute of Standards and Technology (NIST) Special Publication (SP) 800-63, Electronic Authentication Guideline) access to NASA's computer systems, networks, or IT infrastructure; or
 - (2) Information categorized as low, moderate, or high by the Federal Information Processing Standards (FIPS) 199, Standards for Security Categorization of Federal Information and Information Systems is stored, generated, processed, or exchanged by NASA or on behalf of NASA by a contractor or subcontractor,

regardless of whether the information resides on a NASA or a contractor/subcontractor's information system.

B. IT Security Requirements.

- (1) Within 30 days after contract award, a Contractor shall submit to the Contracting Officer for NASA approval an IT Security Plan, Risk Assessment, and FIPS 199, Standards for Security Categorization of Federal Information and Information Systems, Assessment. These plans and assessments, including annual updates shall be incorporated into the contract as compliance documents.
 - (a) The IT system security plan shall be prepared consistent, in form and content, with NIST SP 800-18, Guide for Developing Security Plans for Federal Information Systems, and any additions/augmentations described in NASA Procedural Requirements (NPR) 2810, Security of Information Technology. The security plan shall identify and document appropriate IT security controls consistent with the sensitivity of the information and the requirements of Federal Information Processing Standards (FIPS) 200, Recommended Security Controls for Federal Information Systems. The plan shall be reviewed and updated in accordance with NIST SP 800-26, Security Self-Assessment Guide for Information Technology Systems, and FIPS 200, on a yearly basis.
 - (b) The risk assessment shall be prepared consistent, in form and content, with NIST SP 800-30, Risk Management Guide for Information Technology Systems, and any additions/augmentations described in NPR 2810. The risk assessment shall be updated on a yearly basis.
 - (c) The FIPS 199 assessment shall identify all information types as well as the "high water mark," as defined in FIPS 199, of the processed, stored, or transmitted information necessary to fulfill the contractual requirements.
- (2) The Contractor shall produce contingency plans consistent, in form and content, with NIST SP 800-34, Contingency Planning Guide for Information Technology Systems, and any additions/augmentations described in NPR 2810. The Contractor shall perform yearly "Classroom Exercises." "Functional Exercises," shall be coordinated with the Center CIOs and be conducted once every three years, with the first conducted within the first two years of contract award. These exercises are defined and described in NIST SP 800-34.
- (3) The Contractor shall ensure coordination of its incident response team with the NASA Incident Response Center (NASIRC) and the NASA Security Operations

Center, ensuring that incidents are reported consistent with NIST SP 800-61, Computer Security Incident Reporting Guide, and the United States Computer Emergency Readiness Team's (US-CERT) Concept of Operations for reporting security incidents. Specifically, any confirmed incident of a system containing NASA data or controlling NASA assets shall be reported to NASIRC within one hour that results in unauthorized access, loss or modification of NASA data, or denial of service affecting the availability of NASA data.

- (4) The Contractor shall ensure that its employees, in performance of the contract, receive annual IT security training in NASA IT Security policies, procedures, computer ethics, and best practices in accordance with NPR 2810 requirements. The Contractor may use web-based training available from NASA to meet this requirement.
- (5) The Contractor shall provide NASA, including the NASA Office of Inspector General, access to the Contractor's and subcontractors' facilities, installations, operations, documentation, databases, and personnel used in performance of the contract. Access shall be provided to the extent required to carry out IT security inspection, investigation, and/or audits to safeguard against threats and hazards to the integrity, availability, and confidentiality of NASA information or to the function of computer systems operated on behalf of NASA, and to preserve evidence of computer crime. To facilitate mandatory reviews, the Contractor shall ensure appropriate compartmentalization of NASA information, stored and/or processed, either by information systems in direct support of the contract or that are incidental to the contract.
- (6) The Contractor shall ensure that system administrators who perform tasks that have a material impact on IT security and operations demonstrate knowledge appropriate to those tasks. A system administrator is one who provides IT services (including network services, file storage, and/or web services) to someone other than themselves and takes or assumes the responsibility for the security and administrative controls of that service.
- (7) The Contractor shall ensure that NASA's Sensitive But Unclassified (SBU) information as defined in NPR 1600.1, NASA Security Program Procedural Requirements, which includes privacy information, is encrypted in storage and transmission.
- (8) When the Contractor is located at a NASA Center or installation or is using NASA IP address space, the Contractor shall –

- (a) Submit requests for non-NASA provided external Internet connections to the Contracting Officer for approval by the Network Security Configuration Control Board (NSCCB);
- (b) Comply with the NASA CIO metrics including patch management, operating systems and application configuration guidelines, vulnerability scanning, incident reporting, system administrator certification, and security training; and
- (c) Utilize the NASA Public Key Infrastructure (PKI) for all encrypted communication or non-repudiation requirements within NASA when secure email capability is required.

C. Physical and Logical Access Requirements.

- (1) Contractor personnel requiring access to IT systems operated by the Contractor for NASA or interconnected to a NASA network shall be screened at an appropriate level in accordance with NPR 2810 and Chapter 4, NPR 1600.1, NASA Security Program Procedural Requirements. NASA shall provide screening, appropriate to the highest risk level, of the IT systems and information accessed, using, as a minimum, National Agency Check with Inquiries (NACI). The Contractor shall submit the required forms to the NASA Center Chief of Security (CCS) within fourteen (14) days after contract award or assignment of an individual to a position requiring screening. The forms may be obtained from the CCS. At the option of NASA, interim access may be granted pending completion of the required investigation and final access determination. For Contractors who will reside on a NASA Center or installation, the security screening required for all required access (e.g., installation, facility, IT, information, etc.) is consolidated to ensure only one investigation is conducted based on the highest risk level. Contractors not residing on a NASA installation will be screened based on their IT access risk level determination only. See NPR 1600.1, Chapter 4.
- (2) Guidance for selecting the appropriate level of screening is based on the risk of adverse impact to NASA missions. NASA defines three levels of risk for which screening is required (IT-1 has the highest level of risk).
 - (a) IT-1 -- Individuals having privileged access or limited privileged access to systems whose misuse can cause very serious adverse impact to NASA missions. These systems include, for example, those that can transmit commands directly modifying the behavior of spacecraft, satellites or aircraft.
 - (b) IT-2 -- Individuals having privileged access or limited privileged access to systems whose misuse can cause serious adverse impact to NASA missions.

These systems include, for example, those that can transmit commands directly modifying the behavior of payloads on spacecraft, satellites or aircraft; and those that contain the primary copy of “level 1” information whose cost to replace exceeds one million dollars.

- (c) IT-3 -- Individuals having privileged access or limited privileged access to systems whose misuse can cause significant adverse impact to NASA missions. These systems include, for example, those that interconnect with a NASA network in a way that exceeds access by the general public, such as bypassing firewalls; and systems operated by the Contractor for NASA whose function or information has substantial cost to replace, even if these systems are not interconnected with a NASA network.
- (3) Screening for individuals shall employ forms appropriate for the level of risk as established in Chapter 4, NPR 1600.1.
- (4) The Contractor may conduct its own screening of individuals requiring privileged access or limited privileged access provided the Contractor can demonstrate to the Contracting Officer that the procedures used by the Contractor are equivalent to NASA's personnel screening procedures for the risk level assigned for the IT position.
- (5) Subject to approval of the Contracting Officer, the Contractor may forgo screening of Contractor personnel for those individuals who have proof of a –
 - (a) Current or recent national security clearances (within last three years);
 - (b) Screening conducted by NASA within the last three years that meets or exceeds the screening requirements of the IT position; or
 - (c) Screening conducted by the Contractor, within the last three years, that is equivalent to the NASA personnel screening procedures as approved by the Contracting Officer and concurred on by the CCS.
 - (d) The Contracting Officer may waive the requirements of paragraphs (B) and (C)(1) through (C)(3) upon request of the Contractor. The Contractor shall provide all relevant information requested by the Contracting Officer to support the waiver request.
 - (e) The Contractor shall contact the Contracting Officer for any documents, information, or forms necessary to comply with the requirements of this clause.

- (f) At the completion of the contract, the Contractor shall return all NASA information and IT resources provided to the Contractor during the performance of the contract and certify that all NASA information has been purged from Contractor-owned systems used in the performance of the contract.
- (g) The Contractor shall insert this clause, including this paragraph (g), in all subcontracts
 - (1) Have physical or electronic access to NASA's computer systems, networks, or IT infrastructure; or
 - (2) Use information systems to generate, store, process, or exchange data with NASA or on behalf of NASA, regardless of whether the data resides on a NASA or a contractor's information system.

(End of Clause)

I.12 AUTHORIZED DEVIATIONS IN CLAUSES (FAR 52.252-6) (APR 1984)

- A. The use in this solicitation or contract of any Federal Acquisition Regulation (48 CFR Chapter 1) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the date of the clause.
- B. The use in this solicitation or contract of any NASA FAR Supplement clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the name of the regulation.

(End of Clause)

I.13 OMBUDSMAN (NFS 1852.215-84) (OCT 2003) (ALTERNATE I) (JUNE 2000)

- A. An ombudsman has been appointed to hear and facilitate the resolution of concerns from offerors, potential offerors, and contractors during the pre-award and post-award phases of this acquisition. When requested, the ombudsman will maintain strict confidentiality as to the source of the concern. The existence of the ombudsman is not to diminish the authority of the contracting officer, the Source Evaluation Board, or the selection official. Further, the ombudsman does not participate in the evaluation of proposals, the source selection process, or the adjudication of formal contract disputes. Therefore, before consulting with an ombudsman, interested parties must first address their concerns, issues, disagreements, and/or recommendations to the contracting officer for resolution.

- B. If resolution cannot be made by the contracting officer, interested parties may contact the installation ombudsman, Ms. Robin N. Henderson, George C. Marshall Space Flight Center, DEO1, Building 4200, Marshall Space Flight Center, AL 35812, telephone: 256-544-1919, facsimile: 256-544-7920, and e-mail address: Robin.N.Henderson@nasa.gov.

Concerns, issues, disagreements, and recommendations which cannot be resolved at the installation may be referred to the NASA ombudsman, the Director of the Contract Management Division, at 202-358-0445, facsimile 202-358-3083, e-mail, james.a.balinskas@.nasa.gov. Please do not contact the ombudsman to request copies of the solicitation, verify offer due date, or clarify technical requirements. Such inquiries shall be directed to the contracting officer or as specified elsewhere in this document.

- C. If this is a task or delivery order contract, the ombudsman shall review complaints from contractors and ensure they are afforded a fair opportunity to be considered, consistent with the procedures of the contract.

(End of Clause)

**I.14 RELEASE OF SENSITIVE INFORMATION (NFS 1852.237-73)
(JUNE 2005)**

- A. As used in this clause, “sensitive information” refers to information, not currently in the public domain, that the Contractor has developed at private expense, that may embody trade secrets or commercial or financial information, and that may be sensitive or privileged.
- B. In accomplishing management activities and administrative functions, NASA relies heavily on the support of various service providers. To support NASA activities and functions, these service providers, as well as their subcontractors and their individual employees, may need access to sensitive information submitted by the Contractor under this contract. By submitting this proposal or performing this contract, the Contractor agrees that NASA may release to its service providers, their subcontractors, and their individual employees, sensitive information submitted during the course of this procurement, subject to the enumerated protections mandated by the clause at 1852.237-72, Access to Sensitive Information.
- C. (1) The Contractor shall identify any sensitive information submitted in support of this proposal or in performing this contract. For purposes of identifying sensitive information, the Contractor may, in addition to any other notice or legend otherwise required, use a notice similar to the following:

Mark the title page with the following legend:

This proposal or document includes sensitive information that NASA shall not disclose outside the Agency and its service providers that support management activities and administrative functions. To gain access to this sensitive information, a service provider's contract must contain the clause at NFS 1852.237-72, Access to Sensitive Information. Consistent with this clause, the service provider shall not duplicate, use, or disclose the information in whole or in part for any purpose other than to perform the services specified in its contract. This restriction does not limit the Government's right to use this information if it is obtained from another source without restriction.

The information subject to this restriction is contained in pages of Volume I, all pages, Volume II, all pages, Volume III, all pages, and Volume IV, all pages.

Mark each page of sensitive information the Contractor wishes to restrict with the following legend:

Use or disclosure of sensitive information contained on this page is subject to the restriction on the title page of this proposal or document.

- (2) The Contracting Officer shall evaluate the facts supporting any claim that particular information is "sensitive." This evaluation shall consider the time and resources necessary to protect the information in accordance with the detailed safeguards mandated by the clause at NFS1852.237-72, Access to Sensitive Information. However, unless the Contracting Officer decides, with the advice of Center counsel, that reasonable grounds exist to challenge the Contractor's claim that particular information is sensitive, NASA and its service providers and their employees shall comply with all of the safeguards contained in paragraph (d) of this clause.
- D. To receive access to sensitive information needed to assist NASA in accomplishing management activities and administrative functions, the service provider must be operating under a contract that contains the clause at NFS 1852.237-72, Access to Sensitive Information. This clause obligates the service provider to do the following:
- (1) Comply with all specified procedures and obligations, including the Organizational Conflicts of Interest Avoidance Plan, which the contract has incorporated as a compliance document.

- (2) Utilize any sensitive information coming into its possession only for the purpose of performing the services specified in its contract.
 - (3) Safeguard sensitive information coming into its possession from unauthorized use and disclosure.
 - (4) Allow access to sensitive information only to those employees that need it to perform services under its contract.
 - (5) Preclude access and disclosure of sensitive information to persons and entities outside of the service provider's organization.
 - (6) Train employees who may require access to sensitive information about their obligations to utilize it only to perform the services specified in its contract and to safeguard it from unauthorized use and disclosure.
 - (7) Obtain a written affirmation from each employee that he/she has received and will comply with training on the authorized uses and mandatory protections of sensitive information needed in performing this contract.
 - (8) Administer a monitoring process to ensure that employees comply with all reasonable security procedures, report any breaches to the Contracting Officer, and implement any necessary corrective actions.
- E. When the service provider will have primary responsibility for operating an information technology system for NASA that contains sensitive information, the service provider's contract shall include the clause at 1852.204-76, Security Requirements for Unclassified Information Technology Resources. The Security Requirements clause requires the service provider to implement an Information Technology Security Plan to protect information processed, stored, or transmitted from unauthorized access, alteration, disclosure, or use. Service provider personnel requiring privileged access or limited privileged access to these information technology systems are subject to screening using the standard National Agency Check (NAC) forms appropriate to the level of risk for adverse impact to NASA missions. The Contracting Officer may allow the service provider to conduct its own screening, provided the service provider employs substantially equivalent screening procedures.
- F. This clause does not affect NASA's responsibilities under the Freedom of Information Act.

- G. The Contractor shall insert this clause, including this paragraph (g), suitably modified to reflect the relationship of the parties, in all subcontracts that may require the furnishing of sensitive information.

(End of Clause)

I.15 MINIMUM INSURANCE COVERAGE (NFS 1852.228-75) (OCT 1988)

The Contractor shall obtain and maintain insurance coverage as follows for the performance of this contract:

- A. Worker's compensation and employer's liability insurance as required by applicable Federal and state workers' compensation and occupational disease statutes. If occupational diseases are not compensable under those statutes, they shall be covered under the employer's liability section of the insurance policy, except when contract operations are so commingled with the Contractor's commercial operations that it would not be practical. The employer's liability coverage shall be at least \$100,000, except in States with exclusive or monopolistic funds that do not permit workers' compensation to be written by private carriers.
- B. Comprehensive general (bodily injury) liability insurance of at least \$500,000 per occurrence.
- C. Motor vehicle liability insurance written on the comprehensive form of policy which provides for bodily injury and property damage liability covering the operation of all motor vehicles used in connection with performing the contract. Policies covering motor vehicles operated in the United States shall provide coverage of at least \$200,000 per person and \$500,000 per occurrence for bodily injury liability and \$20,000 per occurrence for property damage. The amount of liability coverage on other policies shall be commensurate with any legal requirements of the locality and sufficient to meet normal and customary claims.
- D. Comprehensive general and motor vehicle liability policies shall contain a provision worded as follows:
- "The insurance company waives any right of subrogation against the United States of America which may arise by reason of any payment under the policy."
- E. When aircraft are used in connection with performing the contract, aircraft public and passenger liability insurance of at least \$200,000 per person and \$500,000 per occurrence for bodily injury, other than passenger liability, and \$200,000 per occurrence for property damage. Coverage for passenger liability bodily injury shall

be at least \$200,000 multiplied by the number of seats or passengers, whichever is greater.

(End of Clause)

I.16 LIMITATIONS ON SUBCONTRACTING (FAR 52.219-14) (DEC 1996)

- A. This clause does not apply to the unrestricted portion of a partial set-aside.
- B. By submission of an offer and execution of a contract, the Offeror/Contractor agrees that in performance of the contract in the case of a contract for—
- (1) Services (except construction). At least 50 percent of the cost of contract performance incurred for personnel shall be expended for employees of the concern.
 - (2) Supplies (other than procurement from a non-manufacturer of such supplies). The concern shall perform work for at least 50 percent of the cost of manufacturing the supplies, not including the cost of materials.
 - (3) General construction. The concern will perform at least 15 percent of the cost of the contract, not including the cost of materials, with its own employees.
 - (4) Construction by special trade contractors. The concern will perform at least 25 percent of the cost of the contract, not including the cost of materials, with its own employees.

(End of Clause)

**I.17 POST-AWARD SMALL BUSINESS PROGRAM
REREPRESENTATION (FAR 52.219-28) (JUNE 2007)**

- A. Definitions. As used in this clause—
- Long-term contract means a contract of more than five years in duration, including options. However, the term does not include contracts that exceed five years in duration because the period of performance has been extended for a cumulative period not to exceed six months under the clause at 52.217-8, Option to Extend Services, or other appropriate authority.
- Small business concern means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR part 121 and the size standard in paragraph (c) of this clause.

- B. If the Contractor represented that it was a small business concern prior to award of this contract, the contractor shall re-represent its size status according to paragraph (e) of this clause or, if applicable, paragraph (g) of this clause, upon the occurrence of any of the following:
- (1) Within 30 days after execution of a novation agreement or within 30 days after modification of the contract to include this clause, if the novation agreement was executed prior to inclusion of this clause in the contract.
 - (2) Within 30 days after a merger or acquisition that does not require a novation or within 30 days after modification of the contract to include this clause, if the merger or acquisition occurred prior to inclusion of this clause in the contract.
 - (3) For long-term contracts—
 - (i) Within 60 to 120 days prior to the end of the fifth year of the contract; and
 - (ii) Within 60 to 120 days prior to the exercise date specified in the contract for any option thereafter.
- C. The Contractor shall re-represent its size status in accordance with the size standard in effect at the time of this re-representation that corresponds to the North American Industry Classification System (NAICS) code assigned to this contract. The small business size standard corresponding to this NAICS code can be found at <http://www.sba.gov/services/contractingopportunities/sizestandardsttopics/>.
- D. The small business size standard for a Contractor providing a product which it does not manufacture itself, for a contract other than a construction or service contract, is 500 employees.
- E. Except as provided in paragraph (g) of this clause, the Contractor shall make the re-representation required by paragraph (b) of this clause by validating or updating all its representations in the Online Representations and Certifications Application and its data in the Central Contractor Registration, as necessary, to ensure they reflect current status. The Contractor shall notify the contracting office by e-mail, or otherwise in writing, that the data have been validated or updated, and provide the date of the validation or update.
- F. If the Contractor represented that it was other than a small business concern prior to award of this contract, the Contractor may, but is not required to, take the actions required by paragraphs (e) or (g) of this clause.
- G. If the Contractor does not have representations and certifications in ORCA, or does not have a representation in ORCA for the NAICS code applicable to this contract, the Contractor is required to complete the following re-representation

and submit it to the contracting office, along with the contract number and the date on which the re-representation was completed:

The Contractor represents that it _____ is, is not a small business concern under NAICS Code 561210 assigned to contract number NNM08AA54C.



Gary L. Dylewski
Vice President
Mission Support SBU

(End of Clause)

[END OF SECTION]