

Fixed-Price Provisions

(Jacobs Sverdrup)

The Buyer anticipates that the following clauses will be incorporated into its contract with Jacobs Sverdrup (JS), a prime contractor of the National Aeronautics and Space Administration (NASA). The additional provisions identified below will be included as part of the terms and conditions of any subcontract issued as a result of this contract. Certain additions, deletions or corrections may, however, be made depending on the final terms of the awarded contract with JS.

1. Definitions

As used in this Order:

"Contracting Officer" means a person with the authority to enter into, administer and/or terminate Government contracts and make related determinations and findings. The term includes certain authorized representatives of the Contracting Officer acting within the limits of their authority as delegated by the Contracting Officer.

"Government" means the Government of the United States.

"Prime contract" means the Government contract under which this Order is issued.

"FAR" means the Federal Acquisition Regulation and "NFS" means the NASA FAR Supplement. The text of clauses identified below by a FAR or NFS clause number are incorporated herein by reference, subject to the following definitions and to the modifications indicated:

"Contractor" means Seller.

"Subcontractor" means Seller's subcontractor.

"Contract" means this Order.

2. Royalty Costs or Charges

If the costs to be paid under this Order include royalty costs or charges exceeding \$250, the following provisions shall apply:

"Seller acknowledges that payment of any sum for royalties included as a cost or charge in this Order shall be subject to the provisions of FAR 27.205, 'Adjustment of Royalties' and FAR 27.206, 'Refund of Royalties'."

3. Procurement Integrity

Seller agrees to comply with Section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423), as amended by Section 814 of Public Law (P.L.) 101-189, and as implemented by the FAR.

If Buyer's price or fee is reduced by the Government in accordance with FAR 3.104-9, or if Buyer is otherwise subjected to any liability as the result of Seller's or its lower tier subcontractor's failure to comply with the above law, then Seller agrees to indemnify and hold Buyer harmless to the full extent of any loss, damage or expense (including profit) resulting from such failure.

4. Definitive Prime Contract

Seller recognizes that Buyer's definitive prime contract may contain provisions different from or in addition to the provisions contained in this Order. Seller agrees to accept statutory requirements, executive orders or requirements of the FAR, NFS or any other mandatory requirement subject to equitable adjustment to this Order as may be required, and to negotiate in good faith for the inclusion herein of any other changes or additional provisions in Buyer's definitive prime contract.

5. Packaging, Handling, and Transportation (NFS 1852.211-70)(JUN 2000) (as modified)

(Applicable if this Order specifies shipment of items directly to the Government.)

- (a) Seller shall comply with NPG 6000.1E, "Requirements for Packaging, Handling, and Transportation for Aeronautical and Space Systems, Equipment, and Associated Components," dated April 26, 1999, as may be supplemented by the statement of work or specifications of this subcontract, for all items designated at Class I, II, or III.
- (b) Seller's packaging, handling, and transportation procedures may be used provided (1) Seller's procedures are not in conflict with any requirements of this subcontract, and (2) the requirements of this subcontract shall take precedence in the event of any conflict with Seller's procedures.
- (c) Seller must place the requirements of this clause in all lower-tier subcontracts for items that will become components of deliverables designated at Class I, II, or III items.

6. Marking and Shipping Instructions

- (a) All delivery documentation shall reference this Order.
- (b) The marking and shipping instructions are identified elsewhere in this Order.
- (c) All shipping containers, shipping documents, and purchasing documents for flight items shall be marked in ¼-inch letters or larger by hand printing or rubber stamp: "THIS IS A FLIGHT ITEM" OR "THIS IS MISSION ESSENTIAL GROUND SUPPORT EQUIPMENT", as applicable.

7. Quality Control System

- (a) Seller shall ensure compliance with the specific quality requirements identified in this Order.
- (b) Records of all quality control inspection work by Seller shall be kept complete and made available to Buyer, Buyer's customer and the Government when requested.

8. Delivery or Performance Schedule

- (a) Time is of the essence in Seller's performance. Seller shall take adequate measures to accomplish all elements of work required within time limits which are set forth in the schedule, if any, and if no schedule is included, within such time limits for meeting the specified shipping date(s) or performance period(s). Seller shall provide immediate written notice of any actual or potential delay. Failure to maintain scheduled completion shall be considered a breach of Seller's obligations. If required by Buyer, Seller shall furnish progress reports as directed. Seller shall also provide Buyer's expediting representatives such information as they may request concerning Seller's progress and schedule. If Seller demonstrates the potential inability or desire to perform, anticipatory breach may be declared by Buyer.
- (b) Buyer reserves the right to direct Seller to schedule, re-schedule, or re-sequence the delivery of goods, materials, or equipment pursuant to the Changes clause in this Order.
- (c) In the event Seller is delayed in performing any of its obligations under this Order, and such delay is caused by an act of God, force majeure, war, riots, civil insurrection, acts of the public enemy, acts of civil or military authority, and which are beyond the reasonable control of, and without any fault or responsibility on the part of Seller, such delay shall be excused, and the period of delay shall be added to the Schedule. Seller shall notify Buyer in writing within 3 business days of an excusable delay. Likewise, Seller shall notify Buyer in writing within 3 business days if Seller reasonably anticipates an excusable delay. Whether a delay is an excusable delay or not, Seller shall, at no cost to Buyer, exercise due diligence to mitigate all delays. Seller shall keep Buyer continually informed as to the delay and Seller's mitigation efforts. (This clause takes precedence over any other clause in this Order entitled, "Force Majeure".)

9. Human Space Flight Item

(Seller shall include the following statement in all subcontracts and purchase orders placed by it in support of this Order, without exception as to amount or subcontract level.)

FOR USE IN HUMAN SPACE FLIGHT; MATERIALS, MANUFACTURING, AND WORKMANSHIP OF HIGHEST QUALITY STANDARDS ARE ESSENTIAL TO ASTRONAUT SAFETY.

IF YOU ARE ABLE TO SUPPLY THE DESIRED ITEM WITH A HIGHER QUALITY THAN THAT OF THE ITEMS SPECIFIED OR PROPOSED, YOU ARE REQUESTED TO BRING THIS FACT TO THE IMMEDIATE ATTENTION OF THE PURCHASER.

10. Inspections

(a) Preliminary Inspection at Source

Preliminary inspection for compliance with the subcontract specifications and requirements may be performed at origin by an authorized representation of Buyer or Buyer's customer and final inspection and acceptance will be performed at Buyer or Buyer's customer or other location designated by Buyer's Technical Manager.

(b) Final Inspection and Acceptance at Destination

Final inspection and acceptance shall be accomplished by Buyer's Technical Manager or duly authorized representative at any of the locations specified in the Order where services shall be provided.

Unless otherwise specified elsewhere in this Order, Buyer's Technical Manager, or duly authorized representative, is the only authorized representative of Buyer for the purpose of this article.

11. Government Source Inspections (GSI)

The following statement is applicable if this Order requires GSI:

All work on this Order is subject to inspection and test by the Government at any time and place. The Government quality representative who has been delegated quality assurance functions on this procurement shall be notified immediately upon receipt of this Order. The Government representative shall also be notified 48 hours in advance of the time articles or materials are ready for inspection or test.

The following statement is applicable if this Order does not require GSI:

The Government has the right to inspect any or all of the work included in this Order at Seller's plant.

12. MSDS

Seller shall provide with each delivery any Material Safety Data Sheet applicable to the item in conformance with and containing such information as required by the Occupational Safety and Health Act of 1970 and regulations promulgated thereunder, or its state approved counterpart.

13. Toxic Substances Control Act

Seller represents that each chemical substance constituting or contained in items sold or otherwise transferred hereunder is on the list of chemical substances compiled and published by the Administrator of the Environmental Protection Agency (EPA) pursuant to the Toxic Substances Control Act (15 U.S.C. Sec. 2601 et seq.) as amended.

14. JSC Hazardous Materials Use (JSC 52.223-92)(DEC 1999)(as modified)

(a) This clause is Johnson Space Center (JSC)-unique, and the requirements are in addition to any U.S. EPA, U.S. Occupational Safety and Health Administration (OSHA), or other state or Federal regulation or statute. Therefore, the following requirements do NOT superseded any statutory or regulatory requirements for any entity subject to this clause.

(b) "Hazardous materials," for the purposes of this clause, consist of the following:

- (1) Those materials defined as "highly hazardous chemicals" in OSHA Process Safety Management Regulation, 29 Code of Federal Regulation (CFR) 1010.119, without regard for quantity.
 - (2) Those "extremely hazardous substances" subject to the emergency planning requirements in the EPA Emergency Planning and Community Right-to-Know Regulation, 40 CFR 355, Part 355, without regard for quantity.
 - (3) Those "hazardous substances" subject to the release notification requirements under EPA's Emergency Planning and Community Right-to-Know Regulation, 40 CFR 302.4, without regard for quantity.
 - (4) Any radioisotope material or device that produces ionizing radiation.
 - (5) Any Class II, III, or IV laser as defined by the American National Standards Institute No. Z136.1 (1986)
 - (6) Any explosive or any pyrotechnics.
 - (7) Any pesticide.
- (c) Seller shall develop and maintain an inventory listing the identity and quantity of hazardous materials stored or used onsite at JSC for the performance of the Order.
 - (d) Seller shall ensure that the proper training of its employees in the use and inherent hazards of these materials is accomplished prior to use.
 - (e) Seller shall notify Buyer and JSC Occupational Health and Test Support Office (SD13) prior to any initial use or different application of these materials.
 - (f) Seller shall use all hazardous materials properly and take all necessary precautions to ensure no harm is done to humans or the environment.
 - (g) Seller shall insert the substance of this clause, including this paragraph (g) with appropriate changes of designations of the parties, in lower-tier subcontracts under which hazardous materials will be utilized, or may reasonably be expected to be utilized, onsite at JSC.
 - (h) In the event Seller fails or refuses to comply with any aspect of this clause, such failure or refusal may be considered a material breach of this Order.

15. Identification of Subcontractor Employees

- (a) Each individual who wears a badge shall be required to sign personally for the badge. Seller shall be held accountable for issued badges and all other related items and must assure that they are returned to the NASA Badging & Visitor Control Offices upon completion of work under the contract in accordance with Security Management Directive (SMD) 500-15, "Security Termination Procedures." Failure to comply with the NASA contractor termination procedures upon completion of work (e.g., return of badges, decals, keys, CAA cards, clearance terminations, JSC Public Key Infrastructure (PKI)/special program deletions, etc.) may result in final payment being delayed.
- (b) When work contemplated under this Order is performed at Buyer, Buyer's customer or NASA JSC facilities:
 - (1) Seller shall be responsible for securing the necessary Buyer management approvals for completing the badge request in advance of Seller's employee(s) starting work on this Order.
 - (2) Seller shall notify Buyer Security for an appointment reasonably in advance prior to the commencement of work by Seller's personnel.
 - (3) Seller's employee shall bring the following to Buyer's Security Officer:
 - (A) A completed Non-employee Badge Request Form.

- (B) One form of identification – original or certified copy (raised seal) of birth certificate, current or expired passport, driver license, permanent resident card (green card), certificate of birth abroad, or naturalization certificate.
- (c) Seller agrees that it will not employ for the performance of work on this Order any individuals who are not legally authorized to work in the United States.
- (d) Seller shall be responsible for requiring each of their employees engaged in the performance of this order, when on the JSC, Buyer, or Buyer's customer site, to display such identification as may be approved and directed by JSC, Buyer or Buyer's customer through the Buyer.

16. Security/Badging Requirements for Foreign National Visitors and Employees/Representatives of Foreign Contractors (JSC 52.204-91)(Mar 2002)

- (a) An employee of a domestic JSC contractor or its lower-tier subcontractor who is not a U.S. citizen (foreign national) may not be admitted to a JSC site for purposes of performing work without special arrangements. In addition, all employees or representatives of a foreign JSC Seller/lower-tier subcontractor may not be admitted to the JSC site without special arrangements. For employees as described above, advance notice must be given to Buyer for forwarding to the NASA Security Office of the host installation [JSC or White Sands Test Facility (WSTF)] at least 3 weeks prior to the scheduled need for access to the site so that instructions on obtaining access may be provided.
- (b) All visit/badge requests for persons described in (a) above must be entered in the NASA Request for Request (RFR) and Foreign National Management System (NFMMS) for acceptance, review, concurrence and approval purposes. When an authorized company official requests a JSC or WSTF badge for site access, he/she is certifying that steps have been taken to ensure that the Seller or lower-tier subcontractor employees, visitors, or representatives will not be given access to export-controlled or classified information for which they are not authorized. The authorized company officials shall serve as the Seller's representative(s) in certifying that all visit/badge requests forms are processed in accordance with JSC and WSTF until a completed RFR has been approved and processed through the NFMMS. Unescorted access will not be granted unless a favorable National Agency Check (NAC) has been completed by the JSC Security Office.
- (c) Seller agrees that it will not employ for the performance of work on site at the JSC or WSTF any individuals who are not legally authorized to work in the United States. If the JSC or WSTF Industrial Security Specialist, Buyer, or Buyer's NASA Contracting Officer has reason to believe that any employee of Seller may not be legally authorized to work in the United States and/or on the Order, Seller may be required to furnish copies of Form I-9 (Employment Eligibility Verification), U.S. Department of Labor Application for Alien Employment Certification, and any other type of employment authorization document.

Seller agrees to provide the information requested by the JSC or WSTF Security Office in order to comply with NASA policy directives and guidelines related to foreign visits at NASA facilities so that (1) the visitor/employee/representative may be allowed access to JSC or other NASA Centers for performance of this Order, (2) required investigations can be conducted, and (3) required annual or revalidation reports can be submitted to NASA Headquarters. All requested information must be submitted in a timely manner in accordance with instructions provided by JSC or any other Center to be visited.

17. COMSEC Monitoring

All communications with Government organizations are subject to communications security (COMSEC) review. Seller personnel will be aware that telecommunication networks are continually subject to interception by unfriendly intelligence organizations. The Government has authorized agencies to conduct COMSEC monitoring and recording of telephone calls originating from or terminating at their locations. Therefore, civilian contractor personnel are advised that any time they place a call to or receive a call from a Government organization, they are subject to COMSEC procedures. Seller will assume the responsibility of ensuring wide and frequent dissemination of the above information to all employees dealing with official Government information.

18. Operating Government Equipment

Seller personnel will not operate government equipment that requires certification of proficiency unless, and until, they have been approved to operate such equipment by Seller or by Government personnel duly authorized to grant such approval.

19. Nondisclosure Agreement and Access to Proprietary Information

- (a) In performing services in support of this Order, Seller and its employees may work with or have access to proprietary information of Buyer as well as that of other companies and use of sensitive internal budget, accounting, or financial data. Seller agrees that neither it nor any of its employees will disclose this information, or any derivatives thereof, to third parties except on written consent from Buyer, and will not copy nor use any of this data, or any derivatives thereof, for any purpose other than as necessary in performance of this Order. In the event Seller executes nondisclosure agreements related to Seller's access to proprietary information of other companies, Seller shall supply copies of these nondisclosure agreements to Buyer.
- (b) Seller will establish policies and procedures, which will implement the substance of this clause at the individual employee level. Further, Seller will assure that each employee is made aware of this provision and Seller's implementation policies and procedures. Particular attention will be given to keeping employees advised of statutes and regulations applicable to handling proprietary information.
- (c) This clause does not preclude Seller and/or its employees from independently acquiring and using relevant data from legitimate sources outside of this Order, or from performing and using independent analysis of data so acquired, provided that Seller and/or its employees fully document the sources of such data, and the independent of any such analysis.
- (d) Seller will insert the substance of this clause in each applicable lower-tier subcontract hereunder (other than for purchases of supplies or equipment) unless Buyer has waived this requirement in writing as to particular lower-tier subcontracts or classes of subcontract.

20. Accessibility

Seller shall provide Buyer or other designated individual(s) electronic accessibility to all technical data and documents generated in development of any work under this Order. Seller shall develop a process in which Buyer and Buyer's customer shall have electronic accessibility to all data/documents being developed by Seller at, and continuing subsequent to, the time they are put into the internal review process. This accessibility shall be "real time" accessibility.

Seller shall not have any proprietary data used in the development or delivery of any requirement in support of this Order without prior written approval of Buyer.

21. Safety Training for Seller

- (a) All Seller work performed in Buyer, Buyer's customer or Government facilities associated with this Order shall be governed by and shall be in accordance with the appropriate Buyer's instructions. All Seller personnel performing work on this Order in any Buyer, Buyer's Customer or Government facility must read the Buyer's Customer orientation booklet and sign the subcontractor certification training form contained within the booklet. The signed form, along with applicable evidence of required training and certification, shall be provided to Buyer prior to commencement of any work on this Order.
- (b) Seller personnel shall report to Buyer's facility prior to starting any work. A safety audit of the applicable training requirements may be conducted along with a discussion of job safety analysis, task safety analyses and other jobsite safety requirements.
- (c) Seller shall contact Buyer's safety representative to schedule a safety orientation briefing prior to performing work in a Buyer, Buyer's customer or Government facility.
- (d) A badge verifying completion of required orientation and job site briefings is required to be displayed by Seller's employees. The badge generally states:

"Completed ESCG Subcontract Safety Orientation and Job Site Safety Briefing."

22. (Limited) Release of Contractor Confidential Business Information (CBI) JSC 52.227-91 (May 2002)

(Applicable if this Order requires the furnishing of CBI by Seller.)

- (a) NASA may find it necessary to release information submitted by Seller pursuant to the provisions of this Order, to individuals not employed by NASA. Business information that would ordinarily be entitled to confidential treatment maybe included in the information released to these individuals. Accordingly, by signature on this Order, Seller hereby consents to a limited release of its CBI.
- (b) Possible circumstances where the Agency may release Seller's CBI include the following:
 - (1) To other Agency contractors and subcontractors, and their employees engaged in information systems analysis, development, operation, and maintenance, including performing data processing and management functions for the Agency.
 - (2) To NASA contractors and subcontractors, and their employees engaged in information systems analysis, development, operation, and maintenance, including performing data processing and management functions for the Agency.
- (c) NASA recognizes its obligation to protect Seller from competitive harm that could result from the release of such information to a competitor. Except where otherwise provided by law, NASA will permit the limited release of CBI under subparagraphs (1) or (2) only pursuant to non-disclosure agreements signed by the assisting contractor or subcontractor, and their individual employees who may require access to the CBI to perform the assisting contract.
- (d) NASA's responsibilities under the Freedom of Information Act are not affected by this clause.
- (e) Seller agrees to include this clause, including this paragraph (e), in all subcontracts at all levels awarded pursuant to this Order that require the furnished of CBI by Seller.

23. Security Requirements

- (a) Seller shall comply with all Government security requirements. Upon request, Seller shall submit the name and address of each employee hired for work on this Order and shall cause to be filled out questionnaires and other forms as may be required for security.
- (b) Neither Seller nor any of its employees shall disclose or cause to be disseminated any information concerning the operations of the activity which could result in or increase the likelihood of the possibility of a breach of the Government's security or interrupt the continuity of its operations.
- (c) Disclosure of information relating to the services hereunder to any person not entitled to receive it, or failure to safeguard any classified information that may come to Seller or any person under its control in connection with work under this Order, may subject Seller, its agents or employees to criminal liability under 18 U.S.C. Sec. 793 (Gathering, Transmitting, or Losing Defense Information) and Sec. 798 (Disclosure of Classified Information).
- (d) All inquiries, comments or complaints arising from any matter observed, experienced, or learned as a result of or in connection with the performance of this Order, the resolution of which may require the dissemination of official information, will be directed to Buyer.
- (e) Deviations from or violation of any of the provisions of this clause will, in addition to all other criminal and civil remedies provided by law, subject Seller to immediate termination for default.
- (f) No employee or representative of Seller will be admitted to the site of work unless they are a citizen of the United States, or, if an alien, employment within the United States is legal.

24. Health and Safety

Seller shall comply with and provide reporting for all Health and Safety requirements identified in this Order. Non-compliance with any Health and Safety requirement may be grounds for Order termination.

25. FAR Clauses Incorporated by Reference

The full text of a clause may be accessed electronically at this/these address(es):

Federal Acquisition Regulation (FAR) – <http://www.acqnet.gov/far>

NASA FAR Supplement (NFS) – <http://www.hq.nasa.gov/office/procurement/regs/nfstoc.htm>

- 52.203-6 Restrictions on Subcontractor Sales to the Government
(Applicable to all Orders)
- 52.203-7 Anti-Kickback Procedures
(Applicable to all Orders)
Delete paragraph (c)(1). The following is added to paragraph (c)(2): "Seller shall notify Buyer when such action has been taken." In paragraph (c)(4)(i) "which in turn may be offset by Buyer under this Order" is added after "the Prime Contract."
- 52.203-12 Limitation on Payments to Influence Certain Federal Transactions
(Applicable if this Order exceeds \$100,000)
In (c)(1) "Contractor who requests or receives from an agency a Federal Contract shall file with that agency" is changed to "Seller shall file with Buyer." In (c)(2) "The Contractor shall file" is changed to "Seller shall file with Buyer." In (c)(3) "Contractor" is changed to "Seller."
- 52.204-2 Security Requirements
(Applicable if this Order involves access to classified information)
Delete any reference to the "Changes" clause.
- 52.208-8 Required Sources for Helium and Helium Usage Data
- 52.209-6 Protecting the Government's Interest when Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment
(Applicable if Order exceeds \$25,000)
- 52.211-5 Material Requirements
(Applicable to all Orders.)
"Contracting Officer" means Buyer and "Government" means Buyer in the last sentence.
- 52.211-15 Defense Priority and Allocation Requirements
(Applicable if Order exceeds \$50,000)
- 52.215-2 Audit and Records – Negotiations
(Applicable if award exceeds \$100,000, and is cost-reimbursement, incentive, time-and-materials, labor hour, or price redeterminable type or any combination of these (i) for which cost or pricing data are required; or (ii) that require Seller to furnish reports as discussed in paragraph (e) of this clause.)
"Contracting Officer" means Contracting Officer or Buyer.
- 52.215-10 Price Reduction for Defective Cost or Pricing Data
(Applicable to all Orders)
In paragraph (a)(3) insert "of this Order" after "price or costs". In paragraph (c) "Contracting Officers" means Contracting Officer or Buyer. In paragraphs (c)(1)(ii) and (c)(2)(i) "Contracting Officer" means Contracting Officer or Buyer. In paragraph (c)(2)(i)(A) replace "to the Contracting Officer" with "to Buyer." In paragraph (c)(2)(ii)(B) "Government" means Government or Buyer.

- 52.215-11 Price Reduction for Defective Cost or Pricing Data – Modifications
(Applicable to all Orders)
Rights and obligations under this clause shall survive completion of the Work and final payment under this Order.
- 52.215-12 Subcontractor Cost or Pricing Data
(Applicable if submission of certified cost or pricing data is required for this Order.)
The certificate required by paragraph (b) is that set forth in FAR 15.406-2, substituting Buyer for "Contracting Officer." Add the following paragraph:

 "(d) In addition to any other remedies provided by law or under this Order, if Buyer is subjected to any liability as the result of Seller's or its lower-tier subcontractor's failure to comply with the requirements of these provisions, then Seller agrees to indemnify and hold Buyer harmless to the full extent of any loss, damage, or expense (excluding profit), resulting from such failure."
- 52.215-13 Subcontractor Cost or Pricing Data – Modifications (Oct 1997)
- 52.215-14 Integrity of Unit Prices
(Applicable to all Orders)

Delete paragraph (b).
- 52.215-15 Pension Adjustments and Asset Reversions
(Applicable if submission of certified cost or pricing data is required for this Order)

Insert "and Buyer" after "Contracting Officer."
- 52.215-16 Facilities Capital Cost of Money
(Applicable to all orders in which Facilities Capital Cost or Money (CAS 414) was included in Seller's proposal and was not waived.)
- 52.215-17 Waiver of Facilities Capital Cost of Money
(Applicable if the price(s) of this Order does not include facilities capital cost of money.)
- 52.215-18 Reversion or Adjustment of Plans for Post Retirement Benefits (PRB) Other Than Pensions
(Applicable if submission of certified cost or pricing data is required for this Order)
- 52.215-19 Notification of Ownership Changes
(Applicable if submission of certified cost or pricing data is required for this Order)
- 52.215-20 Requirement for Cost or Pricing Data or Information Other than Cost or Pricing Data
- 52.215-21 Requirement for Cost or Pricing Data or Information Other than Cost or Pricing Data – Modifications
(Applicable if submission of certified cost or pricing data is required for this Order)
- 52.219-8 Utilization of Small Business Concerns
(Applicable to all Orders)
- 52.219-9 Small Business Subcontracting Plan
(Applicable if this Order exceeds \$500,000 and Seller is other than a small business.)

Paragraph (c) is substituted by the following: "(c) The Offeror, upon request by Buyer shall submit and negotiate a subcontracting plan, where applicable, that separately addresses subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business concerns, small disadvantaged business, and women-owned small business concerns, with a separate part for the basic Order and separate parts for each option (if any). The subcontracting plan shall be negotiated within the time specified by the Buyer. Failure to submit and negotiate a proper subcontracting plan shall make the offeror ineligible for award of a "purchase order."

- 52.222-4 Contract Work Hours and Safety Standards Act – Overtime Compensation
(Applicable to all Orders)

Buyer may withhold or recover from Seller such sums as the Contracting Officer withholds or recovers from Buyer because of liabilities of Seller or its subcontractors under this clause.
- 52.222-21 Prohibition of Segregated Facilities
- 52.222-26 Equal Opportunity
(Applicable to all Orders)

Delete paragraphs (a) and (c).
- 52.222-35 Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans
(Applicable if this Order is \$25,000 or more)
- 52.222-36 Affirmative Action for Workers with Disabilities
(Applicable if this Order exceeds \$10,000)
- 52.222-37 Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans
(Applicable if this Order equals or exceeds \$25,000)
- 52.222-39 Notification of Employee Rights Concerning Payment of Union Dues or Fees
- 52.222-41 Service Contract Act of 1965 As Amended
(Applicable if this Order is subject to the Service Contract Act. The clause does not apply if this Order has been administratively exempted by the Secretary of Labor or exempted by 41 U.S.C., as interpreted in Subpart C of 29 CFR Part 4.)
- 52.222-43 Fair Labor Standards Act and Service Contract Act – Price Adjustment Multiple Year and Option Contracts
- 52.223-3 Hazardous Material Identification and Material Safety Data – Alternate I
(Applicable if this Order requires the delivery of hazardous materials or on the advice of Buyer’s technical representative that the contract will involve exposure to hazardous materials in any manner; e.g., performance of work, use, handling, manufacturing, packaging, transportation, storage, inspection, and disposal)

“Contracting Officer” means Buyer in paragraph (e). “Government” means Government or Buyer in paragraph (f). “Government” means Government and Buyer in paragraph (h). In paragraph (h)(3) “The Government is not” is changed to “Neither the Government nor Buyer is.”
- 52.223-7 Notice of Radioactive Materials
(Applicable to Work containing covered radioactive material)
In the blank insert "30."
- 52.223-11 Ozone-Depleting Substances
- 52.223-14 Toxic Chemical Release Reporting
"Contracting Officer" means Buyer.
- 52.225-1 Buy American Act – Supplies
(Applicable if the Work contains other than domestic components)
- 52.225-5 Trade Agreements
(Applicable if the Work contains other than U.S. made, designated country, Caribbean or NAFTA country end products.)

- 52.225-8 Duty-Free Entry
 "Contracting Officer" means Buyer, except the first time it appears in paragraphs (c)(2) and (3) and paragraph (e). Change "20 days" to "40 days" in paragraph (c)(1) and "10 days" to "20 days" in paragraph (c)(2). The terms "the schedule" and "the contract schedule" in paragraphs (a), (c), and (i) mean "this Order."
- 52.225-13 Restrictions on Certain Foreign Purchases
 (Applicable to all Orders)
 "Contracting Officer" means Buyer.
- 52.227-1 Authorization and Consent
- 52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement
- 52.227-10 Filing of Patent Applications - Classified Subject Matter
 (Applicable if the Work or any patent application may cover classified subject matter.)
- 52.227-11 Patent Rights - Retention by the Contractor (Short Form)
 (Applicable if this Order is for experimental, developmental, or research Work and Seller is a small business concern or domestic non-profit organization. Reports required by this clause shall be filed with the agency identified in this Order. If no agency is identified, contact the Buyer Procurement Representative identified on the face of this Order.)
- 52.227-12 Patent Rights - Retention by the Contractor (Long Form)
 (Applicable if this Order is for experimental, developmental, or research Work and Seller is a large business concern. Reports required by this clause shall be filed with the agency identified in this Order. If no agency is identified, contact the Buyer Procurement Representative identified on the face of this Order.)
- 52.227-14 Rights in Data – General (Jun 1987) Alternate II, as modified by NFS 1852.227-14.
 (Applicable to all Orders requiring delivery of data as defined in this clause).
- With reference to paragraph (d)(3) of this clause, Buyer and its Sellers performing hereunder are expected to share among themselves computer software first produced in the performance of this Order and any order hereunder. Such software installed in Government-owned equipment shall be deemed delivered to the Government as contemplated by the Rights in Data – General clause.
- Alternate II (Jun 1987) as amended to add the following to paragraph (a) of the Limited Rights Notice
- (i) Use (except for manufacture) by support service contractors.
 - (ii) Evaluation by non-government evaluators
 - (iii) Use (except for manufacture) by other contractors participating in the Government's program of which the specific contract is a part, for information or use in connection with the work performed under the contract.
 - (iv) Emergency repair or overhaul work.
 - (v) Release to a foreign government, or instrumentality thereof, as the interests of the United States Government may require, for information or evaluation, or for emergency repair or overhaul work by such government.
- 52.227-19 Commercial Computer Software - Restricted Rights
 (Applicable only if existing computer software is to be delivered under this Order.)
- 52.232-7 Payments Under Time-and-Materials and Labor-Hour Contracts
 In paragraph (e) "1 year" is changed to "4 months." In paragraph (f) "6 years" is changed to "4 years"; delete paragraph (h).

- 52.233-3 Protest After Award
(Applicable to all Orders)
Substitute the following for the first sentence: "In the event the Contracting Officer has directed Buyer to stop performance of the work under the prime contract under which this Order is issued pursuant to FAR Subpart 33.1, Buyer may, by written order to Seller direct Seller to stop performance of the work called for by this Order." In the balance of the clause, "Contracting Officer" means Buyer, the reference to the "Default or the Termination for Convenience of the Government" clause means the "Cancellation" clause; "30 days" means 20 days in paragraph (b)(2) and "Government" means Buyer in paragraphs (c) and (e).
- 52.234-1 Industrial Resources Developed under Defense Production Act Title III
(Applicable to all Orders)
- 52.237-2 Protection of Government Buildings, Equipment and Vegetation
(Applicable if work is to be performed on a Government installation)
In the second sentence the words "Government as the Contracting Officer directs" means Buyer and/or the Government as Buyer directs.
- 52.237-3 Continuity of Services
- 52.242-13 Bankruptcy
(Applicable if this Order exceeds \$100,000)
"Contracting Officer" means Buyer.
- 52.242-15 Stop-Work Order – Alternate I
(Applicable to all Orders)
"Contracting Officer" means Buyer, the term "for the convenience of the Government" in paragraph (c) is replaced by "for convenience," "90 days" is changed to "100 days" in paragraph (a) and "30 days" is changed to "20 days" in paragraph (b)(2).
- 52.243-1 Changes – Fixed-Price
- 52.243-3 Changes – Time-and-Materials or Labor-Hour
- 52.243-6 Change Order Accounting
(Applicable if the Prime Contract requires Change Order Accounting.)
- 52.244-6 Subcontracts for Commercial Items
- 52.245-2 Government Property (Fixed-Price Contracts)
(Applicable to all Orders in which Government property is furnished in the performance of the Order)
The following is added as paragraph (m) "Seller shall provide to Buyer immediate notice of any disapproval, withdrawal of approval, or non-acceptance by the Government of property control system." Disposition of property under paragraphs (i) and (j) shall be coordinated with Buyer.
- 52.245-18 Special Test Equipment (FEB 1993)
In which "Contracting Officer" means Buyer, and "Government" means Buyer except in the terms "Government-owned," "Government property" and "Government-furnished." In the second sentence of paragraph (b) "30" is changed to "45" and "30-day" is changed to "45-day" in paragraph (c).
- 52.246-2 Inspection of Services – Fixed-Price
- 52.246-6 Inspection - Time-and-Material and Labor-Hours

- 52.247-63 Preference for U.S. Flag Air Carriers
(Applicable if this Order involves international air transportation)
- 52.247-64 Preference for Privately Owned U.S.–Flag Commercial Vessels – Alternate I
(Applicable if this Order involves ocean transportation of supplies subject to the Cargo Preference Act of 1954)
In paragraph (c)(2), "20" and "30" are changed to "10" and "20" respectively.
- 52.248-1 Value Engineering
(Applicable if this Order is for \$100,000 or more.)
Delete paragraph (f) in its entirety. The term "Contracting Officer" means Buyer. Add the following: "If Value Engineering Change Proposal is accepted by the Government, Seller's share will be 50% of the instant, concurrent and future contract net acquisition savings and collateral savings that Buyer receives from the Government. Seller's negotiated share of the net acquisition savings and collateral savings shall not reduce the Government's share of concurrent or future savings or collateral savings. Buyer's payments to Seller under this clause are conditioned upon Buyer's receipt of authorization for such payments from the Government."
- 52.249-2 Termination for Convenience of the Government (Fixed-Price)
(Applicable to all Orders)
In paragraph (c) "120 days" and "120-day" are changed to "90 days" and "90-day". In paragraph (e), "1 year)" is changed to "6 months)." "Government" means Government or Buyer.
- 52.249-8 Default (Fixed-Price Supply and Service)
(Applicable to all Orders)
- 52.249-14 Excusable Delays
In (a)(2) delete "or contractual".

26. NASA FAR Supplement Clauses Incorporated by Reference

- 1852.208-81 Restrictions on Printing and Duplication
In which "Contracting Officer" means Buyer.
- 1852.209-71 Limitation of Future Contracting.
The nature of this conflict is: Seller might be in a position to favor its own products or capabilities and/or may have an unfair competitive advantage.
- 1852.219-74 Use of Rural Area Small Businesses
(Applicable to all Orders)
- 1852.219-75 Small Business Subcontracting Reporting
(Applicable if this Order includes FAR 52.219-9).
"Contractor" means Seller.
- 1852.219-76 NASA 8 Percent Goal
- 1852.223-70 Safety and Health
(Applicable if this Order is (i) for \$1 million or more, (ii) includes construction, repair, or alteration in excess of \$25,000, or (iii) regardless of dollar amount involving the use of hazardous materials or operations).
"Contracting Officer," "Government," and "NASA" mean Buyer; in paragraph (f) "authorized Government representatives of the Contracting Officer" is changed to "authorized Government and Buyer representatives;" and "Contract Schedule" and "Schedule" mean Order.

- 1852.223-71 Frequency Authorization
(Applicable if this Order calls or developing, producing, testing, or operating a device for which a radio frequency authorization is required.)
- 1852.223-74 Drug and Alcohol Free Workforce
(Applicable if work is performed by an employee in a sensitive position as defined in the clause.)
- 1852.223-75 Major Breach of Safety or Security
- 1852.225-70 Export Licenses
In paragraph (b) insert: "all NASA installations where work is performed."
- 1852.227-11 Patent Rights – Retention by the Contractor (Short Form)
(Applicable if this Order includes, at any tier, experimental, developmental, or research Work and Seller is a small business concern or domestic nonprofit organization. Reports required by this clause shall be filed with the agency identified in this Order. If no agency is identified, contact Buyer Procurement Representative identified on the face of this Order.)
- 1852.227-14 Rights in Data - General
- 1852.227-19 Commercial Computer Software - Restricted Rights (Modifies FAR 52.227-19)
- 1852.227-70 New Technology
(Applicable if this Order is for experimental, developmental, or research work to be performed by other than a small business firm or non-profit organization)
- 1852.227-71 Requests for Waiver of Rights to Inventions
(Applicable if 18-52.227-70 applies)
- 1852.227-72 Designation of New Technology Representative and Patent Representative
In paragraph (a) add:
 AL/Patent Representative
 NASA Lyndon B. Johnson Space Center
 Houston, Texas 77058
 and:
 AT/Technical Transfer & Commercialization Office
 NASA Lyndon B. Johnson Space Center
 Houston, Texas 77058
 "(c) One copy of the letter of transmittal of all interim and final reports shall be forwarded to Buyer at the following location:
 Office of the General Counsel, USK-T21
 United Space Alliance, LLC
 1102 John Glenn Blvd
 Titusville, Florida 32780"
- 1852.227-86 Commercial Computer Software – Licensing
(Applicable if this Order includes commercial computer software)
 "Contracting Officer," "Government," and "NASA" mean Buyer. In paragraph (b), replace "NASA's Contracting Officer of NASA Contracting Officer's" with Buyer or Buyer's.
- 1852.227-87 Transfer of Technical Data Under Space Station International Agreements (APR 1989)
(Applicable if this Order supports Space Station Program activities that may involve transfer of technical data subject to the International Traffic in Arms Regulations (ITAR), 22 CFR Parts 120-130, or the Export Administration Regulations (EAR), 15 CFR Parts 730-774, in accordance with the NASA Export Control Program)

"Designated Representative" includes Buyer; in paragraph (4) only, "Contractor" means Buyer in both instances; and "Contract" means the prime contract.

- 1852.228-72 Cross-Waiver of Liability for Space Shuttle Services
(Applicable to all Orders)
- 1852.228-76 Cross-Waiver of Liability for Space Station Activities (Feb 1989)
(Applicable to all Orders)

Seller agrees to the provisions of this clause and specifically agrees to the cross-waiver of liability set forth in paragraphs (c), (d), (e), and (g) thereof.
- 1852.228-78 Cross-Waiver of Liability for NASA Expendable Launch Vehicle (ELV) Launches
(Applicable is this Work is performed in support of agreements described in NFS 18-28.371(a), involving ELV launch services.)
- 1852.231-71 Determination of Compensation Reasonableness
(Applicable if Order is a (1) service contract; and (2) cost reimbursable or non-competitive fixed price in excess of \$500,000).
- 1852.237-70 Emergency Evacuation Procedures
- 1852.237-71 Pension Portability
- 1852.242-71 Travel Outside of the United States
(Applicable if this Order requires travel to locations outside of the United States that will be charged direct to the Order)
Substitute "60 days" for "30 days" in the clause.
- 1852.242-72 Observance of Legal Holiday – Alternate I (Applicable if work is to be performed on a Government installation)
- 1852.242-73 NASA Contractor Financial Management Reporting
"Contracting Officer" means Buyer.
- 1852.242-78 Emergency Medical Services and Evaluation
- 1852.244-70 Geographic Participation in the Aerospace Program
(Applicable if this Order exceeds \$100,000)
- 1852.245-72 Liability for Government Property Furnished for Repair or Other Services
- 1852.245-73 Financial Reporting of NASA Property in the Custody of Contractors
(Applicable if Seller will possess NASA property during the performance of the Order. Delete paragraph (b). Reports required by paragraph (c) shall be submitted to Buyer no later than October 5.
- 1852.246-70 Mission Critical Space System Personnel Reliability
(Applicable to all Orders)
- 1852.246-73 Human Space Flight Item
(Applicable if this Order is for human space flight hardware or flight related equipment.)
- 1852.247-71 Protection of the Florida Manatee
(Applicable if this Order involves use of waterways inhabited by manatees)

27. Special Report – Small Disadvantaged and Women-Owned Small Business Awards/Obligations

(Applicable if this Order requires a subcontracting plan, reference FAR 52.219-9) For submittal by Buyer to the Government, and if not otherwise specified as a data requirement elsewhere in this Order, Seller shall submit monthly to Buyer the total dollars awarded/obligated by Seller hereunder, during the month hereof, to small disadvantaged businesses and, separately, non-minority women-owned small businesses, as applicable.

Said dollars shall be calculated as reported by Seller on its Standard Form 294, "Subcontracting Report for Individual Contracts."

The submittal specified above must be received by Buyer not later than close of business of the ninth (9th) working day following the end of the month reported. Address submittals to Buyer at 600 Gemini Avenue, Houston, Texas 77058, Attention: Supplier Diversity Office, Mail Code USH-131A or if by Fax: (281) 282-4576.

28. Indemnification for Defective Cost or Pricing Data

In addition to any other remedies provided by law or under this Order, if Buyer is subjected to any liability as a result of Seller's or Seller's lower-tier subcontractor's failure to comply with the requirement of the clauses at FAR 52.215-2, 52.215-10, 52.215-11, 52.215-12, and/or 52.215-13, or any of such clauses, then Seller agrees to indemnify and hold Buyer harmless to the full extent of any loss, damage, or expense (excluding profit) resulting from such failure.

29. Public Disclosure

(This clause takes precedence over any other clause in this Order entitled, "Publicity" or "Release of News Information and Advertising")

- (a) Seller shall not make public release of any information relating to all or any part of this Order, except as authorized in writing by the Buyer. In the event the release of information is authorized, the Seller agrees that in the release of information relating to this Order such release shall include a statement to the effect that the project or effort depicted was or is sponsored by the Agency set forth in the authorization.
- (b) For the purpose of this clause, "information" includes but is not limited to, news releases, articles, manuscripts, brochures, advertisements, still and motion pictures, speeches, trade association meetings, symposia, published professional papers, etc.
- (c) Two copies of any information to be released must be submitted to Buyer for review and clearance sixty (60) days prior to release.
- (d) Nothing in the foregoing shall affect compliance with the requirements of any other clause contained herein.
- (e) Seller further agrees to include the requirements of this clause in any lower-tier subcontracts awarded as a result of this Order.

30. Special Requirements

Seller shall:

- (a) Be responsible for obtaining any necessary licenses and permits, and shall comply with any applicable local laws, statutes, ordinances, codes, rules and regulations (hereinafter "Laws") in connection with prosecuting the work. All fees, taxes and charges in connection with Seller's compliance shall be paid by Seller. In the event Seller violates any laws, Seller shall pay all fines, penalties and other expenses, including attorneys fees, imposed or incurred by Seller or Buyer for the nonconformance;
- (b) Reduce to writing every lower-tier subcontract and/or order it awards for work under this Order, unless this requirement is waived in writing by Buyer, and ensure that (i) each lower-tier subcontract and/or order contains a statement that the subcontract and/or order is assignable to Buyer's Customer; (ii) each of these subcontracts and/or orders are in Seller's own names; and (iii) none of these lower-tier subcontracts and/or orders bind or purport to bind Buyer, Buyer's customer, or any of either Buyer or Buyer's customer's employees.
- (c) Seller understands and agrees that this Order may be assigned, in whole or in part, to Buyer's customer upon written direction of Buyer.

31. Audit

- (a) As used in this provision, records includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.
- (b) Seller shall maintain and Buyer, or an authorized representative of Buyer, shall have the right to examine and audit all records and other evidence sufficient to reflect properly all costs claimed to have been incurred or anticipated to be incurred (including the accuracy, completeness, and currency of any cost or pricing data) and any of Seller's directly pertinent records involving transactions related to this Order or a lower-tier subcontract hereunder.
- (c) The right of examination shall include inspection at all reasonable times of Seller's plants, or parts of them, engaged in performance of Seller.

32. Insurance

(The requirements of this provision do not apply to subcontracts for supplies where no on-site work is performed. "On-site work" does not include normal delivery of supplies to the site.)

- (a) "On-site work" does not include normal delivery of supplies to the site. With respect to any goods supplied or services provided hereunder, Seller shall carry commercial general liability insurance including, but not limited to, product hazard and contractual liability against bodily injury and property damage claims, demands, losses, costs, expenses, damages, recoveries, deficiencies, judgments, penalties, costs and expenses, including interest, court costs and attorneys fees ("CLAIMS") alleging the liability of Buyer, and/or Seller with aggregate limits of \$5,000,000. Seller's insurance shall be primary as to any and all insurance or self-insurance available to Buyer and shall specifically cover the indemnity obligations of this Order. In the event Seller's services hereunder involve work on Buyer's property, Seller shall also comply with the following: (a) Seller further agrees to obtain and maintain the following insurance acceptable to Buyer which includes a severability of interest clause (cross liability) and which names Buyer as an additional insured, which additional insured endorsement shall not exclude or restrict coverage based upon the actual or alleged negligence of the additional insured; (i) Commercial General Liability Insurance, on an occurrence basis, covering Seller's Contingent Liability, Premises Operations, Completed Operations and Product Liability, Blanket Contractual Liability, Blanket Contractual Liability and, if requested by Buyer, liability arising from explosion, collapse or underground property damage, as with a minimum combined single limit of \$5,000,000 each occurrence for bodily injury and property damage; (ii) Comprehensive Automobile Liability Insurance or Business Auto Policy covering all owned hired or otherwise operated non-owned vehicles with a minimum limit of \$1,000,000 per occurrence for bodily injury and property damage; (iii) Worker's Compensation insurance as required by law, covering all states of operation, and employer's liability insurance with a minimum limit of \$1,000,000 per occurrence.
- (b) With respect to work performed onsite of Buyer, Seller shall furnish Buyer with certificates of insurance acceptable to Buyer evidencing the above-referenced insurance coverage and providing for 30 days advance notice to Buyer of cancellation or modification of insurance. Seller shall waive subrogation against Buyer. Insurance coverage does not limit Seller's liability hereunder.
- (c) Provisions substantially similar to this clause shall be incorporated into each lower-tier subcontract entered into by Seller.

33. Subcontracting with Russian Entities for Goods or Services

- (a) Seller shall not subcontract with
 - (1) The Russian Federal Space Agency,
 - (2) Any organization or entity under the jurisdiction or control of Federal Space Agency, or
 - (3) Any other organization, entity, or element of the Government of the Russian Federation.

- (b) "Organization or entity under the jurisdiction or control of Federal Space Agency" means an organization or entity that
 - (1) Was made part of the Russian Federal Space Agency upon its establishment on February 25, 1992;
 - (2) Was transferred to the Russian Federal Space Agency by decree of the Russian Government on July 25, 1994, or May 12, 1998;
 - (3) Was or is transferred to the Russian Aviation or the Federal Space Agency by decree of the Russian Government at any other time before, on, or after March 14, 2000; or
 - (4) Is a joint stock company in which the Russian Aviation or Federal Space Agency has at any time held controlling interest.
- (c) Seller shall obtain Buyer's permission to subcontract with any Russian entity or with any other entity performing any part of this Order in the Russian Federation. Seller shall support such a request with the facts (and, if requested, supporting documentation) sufficient to establish to Buyer's satisfaction that the entity with which Seller seeks permission to subcontract is not an entity described in paragraphs (a) and (b).
- (d) Seller shall include the substance of this clause in all its subcontracts, and shall require such inclusion in all other subcontracts of any tier.