

CUSTOMER CONTRACT REQUIREMENTS

DDT&E FOR J2X NASA Letter CONTRACT -- NNM06AB13C (6/2/06)

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CUSTOMER CONTRACT REQUIREMENTS

When PWR General Provisions 1, 3, 4, **or** 6 are applicable to this procurement, this Attachment constitutes the Government clauses contemplated by the appropriate Article in those General Provisions.

1. The following contract clauses are incorporated by reference from the Federal Acquisition Regulation and apply to the extent indicated. In all of the following clauses, "Contractor" and "Offeror" mean Seller.

The following FAR and FAR Supplement clauses (including alternates), as modified by Federal Acquisition Circulars and other agency Acquisition Circulars respectively, on the date of and required by the prime contract identified on the face of this order, are hereby incorporated by reference and made a material part hereof. **If there is a conflict between or among one or more clauses herein, or an addition to a clause after the effective date of this order, the version of the clause applicable to this order shall be the version of the clause in the prime contract.**

52.203-7 Anti-Kickback Procedures (excluding subparagraph (c)(1)). Buyer may withhold sums owed Seller the amount of any kickback paid by Seller or its subcontractors at any tier if (a) the Contracting Officer so directs, or (b) the Contracting Officer has offset the amount of such kickback against money owed Buyer under the prime contract. (This clause applies only if this contract exceeds \$100,000.)

52.203-8 Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity. This clause applies to this contract if the Seller, its employees, officers, directors or agents participated personally and substantially in any part of the preparation of a proposal for this contract. The Seller shall indemnify Buyer for any and all losses suffered by the Buyer due to violations of the Act (as set forth in this clause) by Seller or its subcontractors at any tier.

52.203-10 Price or Fee Adjustment for Illegal or Improper Activity. (This clause applies only if this contract exceeds \$100,000. If the Government reduces Buyer's price or fee for violations of the Act by Seller or its subcontractors at any tier, Buyer may withhold from sums owed Seller the amount of the reduction.)

52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions. (By signing and returning its solicitation response, Seller is **executing the certification included in** this clause. The certification required by this clause applies only if this contract exceeds \$100,000.)

52.203-12 Limitation on Payments to Influence Certain Federal Transactions. (This clause applies only if this Contract exceeds \$100,000. Paragraph (c)(4) is modified to read as follows: "(c)(4) Seller will promptly submit any disclosure required (with written notice to PWR) directly to the PCO for the prime contract. PWR will identify the cognizant Government PCO at Seller's request. Each subcontractor certification will be retained in the subcontract file of the awarding contractor.)

52.211-5 New Material. (Any notice will be given to Buyer rather than the Contracting Officer.)

52.211-15 Defense Priority and Allocation Requirements. (This clause is applicable if a priority rating is noted in this contract.)

52.215-2 Audit and Records - Negotiation. (This clause applies only if this contract exceeds \$100,000 and (i) is cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable type or any combination of these types: (ii) Seller was required to provide cost or pricing data, or (iii) Seller is required to furnish reports as discussed in paragraph (e) of the referenced clause.)

52.215-10 Price Reduction For Defective Cost or Pricing Data. (This clause applies only if this contract exceeds \$550,000 and is not otherwise exempt. In subparagraph (3) of paragraph (a), insert "of this contract" after "price or cost." In Paragraphs (c)(1), (c)(1)(ii), and (c)(2)(i), "Contracting Officer" shall mean "Contracting Officer or Buyer." In Subparagraph (c)(2)(i)(A), delete "to the Contracting Officer." In Subparagraph (c)(2)(ii)(B), "Government" shall mean "Government or Buyer." In Paragraph (d), "United States" shall mean "United States or Buyer.")

52.215-12 Subcontractor Cost or Pricing Data. (This clause applies only if this contract exceeds \$550,000 and is not otherwise exempt. The certificate required by paragraph (b) of the referenced clause shall be modified as follows: delete "to the Contracting Officer or the Contracting Officer's representative" and substitute in lieu there of "UTC or any of its wholly owned subsidiaries.")

52.215-14 Integrity of Unit Prices (excluding subparagraph (b)). (This clause applies except for contracts at or below \$100,000; construction or architect-engineer services under FAR Part 36; utility services under FAR Part 41; services where supplies are not required; commercial items; and petroleum products.)

52.215-15 Pension Adjustments and Asset Reversions. (This Clause applies to this contract if it meets the requirements of FAR 15.408(g).)

52.215-18 Reversion or Adjustment of Plans for Postretirement Benefits Other Than Pensions (PRB). (This Clause applies to this contract if it meets the requirements of FAR 15.408(j).)

52.215-19 Notification of Ownership Changes. (This Clause applies to this contract if it meets the requirements of FAR 15.408(k).)

52.219-8 Utilization of Small Business Concerns.

52.219-9 Small Business Subcontracting Plan. (In paragraph (c), "Contracting Officer" shall mean Buyer. This clause applies only if this contract exceeds \$500,000 and Seller is not a small business concern.)

52.222-1 Notice to Government of Labor Disputes. ("Contracting Officer" shall mean Buyer.)

52.222-20 Walsh-Healy Public Contracts Act. (This clause applies only if this contract exceeds \$10,000.)

52.222-21 Prohibition of Segregated Facilities.

52.222-26 Equal Opportunity (subparagraph (b)(1) through (11)).

52.222-35 Equal Opportunity for Special Disabled, Veterans of the Vietnam Era, and Other Eligible Veterans. (This clause applies only if this contract exceeds \$25,000.)

52.222-36 Affirmative Action for Workers With Disabilities. (This clause applies only if this contract exceeds \$ 10,000.)

52.222-37 Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans. (This clause applies only if this contract exceeds \$25,000.)

52.222-39 Notification of Employee Rights Concerning Payment of Union Dues or Fees. (This clause applies only if this contract exceeds \$100,000.)

52.223-3 Hazardous Material Identification and Material Safety Data. (This clause applies only if Seller delivers hazardous material under this contract.)

52.223-14 Toxic Chemical Release Reporting (excluding subparagraph (e)). (This clause applies only if this contract is not for commercial items as defined in FAR Part 2, was competitively awarded, and exceeds \$100,000 (including all options).)

52.225-1 Buy American Act — Balance of Payments - Supplies. (This clause does not apply if this contract is placed under a Department of Defense contract.)

52.225-8 Duty-free Entry. (This clause applies only if this contract identifies supplies to be afforded duty-free entry or if foreign supplies in excess of \$10,000 may be imported into the customs territory of the United States. For the purposes of this clause, the blanks in paragraph (g)(4) are completed as follows: UNITED STATES GOVERNMENT, DEPARTMENT OF DEFENSE, Duty-free entry is claimed pursuant Section XXII, Chapter 98, Subchapter VIII, Item No. 9808.00.30 of the Harmonized Tariff Schedule of the United States. Upon arrival of shipment at port of entry, the importer or authorized agent will notify Commander, Defense Contract Management Area Operations (DCMAO, New York, 201 Varick Street, New York, New York, 10014-4811, Attention DCRN-NCT) for execution of Customs Forms 7501, 7501-A, or 7506 and required duty free entry certificates.)

52.225-13 Restrictions on Certain Foreign Purchases.

52.227-1 Authorization and Consent. Alternate I (APR 1984).

52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement. (A copy of each notice sent to the Government will be sent to Buyer. "Contracting Officer" shall mean "Buyer". This clause applies only if this contract exceeds \$100,000.)

52.227-11 Patent Rights—Retention by the Contractor (Short Form) (JUN 1997). This clause only applies if this is for experimental, developmental, or research work and Seller is a small business firm or nonprofit organization.

52.227-14 Rights in Data — General. (This clause applies only if data will be produced, furnished or acquired under this contract.)

52.227-16 Additional Data Requirements. (This clause applies only if this contract involves experimental, developmental, research, or demonstration work.)

52.230-6 Administration of Cost Accounting Standards. (Add "Buyer and the" before "Contracting Officer in paragraph (f). This provision applies if Clause H001, H002 or H004 is included in Buyer's contract.)

52.234-1 Industrial Resources Developed Under Defense Production Act Title III.

52.237-2 Protection of Government Buildings, Equipment, and Vegetation. (This clause applies only if work will be performed on a Government installation. "Contracting Officer" shall mean Buyer.)

52.242-15 Stop Work Order. (Change "90 days" and "30 days" to "100 days" and "20 days" respectively. The terms "Contracting Officer" and "Government" shall mean Buyer.)

52.244-2 Subcontracts (AUG 1998) (Insert Subcontracts in excess of \$550,000 and all-cost reimbursement and time and materials subcontracts in paragraph (e). Insert none in paragraph (k)). – Alternate 1 (JAN 2006)

52.244-5 Competition in Subcontracting.

52.245-18 Special Test Equipment. (Change "30 days" to "45 days" in paragraph (b) and (c). The notice of intent to procure special test equipment required by this clause shall be forwarded to the Buyer.)

52.247-67 Submission of Commercial Transportation Bills to the General Services Administration for Audit.

52.248-1 Value Engineering (excluding subparagraph (f)). (The term "Contracting Officer" means Buyer. This clause applies only if this contract is for \$100,000 or more. 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.)

2. **NASA Contracts.** If this contract is placed under a National Aeronautics and Space Administration contract, the following contract clauses are incorporated by reference from the National Aeronautics and Space Administration Federal Acquisition Regulation Supplement and apply to the extent indicated. In all of the following clauses, "Contractor" means Seller. Unless otherwise provided, the clauses are those in effect as of the date of this contract. If there is a conflict between or among one or more clauses herein, or an addition to a clause after the effective date of this order, the version of the clause applicable to this order shall be the version of the clause in the prime contract.

1852.204-76 Security Requirements for Unclassified Information Technology Resources. (This clause applies to all or any part of this contract that includes information technology resources or services in which Seller must have physical or electronic access to NASA's sensitive information contained in unclassified systems that directly support the mission of the Agency.)

1852.208-81 Restrictions on Printing and Duplicating.

1852.211-70 Packaging, Handling, and Transportation.

1852.219-74 Use of Rural Area Small Businesses. (This clause applies only if this contract offers subcontracting possibilities.)

1852.219-75 Small Business Subcontracting Reporting. (This clause applies if FAR 52.219-9 is included in this contract.)

1852.219-76 NASA 8 Percent Goal. (This clause applies only if Seller is not a small business.)

1852.223-70 Safety and Health. (This clause applies only if this contract exceeds \$1,000,000 or construction, repairs or alteration in excess of \$100,000, or it involves the use of hazardous materials or operations.)

1852.223-74 Drug- and Alcohol-Free Workforce. (This clause applies to Seller if work is performed by an employee in a sensitive position, except if this contract is for commercial items.)

1852.225-70 Export Licenses.

1852.227-14 Rights in Data — General. (This clause applies only if data will be produced, furnished or acquired under this contract except contracts for basic or applied research with universities or colleges.)

1852.227-70 New Technology (MAY 2002). (This clause only applies if this Contract is for experimental, developmental, or research work and Seller is other than a small business firm or nonprofit organization.)

1852.227-72 Designation of New Technology and Patent Representative. (The new technology representative (if any) will be designated in this contract. This is applicable to this contract if it includes a "New Technology" clause or a " Patents Rights -- Retention by the Contract (Short Form)" clause.)

1852.242-72 Observance of Legal Holidays, Alternate II. (This clause applies only if this contract requires work on a Government installation.)

1852.242-75 Earned Value Management System. (This clause is applicable only if this contract states that the Earned Value Management System criteria applies to Seller.)

1852.243-70 Engineering Change Proposal.

1852.244-70 Geographic Participation in the Aerospace Program. (This clause applies only if this contract is for \$100,000 or more.)

1852.245-70 Contractor Requests for Government-Owned Equipment [excluding paragraph (b)(3)]. ("Contracting Officer" shall mean Buyer. If the equipment is to be acquired as Special Test Equipment (STE), Seller shall submit the applicable request 75 days in advance of the date Seller intends to acquire the equipment. No later than 30 September of each year, Seller will provide Buyer a list of all property acquired under this clause. The list will include at a minimum: (1) part number; (2) serial number; (3) modification number, if any; (4) nomenclature; (5) acquisition cost; (6) acquisition date; and (7) the date of the prior year's list.)

1852.245-73 Financial Reporting of NASA Property in the Custody of Contractors. (Seller will submit annual reports to Buyer no later than October 15.)

1852.246-73 Human Space Flight Item.

4. Cost Accounting Standards

(1) The version of FAR 52.230-2, Cost Accounting Standards, incorporated by clause H001 is the version dated April 1998.

5. The following prime contract special provisions apply to this purchase order:

A. NOTIFICATION OF DEBARMENT/SUSPENSION STATUS

Seller shall provide immediate notice to Buyer in the event of being debarred suspended, or proposed for debarment by any Federal Agency during the performance of this Contract.

B. ENVIRONMENTAL CONTROLS. THIS CLAUSE APPLIES ONLY IF THIS CONTRACT WILL BE PERFORMED WITHIN THE JURISDICTION OF THE SAN DIEGO, CALIFORNIA AIR POLLUTION CONTROL DISTRICT.

Notwithstanding that this contract may require the use of paints or coatings which do not meet state or district requirements for reduced volatile organic compounds (VOC's), Seller must comply with all federal, state, and local regulatory requirements respecting air quality and emission limitations. It remains Seller's responsibility to meet the requirements for reduced VOC's even where to do so will require the use of engineering controls or other special painting equipment.

C. FOREIGN NATIONALS - FOREIGN SOURCES

(1) For the purposes of this clause,

(A) Foreign nationals are those persons not citizens of, not nationals of, or resident/immigrant aliens to, the United States;

(B) Foreign representative is anyone, regardless of nationality or citizenship, acting as an agent, representative, official, or employee of a foreign government, a foreign-owned or influenced firm, corporation, or person; and

(C) Foreign sources are those sources (vendors, subcontractors, and suppliers) not owned and controlled by citizens or immigrant aliens of the United States.

(2) Nothing in this clause is intended to waive any requirement imposed by any other U.S. Government agency with respect to employment of foreign nationals or export-controlled data and information.

(3) Seller acknowledges that equipment and technical data generated or delivered in the performance of this contract is controlled by the International Traffic in Arms Regulation (ITAR), 22 CFR Sections 121 through 128, and require an export license before assigning any foreign national to perform work under this contract or before granting access to foreign nationals to any equipment and technical data generated or delivered in performance of this contract (see 22 CFR Section 125). Seller agrees to notify and obtain the written approval of Buyer prior to assigning or granting access to any work, equipment, or technical data generated or delivered in the performance of this contract to foreign nationals or their representatives. This notification will include the name and country of origin of the foreign national or representative, the specific work, equipment, or data to which the person will have access, and whether the foreign national is cleared to have access to technical data (DoD 5220.22-M, National Industrial Security Program Operating Manual (NISPOM)).

D. EXPORT CONTROLLED DATA RESTRICTIONS

(1) For the purpose of this clause,

(A) Foreign person is any person who is not a citizen of the U.S. or lawfully admitted to the U.S. for permanent residence under the Immigration and Nationality Act, and includes foreign corporations, foreign organizations, and foreign governments;

(B) Foreign representative is anyone, regardless of nationality or citizenship, acting as an agent, representative, official, or employee of a foreign government, a foreign-owned or influenced firm, corporation, or person; and

(C) Foreign sources are those sources (vendors, subcontractors, and suppliers) owned and controlled by a foreign person.

(2) Seller shall place a clause in subcontracts containing appropriate export control restrictions, set forth in this clause.

(3) Nothing in this clause waives any requirement imposed by any other U.S. Government agency with respect to employment of foreign nationals or export-controlled data and information.

(4) Equipment and technical data generated or delivered in the performance of this contract are controlled by the International Traffic in Arms Regulation (ITAR), 22 CFR Sections 121 through 128. An export license is required before assigning any foreign source to perform work under this contract or before granting access to foreign persons to any equipment and technical data generated or delivered during performance (see 22 CFR Section 125). Seller shall notify Buyer and obtain the written approval of Buyer prior to assigning or granting access to any work, equipment, or technical data generated or delivered in the performance of this contract to foreign persons or their representatives. This notification shall include the name and country of origin of the foreign person or representative, the specific work, equipment, or data to which the person will have access, and whether the foreign person is cleared to have access to technical data (DoD 5220.22-M, National Industrial Security Program Operating Manual (NISPOM)).