

AWARD/CONTRACT		1. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700)	RATING	PAGE 1 OF 44 PAGES
2. CONTRACT (Proc. Inst. Ident.) NO. NNG09FA40C		3. EFFECTIVE DATE 10/01/2009	4. REQUISITION/PURCHASE REQUEST/PROJECT NO. 4200313674	
5. ISSUED BY NASA/Goddard Space Flight Center Procurement Operations Division Greenbelt, MD 20771		CODE 210.S	6. ADMINISTERED BY (If other than Item 5) NASA/Goddard Space Flight Center Procurement Operations Division Attn: Cassandra K. Moore Greenbelt, MD 20771	

7. NAME AND ADDRESS OF CONTRACTOR (No., street, county, State and ZIP Code) Lockheed Martin Space Systems Company 3251 Hanover St., Bldg. 201 Palo Alto, CA 94304-1121	8. DELIVERY <input type="checkbox"/> FOB ORIGIN <input checked="" type="checkbox"/> OTHER (See below)
9. DISCOUNT FOR PROMPT PAYMENT	

10. SUBMIT INVOICES (4 copies unless otherwise specified) TO THE ADDRESS SHOWN IN	ITEM #12
11. SHIP TO/MARK FOR See Contract Clause F.4	12. PAYMENT WILL BE MADE BY NASA Shared Services Center (NSSC) Financial Management Division (FMD) - Accounts Payable Building 1111, C. Road, Stennis Space Center, MS 39529

13. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION: <input type="checkbox"/> 10 U.S.C. 2304(c) () <input type="checkbox"/> 41 U.S.C. 253(c) ()	14. ACCOUNTING AND APPROPRIATION DATA
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16A. ITEM NO	16B. SUPPLIES/SERVICES	16C. QUANTITY	16D. UNIT	16E. UNIT PRICE	16F. AMOUNT
1	Letter contract for Phase B Interface Region Imaging Spectrograph (IRIS) for the Explorers Program submitted in response to NASA Announcement Opportunity #NNH07ZDA0030. For effort through the letter contract definization period as defined in clause I.87	1	JOB	\$14,076,763.00	\$14,076,763.00
15G. TOTAL AMOUNT OF CONTRACT					\$ 14,076,763.00

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CONTRACTING OFFICER WILL COMPLETE ITEM 17 OR 18 AS APPLICABLE

17. <input type="checkbox"/> CONTRACTOR'S NEGOTIATED AGREEMENT (Contractor is required to sign this document and return _____ copies to issuing office.) Contractor agrees to furnish and deliver all items or perform all the services set forth or otherwise identified above and on any continuation sheets for the consideration stated herein. The rights and obligations of the parties to this contract shall be subject to and governed by the following documents: (a) this award/contract, (b) the solicitation, if any, and (c) such provisions, representations, certifications, and specifications, as are attached or incorporated by reference herein. (Attachments are listed herein.)	18. <input type="checkbox"/> AWARD (Contractor is not required to sign this document.) Your offer on Solicitation Number _____ including the additions or changes made by you which additions or changes are set forth in full above, is hereby accepted as to the terms listed above and on any continuation sheets. This award consummates the contract which consists of the following documents: (a) the Government's solicitation and your offer, and (b) this award/contract. No further contractual document is necessary.
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19A. NAME AND TITLE OF SIGNER (Type or Print) S. Yaraitch, Contracts Negotiator, Sr. Staff	19B. DATE SIGNED 9/20/09	20A. NAME OF CONTRACTING OFFICER Carlos R. McKenzie	20B. UNITED STATES OF AMERICA BY	20C. DATE SIGNED SEP 30 2009
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STANDARD FORM 26 (REV. 4/2008)
Prescribed by GSA - FAR (48 CFR) 33.214(a)

SECTION B - SUPPLIES OR SERVICES AND PRICES/COSTS

B.1 DELIVERABLE REQUIREMENTS

The Contractor shall provide all the personnel, materials, equipment, resources and facilities necessary to perform and/or deliver the work as described under Attachment A dated September 16, 2009. Additionally, the Contractor shall provide the items described below:

ITEM	Description	Reference(s)	Due Date
1	Weekly Reports	Attachment A, Section 3.1.11	As required
2	Monthly Progress Reports	Attachment A, Section 3.1.11	Monthly
3	Financial Management Reports	Clause G.3& G.6	Monthly/Quarterly
4	New Technology Reports	Clause G.2	As required
5	Small Business Subcontracting Reports	Clauses H.5 & H.12	As required
6	Foreign Travel Request and Reports	Clause G.9	As required
7	Safety & Health Reporting	Clause H.2 1852.223-70 & Clause H.8	As required
8	Requests for Government Property	Clause G.5	G.5
9	New Technology /Patent Reportable Items	Clause G.2 and G.8	As required
10	IT Security Plan, Risk Assessment Plan, & FIPS 199 Assessment Plan	Clause I.95	Thirty (30) calendar days after contract award
11	Updates to Work Breakdown Structure and Associated Dictionary	Attachment A, Section 3.1.1	As required
12	Schedule including Critical Path Analysis	Attachment A, Section 3.1.2	As required
13	Mission Implementation Plan	Attachment A, Section 3.1.3	Draft at SRR Final at Confirmation
14	Performance Assurance Implementation Plan	Attachment A, Section 3.1.6	Draft at SRR Final At PDR
15	Descope Plan	Attachment A, Section 3.1.7	Draft at SRR Final at PDR
16	Systems Requirements Review (SRR)	Attachment A, Section 3.1.10	Jan-10
17	Mission PDR Presentation/Package	Attachment A, Section 3.1.10	1 week before PDR

18	Preliminary Design Review (PDR)	Attachment A, Section 3.1.10	4/30/2010
19	Operational Hazard Analysis	Attachment H, Section 3.1	Draft at PDR, Final at TBD
20	Mission Requirements, Traceability & Verification Doc - includes system test and verification requirements	Attachment A, Section 3.2	Draft at SRR, Final at Confirmation
21	IRIS observatory (or payload) to LV Interface Requirements Document (IRD)	Attachment A, Section 3.5	Preliminary 10/28/2009, Updates as required
22	Software Requirements Assurance, Test, and Verification Plan	Attachment A, Section 3.6	Draft at PDR
23	Concept of Operations Document	Attachment A, Section 3.9	Draft at SRR Final at PDR
24	Science Requirements Document	Attachment A, Section 3.4.2	Draft at SRR Final at PDR
25	Worst Case Analysis	Attachment H, Section 4.2.4	PDR
26	Contamination Control Plan	Attachment H, Section 4.13	PDR
27	Parts List (Instrument & S/C)	Attachment H, Section 11	Preliminary at PDR, As built at TBD
28	Materials List (Instrument & S/C)	Attachment H, Section 12	Preliminary at PDR, As built at TBD
29	Final Report (Phase B)	C.2	01-Apr-10

(End of clause)

B.2 1852.216-74 ESTIMATED COST AND FIXED FEE. (DEC 1991)

The estimated cost of this contract is TBD exclusive of the fixed fee of TBD. The total estimated cost and fixed fee is TBD.

(End of clause)

B.3 RESERVED

B.4 1852.232-81 CONTRACT FUNDING. (JUN 1990)

(a) For purposes of payment of cost, exclusive of fee, in accordance with the Limitation of Funds clause, the total amount allotted by the Government to this contract is \$14,076,763. This allotment is for the work required under the cover and covers the following estimated period of performance: Contract award through TBD.

(b) An additional amount of \$ \$0 is obligated under this contract for payment of fee.

Purchase Request No. 4200313674. Amount: \$14,076,763

(End of clause)

B.5 GSFC 52.232-94 ESTIMATED COST INCREASES (DEC 2005)

(a) The Contractor shall notify the Contracting Officer in writing when the Contractor has reason to believe that the total cost for performance of this contract, or any individual task order, exclusive of any fee, will be either greater or substantially less than the total estimated cost stated in this contract or in the task order. Notification shall not be delayed pending preparation of a proposal.

(b) A proposal is required to support a request for an increase in the estimated cost of the contract or the task order. The proposal should be submitted as soon as possible after the above notification but no later than 115 days before the incurred costs are expected to exceed the estimated cost. This will allow adequate time for the Government to evaluate the proposal and to mutually establish any increase in estimated cost with the Contractor.

(c)(1) The proposal shall be submitted in the following format unless some other format is directed or approved by the Contracting Officer:

Incurred costs to date
Projected cost to completion
Total cost at completion
Current negotiated estimated cost
Requested increase in estimated cost

(2) The "projected cost to completion" shall consist of the following "other than cost or pricing data" unless the Contracting Officer requests or approves the submittal of a greater or lesser amount of information:

(i) Elements of cost with supporting detail for estimated direct labor hours, direct and indirect rates, materials and subcontracts, and other elements.

(ii) Supporting explanation for the increases and projections, sufficient for the Government to understand the reasons for the increased estimated cost.

(End of clause)

SECTION C - DESCRIPTION/SPECIFICATIONS/STATEMENT OF WORK

C.1 SPECIFICATION/STATEMENT OF WORK

The Contractor shall provide all the personnel, materials, equipment, resources and facilities necessary to perform and/or deliver the work as described in Attachment A. In addition, the Contractor shall furnish all items specified in clause B.1 of this Contract

(End of text)

C.2 REPORTING REQUIREMENTS

(a) Monthly progress reports. The Contractor shall submit separate monthly progress reports of all work accomplished during each month of contract performance. Reports shall be in narrative form, brief and informal. They shall include a quantitative description of progress, an indication of any current problems that may impede performance, proposed corrective action, and a discussion of the work to be performed during the next monthly reporting period. Monthly reports shall be submitted by the 15th day of the month following the month being reported. If the contract is awarded beyond the middle of a month, the first monthly report shall cover the period from award until the end of the following month. No Monthly report is required for the final month of the contract that period will be covered in the final report.

(b) Final report. Refer to NASA FAR Supplement clause 1852.235-73 "Final Scientific and Technical Reports" of this contract. The Contractor shall submit a final report in accordance with clauses B.1 and H.1 of this contract. The final report shall include tables, graphs, diagrams, curves, sketches, photographs, and drawings in sufficient detail to explain comprehensively the results achieved under the contract.

(c) Report Documentation Page. The copies provided to the Center for Aerospace Information shall have a completed Standard Form 298, Report Documentation Page, as the last page. Refer to NASA FAR Supplement clause 1852.235-73, "FINAL SCIENTIFIC AND TECHNICAL REPORTS" of this contract.

(d) Submission. The Contractor shall submit the reports required by this clause as follows:

[[M=Monthly, F=Final]

Copies	Classification	Addressee	Mail Code
1	M, F	Contracting Officer	210.S
3	M, F	Contracting Officer's Technical Representative	460
2	F	Center for AeroSpace Information (CASI)	N/A

(End of Text)

C.3 LIMITED RIGHTS DATA OR RESTRICTED COMPUTER SOFTWARE (GSFC 52.227-90) (MAR 2008)

In accordance with the delivery requirements of this contract, all software data rights shall be delivered in

accordance with the Rights in Data – General clause, specified elsewhere in this contract, except for the following:

NONE

(End of clause)

SECTION D - PACKAGING AND MARKING

(No clauses under this section)

SECTION E - INSPECTION AND ACCEPTANCE

E.1 52.246-8 INSPECTION OF RESEARCH AND DEVELOPMENT - COST-REIMBURSEMENT. (MAY 2001)

E.2 1852.246-72 MATERIAL INSPECTION AND RECEIVING REPORT. (AUG 2003)

E.3 52.246-11 HIGHER-LEVEL CONTRACT QUALITY REQUIREMENT. (FEB 1999)

The Contractor shall comply with the higher-level quality standard selected below.

Attachment G - Performance Assurance Implementation Plan TBP

Attachment H - "SMALL EXPLORER (SMEX) PROGRAM MISSION ASSURANCE REQUIREMENTS," No. 410-RQMT-0036 Rev. (-), Dated September 2007

(End of clause)

E.4 ACCEPTANCE—LOCATION(S) (GSFC 52.246-93) (APR 2008)

The Contracting Officer or authorized representative will accomplish acceptance at the following location(s):

NASA/Goddard Space Flight Center, Greenbelt, MD 20771 for all items under the contract. The Contracting Officer reserves the right to designate other Government agents as authorized representatives. The Contractor will be notified by a written notice or by a copy of the delegation letter if other agents are authorized.

(End of clause)

E.5 MATERIAL INSPECTION AND RECEIVING REPORT NOT REQUIRED (GSFC 52.246-94) (APR 1989)

NASA FAR Supplement clause 18-52.246-72 of this contract requires the furnishing of a Material Inspection and Receiving Report (MIRR) (DD Form 250 series) at the time of each delivery under this contract. However, a MIRR is not required for the following deliverable items:

<u>Item No.</u>	<u>Description</u>
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	All Reports and Documentations
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(End of clause)

E.6 INSPECTION SYSTEM RECORDS (GSFC 52.246-102) (OCT 1988)

The Contractor shall maintain records evidencing inspections in accordance with the Inspection clause of this contract for five (5) years after delivery of all items and/or completion of all services called for by the contract.

(End of clause)

E.7 CLAUSES INCORPORATED BY REFERENCE -- SECTION E

Clause(s) *E.1 through E.3* at the beginning of this Section are incorporated by reference, with the same force and effect as if they were given in full text. Clauses incorporated by reference which require a fill-in by the Government include the text of the affected paragraph(s) only. This does not limit the clause to the affected paragraph(s). The Contractor is responsible for understanding and complying with the entire clause. The full text of the clause is available at the addresses contained in clause 52.252-2, Clauses Incorporated by Reference, of this contract.

(End of clause)

SECTION F - DELIVERIES OR PERFORMANCE

F.1 52.242-15 STOP-WORK ORDER (AUG 1989) ALT I (APR 1984)

F.2 52.247-34 F.O.B. DESTINATION (NOV 1991)

F.3 PLACE OF PERFORMANCE

Lockheed Martin Missiles and Space
Advanced Technology Center
3251 Hanover Street
Palo Alto, CA 94304-1191

(End of clause)

F.4 SHIPPING INSTRUCTIONS--CENTRAL RECEIVING (GSFC 52.247-94) (JUN 2006)

Shipments of the items required under this contract shall be to:

Receiving Officer
Building 16W
Code 279
Goddard Space Flight Center
Greenbelt, Maryland 20771

Marked for:

Technical Officer (Name) John J Loiacono Code 460
Building 22 Room 388F
Contract No. NNG09FA40C
Item(s) No. All Deliverables and Reports

Compliance with this clause is necessary to assure verification of delivery and acceptance and prompt payment.

(End of clause)

F.5 CLAUSES INCORPORATED BY REFERENCE -- SECTION F

Clause(s) F.1 through F.2 at the beginning of this Section are incorporated by reference, with the same force and effect as if they were given in full text. Clauses incorporated by reference which require a fill-in by the Government include the text of the affected paragraph(s) only. This does not limit the clause to the affected paragraph(s). The Contractor is responsible for understanding and complying with the entire clause. The full text of the clause is available at the addresses contained in clause 52.252-2, Clauses Incorporated by Reference, of this contract.

(End of clause)

SECTION G - CONTRACT ADMINISTRATION DATA

G.1 1852.216-75 PAYMENT OF FIXED FEE (DEC 1988)

G.2 1852.227-70 NEW TECHNOLOGY (MAY 2002)

G.3 1852.242-73 NASA CONTRACTOR FINANCIAL MANAGEMENT REPORTING (NOV 2004)

G.4 1852.244-70 GEOGRAPHIC PARTICIPATION IN THE AEROSPACE PROGRAM (APR 1985)

G.5 1852.245-70 CONTRATOR REQUESTS FOR GOVERNMENT-OWNED EQUIPMENT

G.6 RESERVED

G.7 FINANCIAL MANAGEMENT REPORTING (GSFC 52.242-90) (DEC 2007)

(a) Requirements. This clause provides the supplemental instructions referred to in NASA FAR Supplement (NFS) clause 1852.242-73. The NFS clause and NASA Procedural Requirements (NPR) 9501.2D, "NASA Contractor Financial Management Reporting", establish report due dates and other financial management reporting requirements. NPR 9501.2D permits withholding of payment for noncompliance.

(b) Supplemental instructions. (1) Monthly (NF 533M) reports are required. Quarterly (NF 533Q) reports are required. The reporting structure shall be in accordance with Attachment C of Section J of this contract.

(2) As stated in NPR 9501.2D, NASA strongly encourages electronic contractor cost reporting. The preferred formats are Excel and Adobe. Contact the Contracting Officer for any E-Mail addresses that are not provided or which become noncurrent.

Distribution shall be as follows:

Contracting Specialist, Code 210.S
E-Mail: Cassandra.K.Moore@nasa.gov

Contracting Officer's Technical Representative, Code 460
E-Mail: john.j.loiacono@nasa.gov

Resources Analyst, Code 703
E-Mail: tina.l.wood@nasa.gov

Regional Finance Office Cost Team, Code 155
E-Mail: rfocateam@listserv.gsfc.nasa.gov

Regional Finance Office Cost Team, Code 155
E-Mail: rfocateam@listserv.gsfc.nasa.gov

Administrative Contracting Officer (if delegated)

(c) Web site. NPR 9501.2D, "NASA Contractor Financial Management Reporting":

http://nodis3.gsfc.nasa.gov/displayDir.cfm?Internal_ID=N_PR_9501_002D_&page_name=main

(End of clause)

G.8 1852.216-87 SUBMISSION OF VOUCHERS FOR PAYMENT (MAR 1998)

(a) The designated billing office for cost vouchers for purposes of the Prompt Payment clause of this contract is indicated below. Public vouchers for payment of costs shall include a reference to the number of this contract.

(b) (1) If the contractor is authorized to submit interim cost vouchers directly to the NASA paying office, the original voucher should be submitted to:

NASA/Shared Services Center Financial Management Division (FMD) Accounts Payable
Bldg 1111, C. Road
Stennis Space Center, MS 39529

(2) For any period that the Defense Contract Audit Agency has authorized the Contractor to submit interim cost vouchers directly to the Government paying office, interim vouchers are not required to be sent to the Auditor, and are considered to be provisionally approved for payment, subject to final audit.

(3) Copies of vouchers should be submitted as directed by the Contracting Officer.

(c) If the contractor is not authorized to submit interim cost vouchers directly to the paying office as described in paragraph (b), the contractor shall prepare and submit vouchers as follows:

(1) One original Standard Form (SF) 1034, SF 1035, or equivalent Contractor's attachment to:

**Defense Contract Audit Agency
2900 Gordon Avenue, Suite 200
Santa Clara, CA 95051-0718**

(2) RESERVED

(3) The Contracting Officer may designate other recipients as required.

(d) Public vouchers for payment of fee shall be prepared similarly to the procedures in paragraphs (b) or (c) of this clause, whichever is applicable, and be forwarded to the address specified in (b)(1) above. This is the designated billing office for fee vouchers for purposes of the Prompt Payment clause of this contract.

(e) In the event that amounts are withheld from payment in accordance with provisions of this contract, a separate voucher for the amount withheld will be required before payment for that amount may be made.

(End of clause)

G.9 1852.227-72 DESIGNATION OF NEW TECHNOLOGY REPRESENTATIVE AND PATENT REPRESENTATIVE (JUL 1997)

(a) For purposes of administration of the clause of this contract entitled "New Technology" or "Patent Rights – Ownership by the Contractor," whichever is included, the following named representatives are hereby designated by the Contracting Officer to administer such clause:

Title	Office Code	Address (including Zip Code)
New Technology	504	Goddard Space Flight Center Representative, Greenbelt, MD 20771
Patent	140.1	Goddard Space Flight Center Representative, Greenbelt, MD 20771

(b) Reports of reportable items, and disclosure of subject inventions, interim reports, final reports, utilization reports, and other reports required by the clause, as well as any correspondence with respect to such matters, should be directed to the New Technology Representative unless transmitted in response to correspondence or request from the Patent Representative. Inquires or requests regarding disposition of rights, election of rights, or related matters should be directed to the Patent Representative. This clause shall be included in any subcontract hereunder requiring a "New Technology" clause or "Patent Rights – Ownership by the Contractor" clause, unless otherwise authorized or directed by the Contracting Officer. The respective responsibilities and authorities of the above-named representatives are set forth in 1827.305-370 of the NASA FAR Supplement.

(End of clause)

G.10 1852.242-71 TRAVEL OUTSIDE OF THE UNITED STATES. (DEC 1988)

(a) The Contracting Officer must authorize in advance and in writing travel to locations outside of the United States by Contractor employees that is to be charged as a cost to this contract. This approval may be granted when the travel is necessary to the efforts required under the contract and it is otherwise in the best interest of NASA.

(b) The Contractor shall submit requests to the Contracting Officer at least 30 days in advance of the start of the travel.

(c) The Contractor shall submit a travel report at the conclusion of the travel. The Contracting Officer's approval of the travel will specify the required contents and distribution of the travel report.

G.11 1852.245-73 FINANCIAL REPORTING OF NASA PROPERTY IN THE CUSTODY OF CONTRACTORS (SEPTEMBER 2007) (DEVIATION)

(a) The Contractor shall submit annually a NASA Form (NF) 1018, NASA Property in the Custody of Contractors, in accordance with the provisions of [1845.505-14](#), the instructions on the form, subpart [1845.71](#), and any supplemental instructions for the current reporting period issued by NASA.

(b)(1) Subcontractor use of NF 1018 is not required by this clause; however, the Contractor shall include data on property in the possession of subcontractors in the annual NF 1018.

(2) The Contractor shall mail the original signed NF 1018 directly to the Goddard Space Flight

Center (GSFC), General Accounting Department, General Ledger Section, Code 157, Greenbelt, MD 20771, unless the Contractor uses the NF 1018 Electronic Submission System (NESS) for report preparation and submission.

(3) One copy shall be submitted (through the Department of Defense (DOD) Property Administrator if contract administration has been delegated to DOD) to the following address:

Goddard Space Flight Center, Supply and Equipment Management Branch, Code 273, Greenbelt, MD 20771--unless the Contractor uses the NF 1018 Electronic Submission System (NESS) for report preparation and submission.

(c)(1) The annual reporting period shall be from October 1 of each year through September 30 of the following year. The report shall be submitted in time to be received by October 15. The information contained in these reports is entered into the NASA accounting system to reflect current asset values for agency financial statement purposes. Therefore, it is essential that required reports be received no later than October 15. Some activity may be estimated for the month of September, if necessary, to ensure the NF 1018 is received when due. However, contractors' procedures must document the process for developing these estimates based on planned activity such as planned purchases or NASA Form 533 (NF 533 Contractor Financial Management Report) cost estimates. It should be supported and documented by historical experience or other corroborating evidence, and be retained in accordance with FAR Subpart 4.7, Contractor Records Retention. Contractors shall validate the reasonableness of the estimates and associated methodology by comparing them to the actual activity once that data is available, and adjust them accordingly. In addition, differences between the estimated cost and actual cost must be adjusted during the next reporting period. Contractors shall have formal policies and procedures, which address the validation of NF 1018 data, including data from subcontractors, and the identification and timely reporting of errors. The objective of this validation is to ensure that information reported is accurate and in compliance with the NASA FAR Supplement. If errors are discovered on NF 1018 after submission, the contractor shall contact the cognizant NASA Center Industrial Property Officer (IPO) within 30 days after discovery of the error to discuss corrective action.

(2) The Contracting Officer may, in NASA's interest, withhold payment until a reserve not exceeding \$25,000 or 5 percent of the amount of the contract, whichever is less, has been set aside, if the Contractor fails to submit annual NF 1018 reports in accordance with 1845.505-14 and any supplemental instructions for the current reporting period issued by NASA. Such reserve shall be withheld until the Contracting Officer has determined that NASA has received the required reports. The withholding of any amount or the subsequent payment thereof shall not be construed as a waiver of any Government right.

(d) A final report shall be submitted within 30 days after disposition of all property subject to reporting when the contract performance period is complete in accordance with (b)(1) through (3) of this clause.

(End of clause)

G.12 1852.245-74 IDENTIFICATION AND MARKING OF GOVERNMENT EQUIPMENT (SEPTEMBER 2007) (DEVIATION)

(a) The Contractor shall identify all equipment to be delivered to the Government using NASA Technical Handbook ([NASA-HDBK](#)) 6003, Application of Data Matrix Identification Symbols to Aerospace Parts Using Direct Part Marking Methods/Techniques, and NASA Standard (NASA-STD) 6002, Applying Data Matrix Identification Symbols on Aerospace Parts Handbook. This includes deliverable equipment listed in the schedule and other equipment when NASA directs physical transfer to NASA or a third party. The Contractor shall identify property in both machine and human readable form

unless the use of a machine readable-only format is approved by the NASA Industrial Property Officer.

(b) Property shall be marked in a location that will be human readable, without disassembly or movement of the property, when the items are placed in service unless such placement would have a deleterious effect on safety or on the item's operation.

(c) Concurrent with equipment delivery or transfer, the Contractor shall provide the following data in an electronic spreadsheet format:

- (1) Item Description.
- (2) Unique Identification Number (License Tag).
- (3) Unit Price.
- (4) An explanation of the data used to make the unique identification number.

(d) For items physically transferred under paragraph (a) the following additional data is required:

- (1) Date originally placed in service.
- (2) Item condition.
- (3) Date last serviced.

(e) The data required in paragraphs (c) and (d) shall be delivered to the NASA center receiving activity listed below:

Goddard Space Flight Center
Building 16W, Code 279
Greenbelt, MD 20771

(f) The contractor shall include the substance of this clause, including this paragraph (f), in all subcontracts that require delivery of equipment.

(End of clause)

**G.13 PROPERTY MANAGEMENT CHANGES (1852.245-75) (SEPTEMBER 2007)
(DEVIATION)**

(a) The Contractor shall submit any changes to standards and practices used for management and control of Government property under this contract to the assigned property administrator and Industrial Property Officer (IPO), prior to making the change whenever the change --

- (1) Employs a standard that allows increase in thresholds or changes the timing for reporting loss, damage, or destruction of property;
- (2) Alters physical inventory timing or procedures;
- (3) Alters recordkeeping practices;
- (4) Alters practices for recording the transport or delivery of Government property; or
- (5) Alters practices for disposition of Government property.

(b) The Contractor shall contact the IPO at:

NASA/Goddard Space Flight Center
Mr. Gary V Morris, Code 273
Greenbelt, MD 20771

Gary.V.Morris@nasa.gov
301-286-5031

(End of clause)

**G.14 PHYSICAL INVENTORY OF CAPITAL PERSONAL PROPERTY (1852.245-78)
(SEPTEMBER 2007) (DEVIATION)**

(a) In addition to physical inventory requirements under the clause at FAR 52.245-1, Government

Property, the Contractor shall conduct annual physical inventories for individual property items with an acquisition cost exceeding \$100,000.

(1) The Contractor shall inventory --

(i) Items of property furnished by the Government;

(ii) Items acquired by the Contractor and titled to the Government under the clause at FAR 52.245-1;

(iii) Items constructed by the Contractor and not included in the deliverable, but titled to the Government under the clause at FAR 52.245-1; and

(iv) Complete but undelivered deliverables.

(2) The Contractor shall use the physical inventory results to validate the property record data, specifically location, condition and use status, and to prepare summary reports of inventory as described in paragraph (c) of this clause.

(b) Unless specifically authorized in writing by the NASA Industrial Property Officer (IPO), the inventory shall be performed and posted by individuals other than those assigned custody of the items, responsibility for maintenance, or responsibility for posting to the property record. The Contractor may request a waiver from this separation of duties requirement from the NASA IPO, when all of the conditions in either (1) or (2) below are met.

(1) The Contractor utilizes an electronic system for property identification, such as a laser bar-code reader or radio frequency identification reader, and

(i) The programs or software preclude manual data entry of inventory identification data by the individual performing the inventory; and

(ii) The inventory and property management systems contain sufficient management controls to prevent tampering and assure proper posting of collected inventory data.

(2) The Contractor has limited quantities of property, limited personnel, or limited property systems; and,

(i) The Contractor provides written confirmation that the Government property exists in the recorded condition and location; and

(ii) The items continue to be used exclusively for performance of the contract or as otherwise authorized by the Contracting Officer.

(3) The Contractor shall submit the request to the cognizant property administrator and obtain approval from the IPO prior to implementation of the practice.

(c) The Contractor shall report the results of the physical inventory to the property administrator and the NASA Industrial Property Officer within 10 calendar days of completion of the physical inventory. The report shall --

(1) Provide a summary showing number and value of items inventoried; and

(2) Include additional supporting reports of --

(i) Loss, damage or destruction, in accordance with the clause at 52.245-1, Government Property;

(ii) Idle property available for reuse or disposition; and

(iii) A summary of adjustments made to location, condition, status, or user as a result of the physical inventory reconciliation.

(d) The Contractor shall retain all physical inventory records, including records of all transactions associated with inventory reconciliation. All records shall be subject to Government review and/or audit.

(End of clause)

G.15 CLAUSES INCORPORATED BY REFERENCE -- SECTION G

Clause(s) G.1 through G.5 at the beginning of this Section is incorporated by reference, with the same force and effect as if they were given in full text. Clauses incorporated by reference which require a fill-

in by the Government include the text of the affected paragraph(s) only. This does not limit the clause to the affected paragraph(s). The Contractor is responsible for understanding and complying with the entire clause. The full text of the clause is available at the addresses contained in clause 52.252-2, Clauses Incorporated by Reference, of this contract.

(End of clause)

SECTION H - SPECIAL CONTRACT REQUIREMENTS

H.1 1852.208-81 RESTRICTIONS ON PRINTING AND DUPLICATING. (NOV 2004)

H.2 1852.223-70 SAFETY AND HEALTH. (APR 2002)

H.3 1852.223-75 MAJOR BREACH OF SAFETY OR SECURITY. (FEB 2002)

H.4 1852.219-75 SMALL BUSINESS SUBCONTRACTING REPORTING (MAY 1999)

H.5 RESERVED

H.6 1852.235-71 KEY PERSONNEL AND FACILITIES. (MAR 1989) {Dr. Allan Title}

H.7 1852.235-73 FINAL SCIENTIFIC AND TECHNICAL REPORTS. (DEC 2006)

H.8 SAFETY AND HEALTH--ADDITIONAL REQUIREMENTS (GSFC 52.223-91) (NOV 2005)

(a) Other safety and health requirements. In addition to compliance with all Federal, state, and local laws as required by paragraph (d) of NFS clause 18-52.223-70, the Contractor shall comply with the following:

TBD

(b) Reporting. The immediate notification and prompt reporting required by paragraph (d) of NFS clause 1852.223-70 shall be to the Goddard Space Flight Center Safety and Environmental Division, Code 250, Tel 301-286-6296 and to the Contracting Officer. This should be a verbal notification and confirmed by FAX or E-Mail. This notification is also required for any unsafe or environmentally hazardous condition associated with Government-owned property that is provided or made available for the performance of the contract.

(End of clause)

H.9 RIGHTS IN DATA (GSFC 52.227-99)(MAR 2008)

The default Data Rights clause under this contract is FAR 52.227-14 RIGHTS IN DATA-GENERAL as modified by NASA FAR Supplement 1852.227-14—Alternate II and Alternate III and GSFC 52.227-90. Any exceptions to this clause will be covered by FAR 52.227-17 RIGHTS IN DATA--SPECIAL WORKS as modified by NASA FAR Supplement 1852.227-17, and, if applicable, GSFC 52.227-93.

H.10 RESERVED

H.11 SMALL BUSINESS SUBCONTRACTING PLAN AND REPORTS (GSFC 52.219-90) (JUL 2006)

a. Subcontracting Plan (Contractor)

FAR clause 52.219-9, "Small Business Subcontracting Plan" is included in this contract. The agreed to Subcontracting Plan required by the clause is included as an attachment to the contract.

b. Subcontracting Plan (Subcontractors)

In accordance with FAR clause 52.219-9, the Contractor must require that certain subcontractors adopt a plan similar to the Plan agreed to between the Contractor and the Government.

c. Individual Subcontract Reports (ISRs)

The Contractor shall prepare and submit their Individual Subcontract Reports (ISRs) (formerly known as the Standard Form 294), in accordance with the instructions listed in the Electronic Subcontract Reporting System (eSRS), available at <http://esrs.gov>.

ISRs must be submitted electronically in eSRS on a semi-annual basis. This report must be received no later than April 30 and October 30 each year for the reporting periods ending March 31 and September 30, respectively. Reports are required when due, regardless of whether there has been any subcontracting activity since the inception of the contract or since the last reporting period.

A final Individual Subcontract Report (ISR) must be submitted after contract completion. The final ISR submittal must be received no later than the due date for what would have been the next semi-annual report.

d. Summary Subcontract Reports (SSRs)

The Contractor shall prepare and submit Summary Subcontract Reports (SSRs)(formerly known as the Standard Form 295), in accordance with the instructions listed in the Electronic Subcontract Reporting System (eSRS), available at <http://esrs.gov> and in accordance with NASA FAR Supplement clause 1852.219-75, "Small Business Subcontracting Reporting" of this contract.

The SSRs must be submitted electronically in eSRS on a semi-annual basis no later than April 30 and October 30 each year for the reporting periods ending March 31 and September 30, respectively.

e. Subcontractor Reporting

FAR clause 52.219-9 and NASA FAR Supplement clause 1852.219-75 require that the Contractor ensure that ISR and SSR reports are submitted by those subcontractors that have been required to adopt a Subcontracting Plan under the terms of the clause. These subcontractor reports must be submitted as required by paragraphs (c) and (d) above. The reports may be submitted through the Contractor or submitted directly. Regardless, the Contractor is responsible for ensuring proper and timely submittal of the required reports.

(End of clause)

H.12 EXPORT LICENSES (1852.225-70) (FEB 2000)

(a) The Contractor shall comply with all U.S. export control laws and regulations, including the International Traffic in Arms Regulations (ITAR), 22 CFR Parts 120 through 130, and the Export Administration Regulations (EAR), 15 CFR Parts 730 through 799, in the performance of this contract. In the absence of available license exemptions/exceptions, the Contractor shall be responsible for obtaining the appropriate licenses or other approvals, if required, for exports of hardware, technical data, and software, or for the provision of technical assistance.

(b) The Contractor shall be responsible for obtaining export licenses, if required, before utilizing foreign persons in the performance of this contract, including instances where the work is to be performed on-site at any Government installation, where the foreign person will have access to export-controlled technical data or software.

(c) The Contractor shall be responsible for all regulatory record keeping requirements associated with the use of licenses and license exemptions/exceptions.

(d) The Contractor shall be responsible for ensuring that the provisions of this clause apply to its significant subcontractors.

(End of clause)

H.13 REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFEROR

The completed provision 52.204-8, Annual Representations and Certifications, including any amended representation(s) made at paragraph (b) of the provision; and other representations, certifications and other statements contained in Section K completed and submitted as part of the offer dated [Insert date of offer] are hereby incorporated by reference in this resulting contract.

(End of Clause)

H.14 CLAUSES INCORPORATED BY REFERENCE -- SECTION H

Clause(s) H.1 through H.7 at the beginning of this Section are incorporated by reference, with the same force and effect as if they were given in full text. Clauses incorporated by reference which require a fill-in by the Government include the text of the affected paragraph(s) only. This does not limit the clause to the affected paragraph(s). The Contractor is responsible for understanding and complying with the entire clause. The full text of the clause is available at the addresses contained in clause 52.252-2, Clauses Incorporated by Reference, of this contract.

(End of clause)

SECTION I - CONTRACT CLAUSES

I.1 52.202-1 DEFINITIONS. (JUL 2004)

I.2 52.203-3 GRATUITIES. (APR 1984)

I.3 52.203-5 COVENANT AGAINST CONTINGENT FEES. (APR 1984)

I.4 52.203-6 RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT. (SEP 2006)

I.5 52.203-7 ANTI-KICKBACK PROCEDURES. (JUL 1995)

I.6 52.203-8 CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY. (JAN 1997)

I.7 52.203-10 PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY. (JAN 1997)

I.8 52.203-12 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS. (SEP 2007)

I.9 52.203-13 CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT. (DEC 2008)

**I.10 52.203-14 DISPLAY OF HOTLINE POSTER (DEC 2007)
(7)(b)(3) – Inspector General Hotline Posters may be obtained from NASA Office of Inspector General, Code W, Washington, DC 20546-001**

I.11 52.204-4 PRINTED OR COPIED DOUBLE-SIDED ON RECYCLED PAPER. (AUG 2000)

I.12 52.204-7 CENTRAL CONTRACTOR REGISTRATION. (APR 2008)

I.13 52.204-9 PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL. (SEP 2007)

I.14 52.209-6 PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT. (SEP 2006)

I.15 52.211-15 DEFENSE PRIORITY AND ALLOCATION REQUIREMENTS. (APR 2008)

I.16 52.215-2 AUDIT AND RECORDS - NEGOTIATION. (MAR 2009)

I.17 52.215-8 ORDER OF PRECEDENCE - UNIFORM CONTRACT FORMAT. (OCT 1997)

I.18 52.215-10 PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA. (OCT 1997)

I.19 52.215-12 SUBCONTRACTOR COST OR PRICING DATA. (OCT 1997)

- I.20 52.215-14 INTEGRITY OF UNIT PRICES. (OCT 1997) - ALTERNATE I (OCT 1997)**
- I.21 52.215-15 PENSION ADJUSTMENTS AND ASSET REVERSIONS. (OCT 2004)**
- I.22 52.215-18 REVERSION OR ADJUSTMENT OF PLANS FOR POSTRETIREMENT BENEFITS (PRB) OTHER THAN PENSIONS. (JUL 2005)**
- I.23 52.216-7 ALLOWABLE COST AND PAYMENT. (DEC 2002)**
- I.24 52.216-8 FIXED FEE. (MAR 1997)**
- I.25 52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS. (MAY 2004)**
- I.26 52.219-9 SMALL BUSINESS SUBCONTRACTING PLAN. (APR 2008) - ALTERNATE II (OCT 2001)**
- I.27 52.219-16 LIQUIDATED DAMAGES - SUBCONTRACTING PLAN. (JAN 1999)**
- I.28 52.219-28 POST-AWARD SMALL BUSINESS PROGRAM REPRESENTATION (APR 2009)**
- I.29 52.222-2 PAYMENT FOR OVERTIME PREMIUMS. (JUL 1990)**
- I.30 52.222-3 CONVICT LABOR. (JUN 2003)**
- I.31 52.222-21 PROHIBITION OF SEGREGATED FACILITIES. (FEB 1999)**
- I.32 52.222-26 EQUAL OPPORTUNITY. (MAR 2007)**
- I.33 52.222-35 EQUAL OPPORTUNITY FOR SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS. (SEP 2006)**
- I.34 52.222-36 AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES. (JUN 1998)**
- I.35 52.222-37 EMPLOYMENT REPORTS ON SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS. (SEP 2006)**
- I.36 52.222-50 COMBATING TRAFFICKING IN PERSONS. (FEB 2009)**
- I.37 52.222-54 EMPLOYMENT ELIGIBILITY VERIFICATION. (SEPT 2009)**
- I.38 52.223-6 DRUG-FREE WORKPLACE. (MAY 2001)**
- I.39 52.223-7 NOTICE OF RADIOACTIVE MATERIALS (JAN 1997)**
- I.40 52.223-14 TOXIC CHEMICAL RELEASE REPORTING. (AUG 2003)**
- I.41 52.225-1 BUY AMERICAN ACT - SUPPLIES. (FEB 2009)**
- I.42 52.225-13 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (JUN 2008)**
- I.43 52.225-8 DUTY-FREE ENTRY. (FEB 2000)**

I.44 52.227-1 AUTHORIZATION AND CONSENT (DEC 2007)

I.45 52.227-2 NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (DEC 2007)

I.46 52.227-16 ADDITIONAL DATA REQUIREMENTS. (JUN 1987)

I.47 52.228-7 INSURANCE - LIABILITY TO THIRD PERSONS. (MAR 1996)

I.48 52.230-2 COST ACCOUNTING STANDARDS. (OCT 2008)

I.49 52.230-6 ADMINISTRATION OF COST ACCOUNTING STANDARDS. (MAR 2008)

I.50 52.232-9 LIMITATION ON WITHHOLDING OF PAYMENTS. (APR 1984)

I.51 52.232-17 INTEREST. (OCT 2008)

I.52 52.232-22 LIMITATION OF FUNDS. (APR 1984)

I.53 52.232-23 ASSIGNMENT OF CLAIMS. (JAN 1986)

I.54 52.232-25 PROMPT PAYMENT (OCT 2008)

I.55 52.232-34 PAYMENT BY ELECTRONIC FUNDS TRANSFER - OTHER THAN CENTRAL CONTRACTOR REGISTRATION. (MAY 1999)

(b) Mandatory submission of Contractor's EFT information. (1) The Contractor is required to provide the Government with the information required to make payment by EFT (see paragraph (j) of this clause). The Contractor shall provide this information directly to the office designated in this contract to receive that information (hereafter: designated office) by [

NASA Shared Services Center (NSSC)

Financial Management Division (FMD) – Accounts Payable

Bldg 1111, C. Road

Stennis Space Center, MS 39529

Phone#: 1-877-677-2123

Fax: 1-866-209-5415

Email: NSSC-AccountsPayable@nasa.gov

If not otherwise specified in this contract, the payment office is the designated office for receipt of the Contractor's EFT information. If more than one designated office is named for the contract, the Contractor shall provide a separate notice to each office. In the event that the EFT information changes, the Contractor shall be responsible for providing the updated information to the designated office(s).

I.56 52.233-1 DISPUTES. (JUL 2002) - ALTERNATE I (DEC 1991)

I.57 52.233-3 PROTEST AFTER AWARD. (AUG 1996) - ALTERNATE I (JUN 1985)

I.58 52.233-4 APPLICABLE LAW FOR BREACH OF CONTRACT CLAIM. (OCT 2004)

I.59 52.242-1 NOTICE OF INTENT TO DISALLOW COSTS. (APR 1984)

I.60 52.242-3 PENALTIES FOR UNALLOWABLE COSTS. (MAY 2001)

I.61 52.242-4 CERTIFICATION OF FINAL INDIRECT COSTS. (JAN 1997)

I.62 52.242-13 BANKRUPTCY. (JUL 1995)

I.63 52.243-2 CHANGES - COST-REIMBURSEMENT. (AUG 1987) - ALTERNATE V (APR 1984)

I.64 52.243-6 CHANGE ORDER ACCOUNTING. (APR 1984)

I.65 52.243-7 NOTIFICATION OF CHANGES. (APR 1984)

(b) *Notice.* The primary purpose of this clause is to obtain prompt reporting of Government conduct that the Contractor considers to constitute a change to this contract. Except for changes identified as such in writing and signed by the Contracting Officer, the Contractor shall notify the Administrative Contracting Officer in writing promptly, within thirty (30) calendar days from the date that the Contractor identifies any Government conduct (including actions, inactions, and written or oral communications) that the Contractor regards as a change to the contract terms and conditions. On the basis of the most accurate information available to the Contractor, the notice shall state -

(d) *Government response.* The Contracting Officer shall promptly, within thirty 30 calendar days after receipt of notice, respond to the notice in writing. In responding, the Contracting Officer shall either -

I.66 52.244-2 SUBCONTRACTS. (JUN 2007)

(d) If the Contractor has an approved purchasing system, the Contractor nevertheless shall obtain the Contracting Officer's written consent before placing the following subcontracts: [Professional and consultants cost as defined at FAR 31.205-33]

(j) Paragraphs (c) and (e) of this clause do not apply to the following subcontracts, which were evaluated during negotiations: [None]

I.67 52.244-6 SUBCONTRACTS FOR COMMERCIAL ITEMS. (AUG 2009)

I.68 52.245-1 GOVERNMENT PROPERTY. (JUN 2007)

I.69 52.245-9 USE AND CHARGES (JUN 2007)

I.70 52.247-1 COMMERCIAL BILL OF LADING NOTATIONS. (FEB 2006)

I.71 52.247-63 PREFERENCE FOR U.S.-FLAG AIR CARRIERS. (JUN 2003)

I.72 52.247-67 SUBMISSION OF TRANSPORTATION DOCUMENTS FOR AUDIT. (FEB 2006)
{Goddard Space Flight Center, Mail Code 410, Greenbelt, MD 20071}

I.73 52.249-6 TERMINATION (COST-REIMBURSEMENT). (MAY 2004)

I.74 52.249-14 EXCUSABLE DELAYS. (APR 1984)

I.75 1852.203-70 DISPLAY OF INSPECTOR GENERAL HOTLINE POSTERS. (JUN 2001)

I.76 1852.216-89 ASSIGNMENT AND RELEASE FORMS. (JUL 1997)

I.77 1852.219-74 USE OF RURAL AREA SMALL BUSINESSES. (SEP 1990)

I.78 1852.219-76 NASA 8 PERCENT GOAL. (JUL 1997)

I.79 1852.228-75 MINIMUM INSURANCE COVERAGE. (OCT 1988)

I.80 1852.235-70 CENTER FOR AEROSPACE INFORMATION. (DEC 2006)

I.81 1852.237-73 RELEASE OF SENSITIVE INFORMATION. (JUN 2005)

I.82 1852.242-78 EMERGENCY MEDICAL SERVICES AND EVACUATION (APR 2001)

I.83 1852.243-70 ENGINEERING CHANGE PROPOSALS. (OCT 2001)

I.84 1852.246-24 LIMITATION OF LIABILITY—HIGH-VALUE ITEMS. (FEB 1997) ALT I (APR 1984)

I.85 52.215-19 NOTIFICATION OF OWNERSHIP CHANGES. (OCT 1997)

(a) The Contractor shall make the following notifications in writing:

(1) When the Contractor becomes aware that a change in its ownership has occurred, or is certain to occur, that could result in changes in the valuation of its capitalized assets in the accounting records, the Contractor shall notify the Administrative Contracting Officer (ACO) within 30 days.

(2) The Contractor shall also notify the ACO within 30 days whenever changes to asset valuations or any other cost changes have occurred or are certain to occur as a result of a change in ownership.

(b) The Contractor shall -

(1) Maintain current, accurate, and complete inventory records of assets and their costs;

(2) Provide the ACO or designated representative ready access to the records upon request;

(3) Ensure that all individual and grouped assets, their capitalized values, accumulated depreciation or amortization, and remaining useful lives are identified accurately before and after each of the Contractor's ownership changes; and

(4) Retain and continue to maintain depreciation and amortization schedules based on the asset records maintained before each Contractor ownership change.

(c) The Contractor shall include the substance of this clause in all subcontracts under this contract that meet the applicability requirement of FAR 15.408(k).

(End of clause)

I.86 52.216-24 LIMITATION OF GOVERNMENT LIABILITY. (APR 1984)

(a) In performing this contract, the Contractor is not authorized to make expenditures or incur obligations exceeding \$14,096,763dollars.

(b) The maximum amount for which the Government shall be liable if this contract is terminated is \$14,096,763 dollars.

(End of clause)

I.87 52.216-25 CONTRACT DEFINITIZATION. (OCT 1997)

(a) A Cost plus Fixed Fee definitive contract is contemplated. The Contractor agrees to begin promptly negotiating with the Contracting Officer the terms of a definitive contract that will include (1) all clauses required by the Federal Acquisition Regulation (FAR) on the date of execution of the letter contract, (2) all clauses required by law on the date of execution of the definitive contract, and (3) any other mutually agreeable clauses, terms, and conditions. The Contractor agrees to submit a Cost Plus Fixed Fee proposal and cost or pricing data supporting its proposal.

(b) The schedule for definitizing this contract is

Proposal (Phase B):	October 30, 2009
Beginning of Negotiations:	November 20, 2009
Definitization of Contract:	December 15, 2009

(c) If agreement on a definitive contract to supersede this letter contract is not reached by the target date in paragraph (b) of this section, or within any extension of it granted by the Contracting Officer, the Contracting Officer may, with the approval of the head of the contracting activity, determine a reasonable price or fee in accordance with Subpart 15.4 and Part 31 of the FAR, subject to Contractor appeal as provided in the Disputes clause. In any event, the Contractor shall proceed with completion of the contract, subject only to the Limitation of Government Liability clause.

(1) After the Contracting Officer's determination of price or fee, the contract shall be governed by -

(i) All clauses required by the FAR on the date of execution of this letter contract for either fixed-price or cost-reimbursement contracts, as determined by the Contracting Officer under this paragraph (c);

(ii) All clauses required by law as of the date of the Contracting Officer's determination; and

(iii) Any other clauses, terms, and conditions mutually agreed upon.

(2) To the extent consistent with subparagraph (c)(1) of this section, all clauses, terms, and conditions included in this letter contract shall continue in effect, except those that by their nature apply only to a letter contract.

(End of clause)

I.88 52.216-26 PAYMENTS OF ALLOWABLE COSTS BEFORE DEFINITIZATION (DEC 2002)

(a) *Reimbursement rate.* Pending the placing of the definitive contract referred to in this letter contract, the Government will promptly reimburse the Contractor for all allowable costs under this contract at the

following rates:

(1) One hundred percent of approved costs representing financing payments to subcontractors under fixed-price subcontracts, provided that the Government's payments to the Contractor will not exceed 80 percent of the allowable costs of those subcontractors.

(2) One hundred percent of approved costs representing cost-reimbursement subcontracts; *provided*, that the Government's payments to the Contractor shall not exceed 85 percent of the allowable costs of those subcontractors.

(3) Eighty-five percent of all other approved costs.

(b) *Limitation of reimbursement.* To determine the amounts payable to the Contractor under this letter contract, the Contracting Officer shall determine allowable costs in accordance with the applicable cost principles in Part 31 of the Federal Acquisition Regulation (FAR). The total reimbursement made under this paragraph shall not exceed 85 percent of the maximum amount of the Government's liability, as stated in this contract.

(c) *Invoicing.* Payments shall be made promptly to the Contractor when requested as work progresses, but (except for small business concerns) not more often than every 2 weeks, in amounts approved by the Contracting Officer. The Contractor may submit to an authorized representative of the Contracting Officer, in such form and reasonable detail as the representative may require, an invoice or voucher supported by a statement of the claimed allowable cost incurred by the Contractor in the performance of this contract.

(d) *Allowable costs.* For the purpose of determining allowable costs, the term costs includes -

(1) Those recorded costs that result, at the time of the request for reimbursement, from payment by cash, check, or other form of actual payment for items or services purchased directly for the contract;

(2) When the Contractor is not delinquent in payment of costs of contract performance in the ordinary course of business, costs incurred, but not necessarily paid, for -

(i) Supplies and services purchased directly for the contract and associated financing payments to subcontractors, provided payments determined due will be made--

(A) In accordance with the terms and conditions of a subcontract or invoice; and

(B) Ordinarily within 30 days of the submission of the Contractor's payment request to the Government;

(ii) Materials issued from the Contractor's stores inventory and placed in the production process for use on the contract;

(iii) Direct labor;

(iv) Direct travel;

(v) Other direct in-house costs; and

(vi) Properly allocable and allowable indirect costs as shown on the records maintained by the Contractor for purposes of obtaining reimbursement under Government contracts; and

(3) The amount of financing payments that the Contractor has paid by cash, check, or other forms of payment to subcontractors.

(e) *Small business concerns.* A small business concern may receive more frequent payments than every 2 weeks.

(f) *Audit.* At any time before final payment, the Contracting Officer may have the Contractor's invoices or vouchers and statements of costs audited. Any payment may be -

(1) Reduced by any amounts found by the Contracting Officer not to constitute allowable costs; or

(2) Adjusted for overpayments or underpayments made on preceding invoices or vouchers.

(End of clause)

L.89 52.222-39 NOTIFICATION OF EMPLOYEE RIGHTS CONCERNING PAYMENT OF UNION DUES OR FEES. (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--

(i) The facility is in all respects separate and distinct from activities of the Contractor related to the performance of a contract; and

(ii) 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.90 52.223-3 HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA.
(JAN 1997) - ALTERNATE I (JUL 1995)**

(a) "Hazardous material," as used in this clause, includes any material defined as hazardous under the latest version of Federal Standard No. 313 (including revisions adopted during the term of the contract).

(b) The offeror must list any hazardous material, as defined in paragraph (a) of this clause, to be delivered under this contract. The hazardous material shall be properly identified and include any applicable identification number, such as National Stock Number or Special Item Number. This information shall also be included on the Material Safety Data Sheet submitted under this contract.

Material (*If none, insert "None"*) Identification No.

_____ TBD _____

(c) This list must be updated during performance of the contract whenever the Contractor determines that any other material to be delivered under this contract is hazardous.

(d) The apparently successful offeror agrees to submit, for each item as required prior to award, a Material Safety Data Sheet, meeting the requirements of 29 CFR 1910.1200(g) and the latest version of Federal Standard No. 313, for all hazardous material identified in paragraph (b) of this clause. Data shall be submitted in accordance with Federal Standard No. 313, whether or not the apparently successful offeror is the actual manufacturer of these items. Failure to submit the Material Safety Data Sheet prior to award may result in the apparently successful offeror being considered nonresponsible and ineligible for award.

(e) If, after award, there is a change in the composition of the item(s) or a revision to Federal Standard No. 313, which renders incomplete or inaccurate the data submitted under paragraph (d) of this clause, the Contractor shall promptly notify the Contracting Officer and resubmit the data.

(f) Neither the requirements of this clause nor any act or failure to act by the Government shall relieve the Contractor of any responsibility or liability for the safety of Government, Contractor, or subcontractor personnel or property.

(g) Nothing contained in this clause shall relieve the Contractor from complying with applicable Federal, State, and local laws, codes, ordinances, and regulations (including the obtaining of licenses and permits) in connection with hazardous material.

(h) The Government's rights in data furnished under this contract with respect to hazardous material are as follows:

(1) To use, duplicate and disclose any data to which this clause is applicable. The purposes of this right are to—

(i) Apprise personnel of the hazards to which they may be exposed in using, handling, packaging, transporting, or disposing of hazardous materials;

(ii) Obtain medical treatment for those affected by the material; and

(iii) Have others use, duplicate, and disclose the data for the Government for these purposes.

(2) To use, duplicate, and disclose data furnished under this clause, in accordance with paragraph (h)(1) of this clause, in precedence over any other clause of this contract providing for rights in data.

(3) The Government is not precluded from using similar or identical data acquired from other sources.

(End of clause)

1.91 RIGHTS IN DATA-GENERAL (52.227-14)(DEC 2007) as modified by NASA FAR Supplement 1852.227-14—ALTERNATE II (DEC 2007) AND ALTERNATE III (DEC 2007)

(a) *Definitions.* As used in this clause-

"Computer database" or "database means" a collection of recorded information in a form capable of, and for the purpose of, being stored in, processed, and operated on by a computer. The term does not include computer software.

"Computer software"-

(1) Means

(i) Computer programs that comprise a series of instructions, rules, routines, or statements, regardless of the media in which recorded, that allow or cause a computer to perform a specific operation or series of operations; and

(ii) Recorded information comprising source code listings, design details, algorithms, processes, flow charts, formulas, and related material that would enable the computer program to be produced, created, or compiled.

(2) Does not include computer databases or computer software documentation.

"Computer software documentation" means owner's manuals, user's manuals, installation instructions, operating instructions, and other similar items, regardless of storage medium, that explain the capabilities of the computer software or provide instructions for using the software.

"Data" means recorded information, regardless of form or the media on which it may be recorded. The term includes technical data and computer software. The term does not include information incidental to contract administration, such as financial, administrative, cost or pricing, or management information.

"Form, fit, and function data" means data relating to items, components, or processes that are sufficient to enable physical and functional interchangeability, and data identifying source, size, configuration, mating and attachment characteristics, functional characteristics, and performance requirements. For computer software it means data identifying source, functional characteristics, and performance requirements but specifically excludes the source code, algorithms, processes, formulas, and flow charts of the software.

"Limited rights" means the rights of the Government in limited rights data as set forth in the Limited Rights Notice of paragraph (g)(3) if included in this clause.

"Limited rights data" means data, other than computer software, that embody trade secrets or are commercial or financial and confidential or privileged, to the extent that such data pertain to items, components, or processes developed at private expense, including minor modifications.

"Restricted computer software" means computer software developed at private expense and that is a trade secret, is commercial or financial and confidential or privileged, or is copyrighted computer software, including minor modifications of the computer software.

"Restricted rights," as used in this clause, means the rights of the Government in restricted computer software, as set forth in a Restricted Rights Notice of paragraph (g) if included in this clause, or as otherwise may be provided in a collateral agreement incorporated in and made part of this contract, including minor modifications of such computer software.

"Technical data" means recorded information (regardless of the form or method of the recording) of a scientific or technical nature (including computer databases and computer software documentation). This term does not include computer software or financial, administrative, cost or pricing, or management data or other information incidental to contract administration. The term includes recorded information of a scientific or technical nature that is included in computer databases (See [41 U.S.C. 403\(8\)](#)).

"Unlimited rights" means the rights of the Government to use, disclose, reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, in any manner and for any purpose, and to have or permit others to do so.

(b) Allocation of rights.

(1) Except as provided in paragraph (c) of this clause, the Government shall have unlimited rights in-

(i) Data first produced in the performance of this contract;

(ii) Form, fit, and function data delivered under this contract;

(iii) Data delivered under this contract (except for restricted computer software) that constitute manuals or instructional and training material for installation, operation, or routine maintenance and repair of items, components, or processes delivered or furnished for use under this contract; and

(iv) All other data delivered under this contract unless provided otherwise for limited rights data or restricted computer software in accordance with paragraph (g) of this clause.

(2) The Contractor shall have the right to-

(i) Assert copyright in data first produced in the performance of this contract to the extent provided in paragraph (c)(1) of this clause;

(ii) Use, release to others, reproduce, distribute, or publish any data first produced or specifically used by the Contractor in the performance of this contract, unless provided otherwise in paragraph (d) of this clause;

(iii) Substantiate the use of, add, or correct limited rights, restricted rights, or copyright notices and to take other appropriate action, in accordance with paragraphs (e) and (f) of this clause; and

(iv) Protect from unauthorized disclosure and use those data that are limited rights data or restricted computer software to the extent provided in paragraph (g) of this clause.

(c) Copyright-

(1) Data first produced in the performance of this contract.

(i) Unless provided otherwise in paragraph (d) of this clause, the Contractor may, without prior approval of the Contracting Officer, assert copyright in scientific and technical articles based on or containing data first produced in the performance of this contract and published in academic, technical or professional journals, symposia proceedings, or similar works. The prior, express written permission of the Contracting Officer is required to assert copyright in all other data first produced in the performance of this contract.

(ii) When authorized to assert copyright to the data, the Contractor shall affix the applicable copyright notices of [17 U.S.C. 401 or 402](#), and an acknowledgment of Government sponsorship (including contract number).

(iii) For data other than computer software, the Contractor grants to the Government, and others acting on its behalf, a paid-up, nonexclusive, irrevocable, worldwide license in such copyrighted data to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly by or on behalf of the Government. For computer software, the Contractor grants to the Government, and others acting on its behalf, a paid-up, nonexclusive, irrevocable, worldwide license in such copyrighted computer software to reproduce, prepare derivative works, and perform publicly and display publicly (but not to distribute copies to the public) by or on behalf of the Government.

(2) *Data not first produced in the performance of this contract.* The Contractor shall not, without the prior written permission of the Contracting Officer, incorporate in data delivered under this contract any data not first produced in the performance of this contract unless the Contractor-

(i) Identifies the data; and

(ii) Grants to the Government, or acquires on its behalf, a license of the same scope as set forth in paragraph (c)(1) of this clause or, if such data are restricted computer software, the Government shall acquire a copyright license as set forth in paragraph (g)(4) of this clause (if included in this contract) or as otherwise provided in a collateral agreement incorporated in or made part of this contract.

(3) *Removal of copyright notices.* The Government will not remove any authorized copyright notices placed on data pursuant to this paragraph (c), and will include such notices on all reproductions of the data.

(d) *Release, publication, and use of data.* The Contractor shall have the right to use, release to others, reproduce, distribute, or publish any data first produced or specifically used by the Contractor in the performance of this contract, except-

(1) As prohibited by Federal law or regulation (e.g., export control or national security laws or regulations);

(2) As expressly set forth in this contract; or

(3) If the Contractor receives or is given access to data necessary for the performance of this contract that contain restrictive markings, the Contractor shall treat the data in accordance with such markings unless specifically authorized otherwise in writing by the Contracting Officer.

(i) The Contractor agrees not to establish claim to copyright, publish or release to others any computer software first produced in the performance of this contract without the Contracting Officer's prior written permission.

(ii) If the Government desires to obtain copyright in computer software first produced in the performance of this contract and permission has not been granted as set forth in paragraph (d)(3)(i) of this clause, the Contracting Officer may direct the contractor to assert, or authorize the assertion of, claim to copyright in such data and to assign, or obtain the assignment of, such copyright to the Government or its designated assignee.

(iii) Whenever the word "establish" is used in this clause, with reference to a claim to copyright, it shall be construed to mean "assert".

(e) Unauthorized marking of data.

(1) Notwithstanding any other provisions of this contract concerning inspection or acceptance, if any data delivered under this contract are marked with the notices specified in paragraph (g)(3) or (g) (4) if included in this clause, and use of the notices is not authorized by this clause, or if the data bears any other restrictive or limiting markings not authorized by this contract, the Contracting Officer may at any time either return the data to the Contractor, or cancel or ignore the markings. However, pursuant to [41 U.S.C. 253d](#), the following procedures shall apply prior to canceling or ignoring the markings.

(i) The Contracting Officer will make written inquiry to the Contractor affording the Contractor 60 days from receipt of the inquiry to provide written justification to substantiate the propriety of the markings;

(ii) If the Contractor fails to respond or fails to provide written justification to substantiate the propriety of the markings within the 60-day period (or a longer time approved in writing by the Contracting Officer for good cause shown), the Government shall have the right to cancel or ignore the markings at any time after said period and the data will no longer be made subject to any disclosure prohibitions.

(iii) If the Contractor provides written justification to substantiate the propriety of the markings within the period set in paragraph (e)(1)(i) of this clause, the Contracting Officer will consider such written justification and determine whether or not the markings are to be cancelled or ignored. If the Contracting Officer determines that the markings are authorized, the Contractor will be so notified in writing. If the Contracting Officer determines, with concurrence of the head of the contracting activity, that the markings are not authorized, the Contracting Officer will furnish the Contractor a written determination, which determination will become the final agency decision regarding the appropriateness of the markings unless the Contractor files suit in a court of competent jurisdiction within 90 days of receipt of the Contracting Officer's decision. The Government will continue to abide by the markings under this paragraph (e)(1)(iii) until final resolution of the matter either by the Contracting Officer's determination

becoming final (in which instance the Government will thereafter have the right to cancel or ignore the markings at any time and the data will no longer be made subject to any disclosure prohibitions), or by final disposition of the matter by court decision if suit is filed.

(2) The time limits in the procedures set forth in paragraph (e)(1) of this clause may be modified in accordance with agency regulations implementing the Freedom of Information Act ([5 U.S.C. 552](#)) if necessary to respond to a request thereunder.

(3) Except to the extent the Government's action occurs as the result of final disposition of the matter by a court of competent jurisdiction, the Contractor is not precluded by paragraph (e) of the clause from bringing a claim, in accordance with the Disputes clause of this contract, that may arise as the result of the Government removing or ignoring authorized markings on data delivered under this contract.

(f) Omitted or incorrect markings.

(1) Data delivered to the Government without any restrictive markings shall be deemed to have been furnished with unlimited rights. The Government is not liable for the disclosure, use, or reproduction of such data.

(2) If the unmarked data has not been disclosed without restriction outside the Government, the Contractor may request, within 6 months (or a longer time approved by the Contracting Officer in writing for good cause shown) after delivery of the data, permission to have authorized notices placed on the data at the Contractor's expense. The Contracting Officer may agree to do so if the Contractor-

(i) Identifies the data to which the omitted notice is to be applied;

(ii) Demonstrates that the omission of the notice was inadvertent;

(iii) Establishes that the proposed notice is authorized; and

(iv) Acknowledges that the Government has no liability for the disclosure, use, or reproduction of any data made prior to the addition of the notice or resulting from the omission of the notice.

(3) If data has been marked with an incorrect notice, the Contracting Officer may-

(i) Permit correction of the notice at the Contractor's expense if the Contractor identifies the data and demonstrates that the correct notice is authorized; or

(ii) Correct any incorrect notices.

(g) Protection of limited rights data and restricted computer software.

(1) The Contractor may withhold from delivery qualifying limited rights data or restricted computer software that are not data identified in paragraphs (b)(1)(i), (ii), and (iii) of this clause. As a condition to this withholding, the Contractor shall-

(i) Identify the data being withheld; and

(ii) Furnish form, fit, and function data instead.

(2) Limited rights data that are formatted as a computer database for delivery to the Government shall be treated as limited rights data and not restricted computer software.

(3) Notwithstanding paragraph (g)(1) of this clause, the contract may identify and specify the delivery of limited rights data, or the Contracting Officer may require by written request the delivery of limited rights data that has been withheld or would otherwise be entitled to be withheld. If delivery of that data is required, the Contractor shall affix the following "Limited Rights Notice" to the data and the Government will treat the data, subject to the provisions of paragraphs (e) and (f) of this clause, in accordance with the notice:

Limited Rights Notice (Dec 2007)

(a) These data are submitted with limited rights under Government Contract No NNG09FA40C. These data may be reproduced and used by the Government with the express limitation that they will not, without written permission of the Contractor, be used for purposes of manufacture nor disclosed outside the Government; except that the Government may disclose these data outside the Government for the following purposes, if any; provided that the Government makes such disclosure subject to prohibition against further use and disclosure:

(i) Use (except for manufacture) by support service contractors.

(ii) Evaluation by nongovernment evaluators.

(iii) Use (except for manufacture) by other contractors participating in the Government's program of which the specific contract is a part.

(iv) Emergency repair or overhaul work.

(v) Release to a foreign government, or its instrumentalities, if required to serve the interests of the U.S. Government, for information or evaluation, or for emergency repair or overhaul work by the foreign government.

(vi) or any other legitimate government use

(b) This notice shall be marked on any reproduction of these data, in whole or in part.

(End of notice)

(4)(i) Notwithstanding paragraph (g)(1) of this clause, the contract may identify and specify the delivery of restricted computer software, or the Contracting Officer may require by written request the delivery of restricted computer software that has been withheld or would otherwise be entitled to be withheld. If delivery of that computer software is required, the Contractor shall affix the following "Restricted Rights Notice" to the computer software and the Government will treat the computer software, subject to paragraphs (e) and (f) of this clause, in accordance with the notice:

Restricted Rights Notice (Dec 2007)

(a) This computer software is submitted with restricted rights under Government Contract No. NNG09FA40C. It may not be used, reproduced, or disclosed by the Government except as provided in paragraph (b) of this notice or as otherwise expressly stated in the contract.

(b) This computer software may be-

(1) Used or copied for use with the computer(s) for which it was acquired, including use at any Government installation to which the computer(s) may be transferred;

(2) Used or copied for use with a backup computer if any computer for which it was acquired is inoperative;

(3) Reproduced for safekeeping (archives) or backup purposes;

(4) Modified, adapted, or combined with other computer software, *provided* that the modified, adapted, or combined portions of the derivative software incorporating any of the delivered, restricted computer software shall be subject to the same restricted rights;

(5) Disclosed to and reproduced for use by support service Contractors or their subcontractors in accordance with paragraphs (b)(1) through (4) of this notice; and

(6) Used or copied for use with a replacement computer and other legitimate government use.

(c) Notwithstanding the foregoing, if this computer software is copyrighted computer software, it is licensed to the Government with the minimum rights set forth in paragraph (b) of this notice.

(d) Any other rights or limitations regarding the use, duplication, or disclosure of this computer software are to be expressly stated in, or incorporated in, the contract.

(e) This notice shall be marked on any reproduction of this computer software, in whole or in part.

(End of notice)

(ii) Where it is impractical to include the Restricted Rights Notice on restricted computer software, the following short-form notice may be used instead:

Restricted Rights Notice Short Form (Jun 1987)

Use, reproduction, or disclosure is subject to restrictions set forth in Contract No. NNG09FA40C (and subcontract, if appropriate) with LOCKHEED MARTIN (name of Contractor and subcontractor).

(End of notice)

(iii) If restricted computer software is delivered with the copyright notice of [17 U.S.C. 401](#), it will be presumed to be licensed to the Government without disclosure prohibitions, with the minimum rights set forth in paragraph (b) of this clause.

(h) *Subcontracting*. The Contractor shall obtain from its subcontractors all data and rights therein necessary to fulfill the Contractor's obligations to the Government under this contract. If a subcontractor refuses to accept terms affording the Government those rights, the Contractor shall promptly notify the Contracting Officer of the refusal and shall not proceed with the subcontract award without authorization in writing from the Contracting Officer.

(i) *Relationship to patents or other rights*. Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government.

(End of clause)

I.92 RIGHTS IN DATA—SPECIAL WORKS (52.227-17) (DEC 2007) as modified by NASA FAR Supplement 1852.227-17

(a) *Definitions.* As used in this clause-

“Data” means recorded information, regardless of form or the media on which it may be recorded. The term includes technical data and computer software. The term does not include information incidental to contract administration, such as financial, administrative, cost or pricing, or management information.

“Unlimited rights” means the rights of the Government to use, disclose, reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, in any manner and for any purpose, and to have or permit others to do so.

(b) Allocation of Rights.

(1) The Government shall have-

(i) Unlimited rights in all data delivered under this contract, and in all data first produced in the performance of this contract, except as provided in paragraph (c) of this clause.

(ii) The right to limit assertion of copyright in data first produced in the performance of this contract, and to obtain assignment of copyright in that data, in accordance with paragraph (c)(1) of this clause.

(iii) The right to limit the release and use of certain data in accordance with paragraph (d) of this clause.

(2) The Contractor shall have, to the extent permission is granted in accordance with paragraph (c)(1) of this clause, the right to assert claim to copyright subsisting in data first produced in the performance of this contract.

(c) Copyright-

(1) Data first produced in the performance of this contract.

(i) The Contractor shall not assert or authorize others to assert any claim to copyright subsisting in any data first produced in the performance of this contract without prior written permission of the Contracting Officer. When copyright is asserted, the Contractor shall affix the appropriate copyright notice of [17 U.S.C. 401 or 402](#) and acknowledgment of Government sponsorship (including contract number) to the data when delivered to the Government, as well as when the data are published or deposited for registration as a published work in the U.S. Copyright Office. The Contractor grants to the Government, and others acting on its behalf, a paid-up, nonexclusive, irrevocable, worldwide license for all delivered data to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, by or on behalf of the Government.

(ii) If the Government desires to obtain copyright in data first produced in the performance of this contract and permission has not been granted as set forth in paragraph (c)(1)(i) of this clause, the Contracting Officer shall direct the Contractor to assign (with or without registration), or obtain the assignment of, the copyright to the Government or its designated assignee.

(2) *Data not first produced in the performance of this contract.* The Contractor shall not, without prior written permission of the Contracting Officer, incorporate in data delivered under this contract any data not first produced in the performance of this contract and that contain the copyright notice of [17 U.S.C. 401 or 402](#), unless the Contractor identifies such data and grants to the Government, or acquires on its behalf, a license of the same scope as set forth in paragraph (c)(1) of this clause.

(d) *Release and use restrictions.* Except as otherwise specifically provided for in this contract, the Contractor shall not use, release, reproduce, distribute, or publish any data first produced in the performance of this contract, nor authorize others to do so, without written permission of the Contracting Officer.

(e) *Indemnity.* The Contractor shall indemnify the Government and its officers, agents, and employees acting for the Government against any liability, including costs and expenses, incurred as the result of the violation of trade secrets, copyrights, or right of privacy or publicity, arising out of the creation, delivery, publication, or use of any data furnished under this contract; or any libelous or other unlawful matter contained in such data. The provisions of this paragraph do not apply unless the Government provides notice to the Contractor as soon as practicable of any claim or suit, affords the Contractor an opportunity under applicable laws, rules, or regulations to participate in the defense of the claim or suit, and obtains the Contractor's consent to the settlement of any claim or suit other than as required by final decree of a court of competent jurisdiction; and these provisions do not apply to material furnished to the Contractor by the Government and incorporated in data to which this clause applies.

(f) Whenever the words "establish" and "establishment" are used in this clause, with reference to a claim to copyright, they shall be construed to mean "assert" and "assertion", respectively.

(End of clause)

I.93 52.252-2 CLAUSES INCORPORATED BY REFERENCE. (FEB 1998)

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): Federal Acquisition Regulation (FAR) clauses:

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

NASA FAR Supplement (NFS) clauses:

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

(End of clause)

I.94 52.252-6 AUTHORIZED DEVIATIONS IN CLAUSES (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 Regulation (48 CFR Chapter 18) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the name of the regulation.

(End of clause)

I.95 52.253-1 COMPUTER GENERATED FORMS. (JAN 1991)

(a) Any data required to be submitted on a Standard or Optional Form prescribed by the Federal Acquisition Regulation (FAR) may be submitted on a computer generated version of the form, *provided* there is no change to the name, content, or sequence of the data elements on the form, and provided the form carries the Standard or Optional Form number and edition date.

(b) Unless prohibited by agency regulations, any data required to be submitted on an agency unique form prescribed by an agency supplement to the FAR may be submitted on a computer generated version of the form provided there is no change to the name, content, or sequence of the data elements on the form and provided the form carries the agency form number and edition date.

(c) If the Contractor submits a computer generated version of a form that is different than the required form, then the rights and obligations of the parties will be determined based on the content of the required form.

(End of clause)

I.96 1852.215-84 OMBUDSMAN. (OCT 2003)

(a) An ombudsman has been appointed to hear and facilitate the resolution of concerns from offerors, potential offerors, and contractors during the preaward and postaward 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, Judith Bruner, Building 8 Room 624, NASA/Goddard Space Flight Center, Greenbelt, MD 20771, Telephone: 301-286-7679, Facsimile: 301-286-1714, Email: Judith.N.Burner@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.

(End of clause)

I.97 1852.204-76 SECURITY REQUIREMENTS FOR UNCLASSIFIED INFORMATION TECHNOLOGY RESOURCES (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 N'SA'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.

(i) 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.

(ii) 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.

(iii) 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 --

(i) Submit requests for non-NASA provided external Internet connections to the Contracting Officer for approval by the Network Security Configuration Control Board (NSCCB);

(ii) 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

(iii) 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).

(i) IT- -- 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.

(ii) IT- -- 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.

(iii) IT- -- 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--

(i) Current or recent national security clearances (within last three years);

(ii) Screening conducted by NASA within the last three years that meets or exceeds the screening requirements of the IT position; or

(iii) 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)

SECTION J - LIST OF ATTACHMENTS

J.1 LIST OF ATTACHMENTS

The following documents are attached hereto and made a part of this contract:

Attachment	Description	Date	No. of Pages
A	Statement of Work (SOW) (Phase B)	9/23/2009	12
B	Reserved	TBD	TBD
C	Financial Reporting Requirements	9/23/2009	3
D	Safety and Health Plan	TBP	TBP
E	IT Security Plan, Risk Assessment Plan, & FIPS 199 Assessment Plan	TBP	TBP
F	Small Business Subcontracting Plan	TBP	TBP
G	Performance Assurance Implementation Plan	TBP	TBP
H	SMALL EXPLORER (SMEX) PROGRAM (Class D) MISSION ASSURANCE REQUIREMENTS	Sept 2007	153

(End of Clause)

[END OF SECTION]