

**SECTION H - SPECIAL CONTRACT REQUIREMENTS**

**H.1 LISTING OF CLAUSES INCORPORATED BY REFERENCE**

NOTICE: The following contract clauses pertinent to this section are hereby incorporated by reference:

I. FAR (48 CFR CHAPTER 1)

<u>CLAUSE NUMBER</u>	<u>DATE</u>	<u>TITLE</u>
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There are no clauses in this section.

II. NFS (48 CFR CHAPTER 18)

<u>CLAUSE NUMBER</u>	<u>DATE</u>	<u>TITLE</u>
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1852.208-81	NOV 2004	RESTRICTIONS ON PRINTING AND DUPLICATING
1852.223-75	FEB 2002	MAJOR BREACH OF SAFETY OR SECURITY
1852.223-76	JUL 2003	FEDERAL AUTOMOTIVE STATISTICAL TOOL REPORTING
1852.225-70	FEB 2000	EXPORT LICENSES (ALT 1) (FEB 2000) (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 JSC, where the foreign person will have access to export-controlled technical data or software.
1852.228-76	OCT 2012	CROSS-WAIVER OF LIABILITY FOR INTERNATIONAL SPACE STATION ACTIVITIES
1852.246-70	MAR 1997	MISSION CRITICAL SPACE SYSTEM PERSONNEL RELIABILITY PROGRAM

(End of By Reference Section)

**H.2 LIMITATION ON FUTURE CONTRACTING**

(a) The Contracting Officer has determined that this acquisition may give rise to a potential organizational conflict of interest. Accordingly, the attention of prospective offerors is invited to FAR Subpart 9.5--Organizational Conflicts of Interest.

(b) The nature of this conflict is defined in Attachment J-15, Government Organizational Conflict of Interest (OCI) Assessment of FDOC.

(c) The restrictions upon future contracting are as follows:

(1) If the Contractor alone, under the terms of this contract, or through the performance

of tasks pursuant to this contract, is required to develop complete specifications or complete statements of work that are to be incorporated into a solicitation, the Contractor shall be ineligible to perform the work described in that solicitation as a prime or first-tier subcontractor under an ensuing NASA contract. This restriction shall remain in effect for a reasonable time, as agreed to by the Contracting Officer and the Contractor, sufficient to avoid unfair competitive advantage or potential bias (this time shall in no case be less than the duration of the initial production contract). Both NASA and the Contractor agree to make good faith efforts to avoid, mitigate, or neutralize any OCI issues that may arise. Attachment J-15 identifies a NASA strategy designed to address OCI concerns.

(2) To the extent that the work under this contract requires access to proprietary, business confidential, or financial data of other companies, and as long as these data remain proprietary or confidential, the Contractor shall protect these data from unauthorized use and disclosure and agrees not to use them to compete with those other companies.

(End of clause)

### **H.3 DELIVERY/TASK ORDERING PROCEDURE (CLINs 003, IDIQ & 004, LOE)**

(a) Only the Contracting Officer may issue delivery or task orders to the Contractor, providing specific authorization or direction to perform work within the scope of the contract and as specified in the schedule. The Contractor may incur costs under this contract in performance of delivery or task orders and delivery or task order modifications issued in accordance with this clause. No other costs are authorized unless otherwise specified in the contract or expressly authorized by the Contracting Officer.

(b) Prior to issuing a delivery or task order, the Contracting Officer shall (if applicable) provide the Contractor with the following data:

(1) A functional description of the work identifying the objectives or results desired from the contemplated delivery or task order.

(2) Proposed performance standards to be used as criteria for determining whether the work requirements have been met.

(3) A request for a task plan from the Contractor to include the technical approach, period of performance, appropriate cost information, OCI assessment, and any other information required to determine the reasonableness of the Contractor's proposal.

(c) Within 10 calendar days after receipt of the Contracting Officer's request, the Contractor shall submit a task plan conforming to the request.

(d) After review and any necessary discussions, the Contracting Officer may issue a delivery or task order to the Contractor containing, as a minimum, the following:

(1) Date of the order.

(2) Contract number and order number.

(3) Functional description of the work identifying the objectives or results desired from the delivery or task order, including special instructions or other information necessary for

performance of the task.

- (4) Performance standards, and where appropriate, quality assurance standards.
  - (5) Maximum dollar amount authorized (cost and fee or price). This includes allocation of award fee among award fee periods, if applicable.
  - (6) Any other resources (travel, materials, equipment, facilities, etc.) authorized.
  - (7) Delivery/performance schedule including start and end dates.
  - (8) If contract funding is by individual delivery or task order, accounting and appropriation data.
- (e) The Contractor shall provide acknowledgment of receipt to the Contracting Officer within 5 calendar day after receipt of the delivery or task order.
- (f) If time constraints do not permit issuance of a fully defined delivery or task order in accordance with the procedures described in paragraphs (a) through (d), a delivery or task order which includes a ceiling price may be issued.
- (g) The Contracting Officer may amend tasks in the same manner in which they were issued.
- (h) In the event of a conflict between the requirements of the delivery or task order and the Contractor's approved task plan, the delivery or task order shall prevail.

(End of clause)

#### **H.4 SAFETY AND HEALTH (NFS 1852.223-70) (APR 2002)**

- (a) Safety is the freedom from those conditions that can cause death, injury, occupational illness, damage to or loss of equipment or property, or damage to the environment. NASA's safety priority is to protect: (1) the public, (2) astronauts and pilots, (3) the NASA workforce (including contractor employees working on NASA contracts), and (4) high-value equipment and property.
- (b) The Contractor shall take all reasonable safety and occupational health measures in performing this contract. The Contractor shall comply with all Federal, State, and local laws applicable to safety and occupational health and with the safety and occupational health standards, specifications, reporting requirements, and any other relevant requirements of this contract.
- (c) The Contractor shall take, or cause to be taken, any other safety, and occupational health measures the Contracting Officer may reasonably direct. To the extent that the Contractor may be entitled to an equitable adjustment for those measures under the terms and conditions of this contract, the equitable adjustment shall be determined pursuant to the procedures of the changes clause of this contract; provided, that no adjustment shall be made under this Safety and Health clause for any change for which an equitable adjustment is expressly provided under any other clause of the contract.

(d) The Contractor shall immediately notify and promptly report to the Contracting Officer or a designee any accident, incident, or exposure resulting in fatality, lost-time occupational injury, occupational disease, contamination of property beyond any stated acceptable limits set forth in the contract Schedule; or property loss of \$25,000 or more, or Close Call (a situation or occurrence with no injury, no damage or only minor damage (less than \$1,000) but possesses the potential to cause any type mishap, or any injury, damage, or negative mission impact) that may be of immediate interest to NASA, arising out of work performed under this contract. The Contractor is not required to include in any report an expression of opinion as to the fault or negligence of any employee. In addition, service contractors (excluding construction contracts) shall provide quarterly reports specifying lost-time frequency rate, number of lost-time injuries, exposure, and accident/incident dollar losses as specified in the contract Schedule.

(e) The Contractor shall investigate all work-related incidents, accidents, and Close Calls, to the extent necessary to determine their causes and furnish the Contracting Officer a report, in such form as the Contracting Officer may require, of the investigative findings and proposed or completed corrective actions.

(f)(1) The Contracting Officer may notify the Contractor in writing of any noncompliance with this clause and specify corrective actions to be taken. When the Contracting Officer becomes aware of noncompliance that may pose a serious or imminent danger to safety and health of the public, astronauts and pilots, the NASA workforce (including contractor employees working on NASA contracts), or high value mission critical equipment or property, the Contracting Officer shall notify the Contractor orally, with written confirmation. The Contractor shall promptly take and report any necessary corrective action.

(2) If the Contractor fails or refuses to institute prompt corrective action in accordance with subparagraph (f)(1) of this clause, the Contracting Officer may invoke the stop-work order clause in this contract or any other remedy available to the Government in the event of such failure or refusal.

(g) The Contractor (or subcontractor or supplier) shall insert the substance of this clause, including this paragraph (g) and any applicable schedule provisions and clauses, with appropriate changes of designations of the parties, in all solicitations and subcontracts of every tier, when one or more of the following conditions exist:

(1) The work will be conducted completely or partly on premises owned or controlled by the Government.

(2) The work includes construction, alteration, or repair of facilities in excess of the simplified acquisition threshold.

(3) The work, regardless of place of performance, involves hazards that could endanger the public, astronauts and pilots, the NASA workforce (including Contractor employees working on NASA contracts), or high value equipment or property, and the hazards are not adequately addressed by Occupational Safety and Health Administration (OSHA) or Department of Transportation (DOT) regulations (if applicable).

(4) When the Contractor (or subcontractor or supplier) determines that the assessed risk and consequences of a failure to properly manage and control the hazard(s) warrants use of the clause.

(h) The Contractor (or subcontractor or supplier) may exclude the provisions of paragraph (g) from its solicitation(s) and subcontract(s) of every tier when it determines that the clause is not necessary because the application of the OSHA and DOT (if applicable) regulations constitute adequate safety and occupational health protection. When a determination is made to exclude the provisions of paragraph (g) from a solicitation and subcontract, the Contractor must notify and provide the basis for the determination to the Contracting Officer. In subcontracts of every tier above the micro-purchase threshold for which paragraph (g) does not apply, the Contractor (or subcontractor or supplier) shall insert the substance of paragraphs (a), (b), (c), and (f) of this clause).

(i) Authorized Government representatives of the Contracting Officer shall have access to and the right to examine the sites or areas where work under this contract is being performed in order to determine the adequacy of the Contractor's safety and occupational health measures under this clause.

(j) The contractor shall continually update the safety and health plan when necessary. In particular, the Contractor shall furnish a list of all hazardous operations to be performed, and a list of other major or key operations required or planned in the performance of the contract, even though not deemed hazardous by the Contractor. NASA and the Contractor shall jointly decide which operations are to be considered hazardous, with NASA as the final authority. Before hazardous operations commence, the Contractor shall submit for NASA concurrence -

- (1) Written hazardous operating procedures for all hazardous operations; and/or
- (2) Qualification standards for personnel involved in hazardous operations.

(End of clause)

**H.5 KEY PERSONNEL AND FACILITIES (NFS 1852.235-71) (MAR 1989)**

(a) The personnel and/or facilities listed below (or specified in the contract Schedule) are considered essential to the work being performed under this contract. Before removing, replacing, or diverting any of the listed or specified personnel or facilities, the Contractor shall (1) notify the Contracting Officer reasonably in advance and (2) submit justification (including proposed substitutions) in sufficient detail to permit evaluation of the impact on this contract.

(b) The Contractor shall make no diversion without the Contracting Officer's written consent; provided, that the Contracting Officer may ratify in writing the proposed change, and that ratification shall constitute the Contracting Officer's consent required by this clause.

(c) The list of personnel and/or facilities (shown below or as specified in the contract Schedule) may, with the consent of the contracting parties, be amended from time to time during the course of the contract to add or delete personnel and/or facilities.

<u>NAME</u>	<u>TITLE</u>
Therese Thrift	Program Manager
<b>(b) (4)</b>	Deputy Program Manager
	Business Operations Manager
	Systems Support Services Manager
	Strategic Services Manager

No key facilities identified.

(End of clause)

**H.6 OBSERVANCE OF LEGAL HOLIDAYS (NFS 1852.242-72) (AUG 1992) (ALT 1)  
(SEPTEMBER 1989)**

(a) The on-site Government personnel observe the following holidays:

New Year's Day

Labor Day

Martin Luther King, Jr.'s Birthday

Columbus Day

President's Day

Veterans Day

Memorial Day

Thanksgiving Day

Independence Day

Christmas Day

Any other day designated by Federal statute, Executive order, or the President's proclamation.

(b) When any holiday falls on a Saturday, the preceding Friday is observed. When any holiday falls on a Sunday, the following Monday is observed. Observance of such days by Government personnel shall not by itself be cause for an additional period of performance or entitlement of compensation except as set forth within the contract.

(c) On-site personnel assigned to this contract shall not be granted access to the installation during the holidays in paragraph (a) of the clause, except as follows: the Contractor shall provide sufficient on-site personnel to perform round-the-clock requirements of critical work already in process, unless otherwise instructed by the Contracting Officer or authorized representative. If the Contractor's on-site personnel work during a holiday other than those in paragraph (a) of this clause, no form of holiday or other premium compensation shall be reimbursed as either a direct or indirect cost. However, this does not preclude reimbursement for authorized overtime work that would have been overtime regardless of the status of the day as a holiday.

(d) The Contractor shall place identical requirements, including this paragraph, in all subcontracts that require performance of work on-site, unless otherwise instructed by the Contracting Officer.

(End of Clause)

**H.7 SMALL BUSINESS SUBCONTRACTING GOALS**

For purposes of this clause, refer to Attachment J-4, Small Business Subcontracting Plan.

(End of clause)

**H.8 ASSOCIATE CONTRACTOR AGREEMENT (ACA) FOR FDOC ACTIVITIES**

(a) The success of the FDOC is dependent on the efforts of multiple contractors. The FDOC contractor is a key participant. The other contracts of the key participating contractors are:

NNM12AA10C	Huntsville Operations Support Center (HOSC) Services Contract
NNG04DA00C	Near Earth Networks Services (NENS)
NNJ08JA01C	Logistics Operations Contract
NNJ08JA02C	Facilities Support Services Contract
NNJ13JA01C	JSC Environmental Services Contract
NAS902078	Bioastronautics Contract
NNJ10HD35C	NBL SVMF Operations Contract (NSOC)
NNJ13HA01C	JSC Engineering Technology and Science Contract (JETS)
NNJ09HA15C	Integrated Mission Operations Contract (IMOC)
NNJ06TA25C	Orion, CEV Phase II
NAS15-10000	International Space Station (ISS) Contract
NNM07AB03C	Ares I Upper Stage Production Contract
NNJ12GA46C	Mission and Program Integration (MAPI) Contract
NNJ12GA47C	Russian Language and Logistics Services (RLLS)

Under the aforementioned contracts and their successors, the contractors will provide the necessary technical, engineering and processing products and services required to develop, operate, maintain and utilize FDOC systems.

(b) In order to achieve efficient and effective implementation of the FDOC, the contractor shall establish the means for coordination and exchange of information with associate contractors. The information to be exchanged shall be that required by the contractors in the execution of their respective contract requirements. The contractors are strongly encouraged to seek out and foster cooperative efforts that will benefit the Mission Operations Directorate (MOD) with increased safety, efficiency, and productivity.

(c) Given the unique role of this contract in developing, operating, maintaining and utilizing the FDOC systems, the contractor will engage in cooperative relationships that facilitate effective management of the overall FDOC effort. This joint cooperation will be evaluated as part of the contract award fee process, as defined in Attachment J-3, Award Fee Plan for the contract. Successful performance will be determined by the Government’s assessment of the overall and combined performance of the operation and utilization requirements in the contracts, as modified.

(d) To ensure successful implementation and utilization of the FDOC, the contractors shall establish formal guidelines to address coordination, cooperation and communication. All program elements shall work in a coordinated fashion. Each contractor shall establish the means for the exchange of such data as needed to keep other project elements fully informed.

(End of clause)

**H.9 SPECIAL PROVISION FOR CONTRACT CHANGES (CLIN 002)**

The parties agree that, notwithstanding the provisions of the “Changes” clause and the “Government Property” clause, no baseline (CLIN 002) change made pursuant to the “Changes”

clause shall give rise to an equitable adjustment in the estimated cost or fee or any other contract provision when said change causes an increase or decrease of \$500,000 or less in the estimated cost of this contract.

Each change shall be controlling in making this determination, and such change shall not, for purposes of determining the applicability of this clause, be added to any other changes(s). The parties recognize that several changes may be grouped together in a bilateral modification for definitization; however, the dollar value of each individual change will be controlling in determining whether or not an equitable adjustment is in order.

(End of clause)

#### **H.10 CONTRACT EXTENSION RESULTING FROM PROTESTS**

(a) If the award of a successor contract to perform the services being performed under this contract is delayed because of a protest, the Contracting Officer may extend the period of performance on this contract to cover any delay caused by such a protest. The Contractor shall be entitled to an equitable adjustment for such an extension, subject to the limitations of paragraph (b).

(b) The final award fee evaluation period may be extended to include the contract extension period provided for in paragraph (a). However, if the Contractor is the protester or one of the protesters, no additional fee shall be put in the award fee pool or otherwise made available to the Contractor, unless the Contractor or another protester substantially prevails in the protest.

(End of clause)

**H.11 ENVIRONMENTAL AND ENERGY CONSERVATION REQUIREMENTS**

The Contractor shall ensure that all work performed and equipment used to fulfill the requirements of this contract are in compliance with all Federal, state, and local regulations and public laws, and the following NASA JSC directives: JPD 8500.1, JSC Environmental Excellence Policy; JPR 8550.1, JSC Environmental Compliance Procedural Requirements; JPR 8553.1, JSC Environmental Management System (EMS) Manual; CWI JE9W-06, EMS Aspect/Impact Assessment and EMP Process; NPR 8570.1, Energy Efficiency and Water Conservation; JSC's Energy and Water Conservation 5-Year Plan; and CWI J69W-03, Energy Conservation. The Contractor shall provide data on affirmative procurement, waste reduction activity, energy efficient product procurement, and ozone depleting substances in accordance with DRD-FDOC-0037, Environmental and Energy Consuming Product Compliance Reports.

The Government remains the owner and operator of record for all environmental activities conducted at NASA owned properties unless otherwise documented in a signed agreement between NASA and the Contractor. The Contractor is advised that activities performed at JSC and associated facilities are subject to Federal, state and local regulatory agency inspections to review compliance with environmental laws and regulations. For on-site issues, JSC's Environmental Office will be the single point of contact with Federal and state regulatory agencies and their representatives unless otherwise directed by the Contracting Officer or the Environmental Office. The Contractor shall immediately notify the JSC Environmental Office when contacted by external regulatory agency representatives and shall cooperate fully. The Contractor shall complete, maintain, and make available to the Contracting Officer, JSC Environmental Office, JSC Energy Manager, or regulatory agency personnel all documentation relating to environmental compliance matters under applicable laws. The Contractor shall immediately notify the JSC Environmental Office upon issuance of a Notice of Violation or noncompliance to the Contractor.

Should a Notice of Violation, Notice of Noncompliance, Notice of Deficiency, or similar regulatory agency notice be issued to the Government as a facility owner/operator on account of the actions or inactions of the Contractor or one of its subcontractors in the performance of work under this contract, the Contractor shall fully cooperate with the Government in correcting any problems and defending against regulatory assessment of any civil fines or penalties arising out of such actions or inactions.

(End of clause)

**H.12 INNOVATIONS**

Upon Government approval via Clause G.5, Technical Direction, the contractor shall implement innovations listed in Appendix E of Attachment J-13a, Continuous Improvement Plan. The total estimated price to perform these innovations is included in B.3, Estimated Cost and Award Fee, CLIN 002, baseline requirements.

(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 (c) of the provision; and other representations, certifications, and other statements contained in Section K completed and submitted as part of the

offer dated October 8, 2008 are hereby incorporated by reference in this resulting contract.

(End of Clause)

**H.14 ADMINISTRATIVE LEAVE (JSC 52.242-94) (SEP 2008)  
(see JSC Procurement Instruction (JPI) 00-31)**

(A) When the NASA installation grants administrative leave to its Government employees (e.g., as a result of inclement weather, potentially hazardous conditions, or other special circumstances), the following personnel should also be dismissed upon notification of a center closure provided by the Contracting Officer

1. Contractor personnel working on-site; and
2. Contractor personnel dedicated to the contract effort who are
  - a. working off-site within 10 miles of JSC; and
  - b. unable to perform their NASA contract duties at their off-site location because their normal place of business has been or is expected to be negatively impacted by an emergency situation (e.g. has sustained damage, has been evacuated, etc.

However, the contractor shall provide sufficient on-site personnel to perform round-the-clock requirements of critical work already in process, unless otherwise instructed by the Contracting Officer or authorized representative.

(B) Administrative leave granted under this clause shall be subject to modification or termination by the Contracting Officer and in all instances shall be subject to the availability of funds. The cost of salaries and wages to the Contractor for the period of any such excused absence shall be a reimbursable item of cost under this contract for effected employees in accordance with the Contractor's established accounting policy.

1. If a labor hour-based contract, administrative leave granted under this clause shall be accounted for consistent with productive hours under this contract for employees in accordance with the Contractor's established accounting policy.
2. For fixed price contracts based on other than labor hours for deliverables, the Contracting Officer and Contractor shall as a precondition to any reimbursement negotiate an advanced agreement to determine the appropriate method in which to grant administrative leave under this clause.
3. All invoices requesting payment under this clause shall be marked as "Administrative Leave in accordance with 52.242-94, Administrative Leave." All such invoices paid will be subject to review, audit, and revision when routine operations re-commence.

(C) The Contractor shall include this clause in all services subcontracts that include personnel in the categories described in (a) above.

(End of Clause)

**H.15 NOTIFICATION PRIOR TO ACQUIRING INFORMATION TECHNOLOGY SYSTEMS FROM ENTITIES OWNED, DIRECTED OR SUBSIDIZED BY THE PEOPLE'S REPUBLIC OF CHINA (1852.225-74) (JUN 2013) (Deviation)**

(a) Definitions–

"**Acquire**" means procure with appropriated funds by and for the use of NASA through purchase or lease.

"**Entity owned, directed or subsidized by the People's Republic of China**" means any organization incorporated under the laws of the People's Republic of China. "**Information Technology (IT) System**" means the combination of hardware components, software, and other equipment to make a system whose core purpose is to accomplish a data processing need such as the automatic acquisition, storage, analysis, evaluation, manipulation, management, movement, control, display, switching, interchange, transmission or reception of data. IT systems include ground systems in support of flight hardware. IT systems do not include---

- (i) Systems acquired by a contractor incidental to a contract;
- (ii) Imbedded information technology that is used as an integral part of the product, but the principal function of which is not the acquisition, storage, analysis, evaluation, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information. For example, HVAC (heating, ventilation, and air conditioning) equipment such as thermostats or temperature control devices, and medical equipment where information technology is integral to its operation, are not information technology systems;
- (iii) Services in support of IT systems, such as help desk services; or
- (iv) Flight hardware, which includes aircraft, spacecraft, artificial satellites, launch systems, sounding rockets, on-board instrument and technology demonstration systems, and equipment operated on the International Space Station; as well as prototypes, and engineering or brass boards created and used to test, troubleshoot, and refine air-and spacecraft hardware, software and procedures.

b) Section 516 of the Consolidated and Further Continuing Appropriation Act, 20] 3 (Pub. L.] 13-6), requires NASA's Office of the Chief Information Officer (OCIO) to assess the risk of cyber-espionage or sabotage of an information technology (IT) system that is produced, manufactured, or assembled by an entity owned, directed or subsidized by the People's Republic of China (PRC). The Government retains the right to reject any IT system tendered for acceptance under this Contract, without any further recourse by, or explanation to, the Contractor, if the Government determines the IT system, in whole or in part, presents an unacceptable risk to national security.

c) The Contractor shall obtain the approval of the Contracting Officer before acquiring any IT system(s) from entities owned, directed or subsidized by the People's Republic of China under this contract. Any Contractor request to use such items shall include adequate information for Government evaluation of the request, including–

- 1) A brief description of the item(s); and
- (2) Vendor/manufacturer's company name and address;

(End of Clause)

[END OF SECTION]