

SECTION H – SPECIAL CONTRACT REQUIREMENTS

H.1 LISTING OF CLAUSES INCORPORATED BY REFERENCE

Clause(s) 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 following contract clauses pertinent to this section are hereby incorporated by reference:

I. FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1)

<u>CLAUSE NUMBER</u>	<u>DATE</u>	<u>TITLE</u>
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NONE

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

<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 (ALTERNATE 1) (FEB 2006)
1852.225-70	FEB 2000	EXPORT LICENSES (ALTERNATE 1) (FEB 2000) INSERT: LYNDON B. JOHNSON SPACE CENTER
1852.235-73	DEC 2006	FINAL SCIENTIFIC AND TECHNICAL REPORTS (ALTERNATE II) (DEC 2005)
1852.244-70	APR 1985	GEOGRAPHIC PARTICIPATION IN THE AEROSPACE PROGRAM
1852.246-70	MAR 1997	MISSION CRITICAL SPACE SYSTEMS PERSONNEL RELIABILITY PROGRAM

(End of Clauses Incorporated by Reference)

H.2 LIMITATION OF FUTURE CONTRACTING (NFS 1852.209-71) (DEC 1988)

- (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 shall be described in accordance with, DRD MGMT-12 Organizational Conflict of Interest Mitigation Plan.
- (c) The restrictions upon future contracting are as follows:
- (1) If the Contractor, under the terms of this contract, or through the performance of tasks pursuant to this contract, is required to develop specifications or 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). NASA shall not unilaterally require the Contractor to prepare such specifications or statements of work under this contract.
 - (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 REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFEROR

The completed provision FAR 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 as set forth in the Contractor's proposal number **NNJ11379802R** dated **December 6, 2012** are hereby incorporated into the resultant contract by reference with the same force and effects as if it were given in full text reference in this resulting contract.

(End of clause)

H.4 SMALL BUSINESS SUBCONTRACTING GOALS (JSC 52.219-90) (OCT 2006)

For purposes of this clause, the terms, “HUBZone Small Business Concern”, “Small Disadvantaged Business Concern”, “Service-Disabled, Veteran-Owned Small Business Concern”, “Veteran-Owned Small Business Concern”, “Women-Owned Small Business Concern”, and “Minority Serving Institutions (MSI)” are defined in paragraph 2.101 of the Federal Acquisition Regulation.

The total small business goal, expressed as a percent of total contract value including options, is ^{(b) (4)} percent. The small business percentage goal, includes the following goals expressed as a percent of total contract value:

Small Disadvantaged Business Concerns	^{(b) (4)} percent
Woman-Owned Small Business Concerns	percent
HUBZone Small Business Concerns	percent
Veteran-Owned Small Business Concern	percent
Service-Disabled, Veteran-Owned Small Business Concern	percent
Minority Serving Institutions	percent

(End of clause)

H.5 APPLICABILITY OF RIGHTS IN DATA

"FAR 52.227-17, Rights in Data--Special Works (incorporated by reference) only applies to a task or delivery order where this clause is explicitly incorporated by reference in said task or delivery order and only to video production deliverables produced under a subject task or delivery order. FAR 52.227-14, Rights in Data -- General applies to all other data."

(End of clause)

H.6 TASK ORDER PROCEDURES

- (a) Only the Contracting Officer may issue task orders to the Contractor, providing specific authorization or direction to perform work within the general scope of the JETS Statement of Work (SOW). The Contractor may incur costs under this contract in performance of task orders and 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 task, the Contracting Officer will provide the Contractor with the following data:
 - (1) A functional description of the work identifying the objectives or results desired from the contemplated 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 proposal from the Contractor to include:
 - (i) Contractor's proposed technical approach. The Contractor shall not simply copy the Government's requirements, a sound and rational technical approach shall be documented in the task order response.
 - (ii) Period of performance
 - (iii) Clearly discernable and appropriate cost information, including but not limited to a clear estimate using the rates established in Clause B.8-FULLY BURDENED RATE TABLE FOR PRICING COST REIMBURSEMENT (CR) TASK ORDER and any other information required to determine the reasonableness of the Contractor's proposal.
- (c) Within three business days (unless negotiated with the Contracting Officer and another time frame is explicitly and expressly stated in the task order) after receipt of the Contracting Officer's request, the Contractor shall submit a proposal conforming to the request. The Contractor shall provide any re-submittals or supplemental data requested by the Government within three business days (unless otherwise negotiated with the Contracting Officer and another time frame is explicitly and expressly agreed upon).
- (d) After review and any necessary discussions, the Contracting Officer may issue a task order to the Contractor containing, at 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 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).
 - (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 task order, accounting and appropriation data.
- (e) The Contractor shall provide acknowledgment of receipt to the Contracting Officer within one business day after receipt of the task order.

- (f) If time constraints do not permit issuance of a fully defined task order in accordance with the procedures -described in paragraphs (a) through (d), a task order which includes a ceiling price may be issued.
- (g) The Contracting Officer may amend task orders in the same manner in which they were issued.
- (h) In the event of a conflict between the requirements of the Task Order and the Contractor's approved proposal, the Task Order shall prevail.
- (i) Contractor shall submit data that communicates project status in accordance with the SOW, Project Schedule (DRD RV-01) and Regular Status Report/Summary Review (DRD RV-02)
- (j) In the event of a conflict between the requirements of the task order and the Contractor's approved task plan, the Task Order shall prevail.

(End of clause)

H.7 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.

(k) In the event of a conflict between JPR1700.1, JSC Safety and Health Handbook and this clause, the JPR 1700.1 requirement shall prevail.

(End of clause)

H.8 CROSS-WAIVER OF LIABILITY FOR INTERNATIONAL SPACE STATION ACTIVITIES (NFS 1852.228-76) (OCT 2009) (DEVIATION)(NASA PIC 9-11 dated 10/5/09)

(a) The Intergovernmental Agreement (IGA) among the Government of Canada, Governments of Member States of the European Space Agency, the Government of Japan, the Government of the Russian Federation, and the Government of the United States of America concerning Cooperation on the Civil International Space Station for the International Space Station (ISS) contains a cross-waiver of liability provision to encourage participation in the exploration, exploitation, and use of outer space through

the ISS. The Parties intend that this cross-waiver of liability be broadly construed to achieve this objective.

(b) As used in this clause, the term:

- (1) "Agreement" refers to any NASA Space Act agreement that contains the cross-waiver of liability provision authorized by 14 CFR Part 1266.102.
- (2) "Damage" means:
 - (i) Bodily injury to, or other impairment of health of, or death of, any person;
 - (ii) Damage to, loss of, or loss of use of any property;
 - (iii) Loss of revenue or profits; or
 - (iv) Other direct, indirect, or consequential damage.
- (3) "Launch Vehicle" means an object, or any part thereof, intended for launch, launched from Earth, or returning to Earth which carries payloads or persons, or both.
- (4) "Partner State" includes each Contracting Party for which the IGA has entered into force, pursuant to Article 25 of the IGA or pursuant to any successor agreement. A Partner State includes its Cooperating Agency. It also includes any entity specified in the Memorandum of Understanding (MOU) between NASA and the Government of Japan's Cooperating Agency in the implementation of that MOU.
- (5) "Party" means a party to a NASA Space Act agreement involving activities in connection with the ISS and a party that is neither the prime contractor under this contract nor a subcontractor at any tier.
- (6) "Payload" means all property to be flown or used on or in a Launch Vehicle or the ISS.
- (7) "Protected Space Operations" means all Launch or Transfer Vehicle activities, ISS activities, and Payload activities on Earth, in outer space, or in transit between Earth and outer space in implementation of the IGA, MOUs concluded pursuant to the IGA, implementing agreements, and contracts to perform work in support of NASA's obligations under these Agreements. It includes, but is not limited to:
 - (i) Research, design, development, test, manufacture, assembly, integration, operation, or use of Launch or Transfer Vehicles, the ISS, Payloads, or instruments, as well as related support equipment and facilities and services; and
 - (ii) All activities related to ground support, test, training, simulation, or guidance and control equipment and related facilities or services. "Protected Space Operations"

also includes all activities related to evolution of the ISS, as provided for in Article 14 of the IGA. "Protected Space Operations" excludes activities on Earth which are conducted on return from the ISS to develop further a Payload's product or process for use other than for ISS-related activities in implementation of the IGA.

(8) "Related Entity" means:

(i) A contractor or subcontractor of a Party or a Partner State at any tier;

(ii) A user or customer of a Party or a Partner State at any tier; or

(iii) A contractor or subcontractor of a user or customer of a Party or a Partner State at any tier. The terms "contractor" and "subcontractor" include suppliers of any kind.

(9) "Transfer Vehicle" means any vehicle that operates in space and transfers Payloads or persons or both between two different space objects, between two different locations on the same space object, or between a space object and the surface of a celestial body. A "Transfer Vehicle" also includes a vehicle that departs from and returns to the same location on a space object.

(c)(1) The Contractor agrees to a cross-waiver of liability pursuant to which it waives all claims against any of the entities or persons listed in paragraphs (c)(1)(i) through (c)(1)(iv) of this clause based on Damage arising out of Protected Space Operations. This cross-waiver shall apply only if the person, entity, or property causing the Damage is involved in Protected Space Operations and the person, entity, or property damaged is damaged by virtue of its involvement in Protected Space Operations. The cross-waiver shall apply to any claims for Damage, whatever the legal basis for such claims, against:

(i) A Party as defined in (B)(5) above;

(ii) A Partner State other than the United States of America;

(iii) A Related Entity of any entity identified in paragraph (c)(1)(i) or (c)(1)(ii) of this clause; or

(iv) The employees of any of the entities identified in paragraphs (c)(1)(i) through (c)(1)(iii) of this clause.

(2) In addition, the contractor shall, by contract or otherwise, extend the cross-waiver of liability set forth in paragraph (c)(1) of this clause to its subcontractors at any tier by requiring them, by contract or otherwise, to:

(i) Waive all claims against the entities or persons identified in paragraphs (c)(1)(i) through (c)(1)(iv) of this clause; and

(ii) Require that their subcontractors waive all claims against the entities or persons identified in paragraphs (c)(1)(i) through (c)(1)(iv) of this clause.

(3) For avoidance of doubt, this cross-waiver of liability includes a cross-waiver of claims arising from the *Convention on International Liability for Damage Caused by Space Objects*, which entered into force on September 1, 1972, where the person, entity, or property causing the Damage is involved in Protected Space Operations and the person, entity, or property damaged is damaged by virtue of its involvement in Protected Space Operations.

(4) Notwithstanding the other provisions of this clause, this cross-waiver of liability shall not be applicable to:

- (i) Claims between the Government and its own contractors or between its own contractors and subcontractors;
 - (i) Claims made by a natural person, his/her estate, survivors or subrogees (except when a subrogee is a Party to an Agreement or is otherwise bound by the terms of this cross-waiver) for bodily injury to, or other impairment of health of, or death of, such person;
 - (iii) Claims for Damage caused by willful misconduct;
 - (iv) Intellectual property claims;
 - (v) Claims for Damage resulting from a failure of the contractor to extend the cross-waiver of liability to its subcontractors and related entities, pursuant to paragraph (c)(2) of this clause; or
 - (vi) Claims by the Government arising out of or relating to the contractor's failure to perform its obligations under this contract.
- (5) Nothing in this clause shall be construed to create the basis for a claim or suit where none would otherwise exist.
- (6) This cross-waiver shall not be applicable when 49 U.S.C. Subtitle IX, Chapter 701 is applicable.

(End of clause)

**H.9 CROSS-WAIVER OF LIABILITY FOR SCIENCE OR SPACE EXPLORATION
ACTIVITIES UNRELATED TO THE INTERNATIONAL SPACE STATION
(NFS 1852.228-78) (OCT 2009) (DEVIATION) (NASA PIC 9-11 dated 10/5/09)**

(a) The purpose of this clause is to extend a cross-waiver of liability to NASA contracts for work done in support of Agreements between Parties involving Science or Space Exploration activities, unrelated to the International Space Station (ISS), but which

involve a launch. This cross-waiver of liability shall be broadly construed to achieve the objective of furthering participation in space exploration, use, and investment.

(b) As used in this clause, the term:

(1) "Agreement" refers to any NASA Space Act agreement that contains the cross-waiver of liability provision authorized in 14 CFR 1266.104.

(2) "Damage" means:

(i) Bodily injury to, or other impairment of health of, or death of, any person;

(ii) Damage to, loss of, or loss of use of any property;

(iii) Loss of revenue or profits; or

(iv) Other direct, indirect, or consequential Damage;

(3) "Launch Vehicle" means an object, or any part thereof, intended for launch, launched from Earth, or returning to Earth which carries Payloads or persons, or both.

(4) "Party" means a party to a NASA Space Act agreement for Science or Space Exploration activities, unrelated to the ISS, but which involve a launch and a party that is neither the prime contractor under this contract nor a subcontractor at any tier hereto.

(5) "Payload" means all property to be flown or used on or in a Launch Vehicle.

(6) "Protected Space Operations" means all Launch or Transfer Vehicle activities and Payload activities on Earth, in outer space, or in transit between Earth and outer space in implementation of an Agreement for Science or Space Exploration activities, unrelated to the ISS, but which involve a launch. Protected Space Operations begins at the signature of the Agreement and ends when all activities done in implementation of the agreement are completed. It includes, but is not limited to:

(i) Research, design, development, test, manufacture, assembly, integration, operation, or use of Launch or Transfer Vehicles, Payloads, or instruments, as well as related support equipment and facilities and services; and

(ii) All activities related to ground support, test, training, simulation, or guidance and control equipment, and related facilities or services.

Protected Space Operations excludes activities on Earth which are conducted on return from space to develop further a Payload's product or process other than for the activities within the scope of an Agreement.

(7) "Related entity" means:

(i) A contractor or subcontractor of a Party at any tier;

(ii) A user or customer of a party at any tier; or

(iii) A contractor or subcontractor of a user or customer of a Party at any tier.

The terms "contractors" and "subcontractors" include suppliers of any kind.

(c) Cross-waiver of liability:

(1) The contractor agrees to a waiver of liability pursuant to which it waives all claims against any of the entities or persons listed in paragraphs (c)(1)(i) through (c)(1)(iv) of this clause based on Damage arising out of Protected Space Operations. This cross-waiver shall apply only if the person, entity, or property causing the Damage is involved in Protected Space Operations and the person, entity, or property damaged is damaged by virtue of its involvement in Protected Space Operations. The waiver shall apply to any claims for Damage, whatever the legal basis for such claims, against:

(i) A Party;

- (ii) A Party to another NASA Agreement or contract that includes flight on the same Launch Vehicle;
 - (iii) A Related Entity of any of the entities identified in (c)(1)(i) or (c)(1)(ii) of this clause; or
 - (iv) The employees of any of the entities identified in (c)(1)(i) through (c)(1)(iii) of this clause.
- (2) The contractor agrees to extend the cross-waiver of liability as set forth in paragraph (c)(1) of this clause to its own subcontractors at all tiers by requiring them, by contract or otherwise, to:
- (i) Waive all claims against the entities or persons identified in paragraphs (c)(1)(i) through (c)(1)(iv) of this clause; and
 - (ii) Require that their Related Entities waive all claims against the entities or persons identified in paragraph (c)(1)(i) through (c)(1)(iv) of this clause.
- (3) For avoidance of doubt, this cross-waiver includes a cross-waiver of claims arising from the *Convention on International Liability for Damage Caused by Space Objects*, which entered into force on September 1, 1972, where the person, entity, or property causing the Damage is involved in Protected Space Operations and the person, entity, or property damaged is damaged by virtue of its involvement in Protected Space Operations.
- (4) Notwithstanding the other provisions of this clause, this cross-waiver of liability shall not be applicable to:
- (i) Claims between the Government and its own contractors or between its own contractors and subcontractors;
 - (ii) Claims made by a natural person, his/her estate, survivors, or subrogees (except when a subrogee is a Party to an Agreement or is otherwise bound by the terms of this cross-waiver) for bodily injury to, or other impairment of health, or death of such person;
 - (iii) Claims for Damage caused by willful misconduct;
 - (iv) Intellectual property claims;
 - (v) Claims for damages resulting from failure of the contractor to extend the cross-waiver of liability to its subcontractors and related entities, pursuant to paragraph (c)(2) of this clause; or
 - (vi) Claims by the Government arising out of or relating to a contractor's failure to perform its obligations under this contract.
- (5) Nothing in this clause shall be construed to create the basis for a claim or suit where none would otherwise exist.
- (6) This cross-waiver shall not be applicable when 49 U.S.C. Subtitle IX, Chapter 701 is applicable.

(End of clause)

H.10 KEY PERSONNEL AND FACILITIES (NFS 1852.235-71) (MAR 1989)

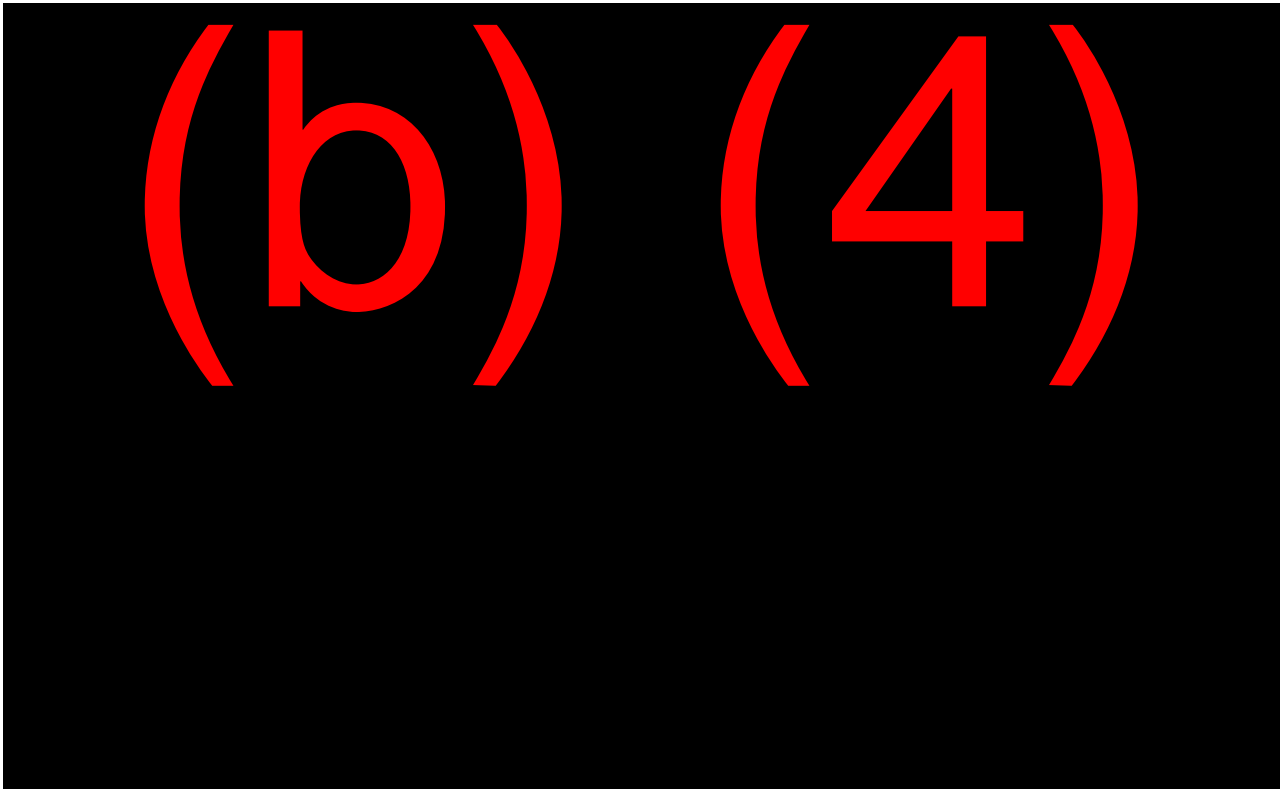
- (a) The personnel and/or facilities listed below are considered essential to the work being performed under this contract. Before removing, replacing, or diverting any of the listed or specified personnel or facilities, the Contractor shall (1) notify the Contracting Officer reasonably in advance and (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.

Key Personnel: (Includes full name and position title)

Lon Miller, General Manager



Key Facilities: 2224 Bay Area Blvd., Houston TX, 77508

(End of clause)

H.11 OBSERVANCE OF LEGAL HOLIDAYS (NFS 1852.242-72) (AUG 1992)
(ALTERNATE 1) (SEPT 1989)

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

New Year's Day
Martin Luther King, Jr.'s Birthday
President's Day

Labor Day
Columbus Day
Veterans Day

Memorial Day
Independence Day

Thanksgiving 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.

(End of clause)

H.12 ENVIRONMENTAL AND ENERGY CONSERVATION REQUIREMENTS (JSC 52.223-93) (Feb 2011)

(a) 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: JPR 8550.1, JSC Environmental Compliance Procedural Requirements; JPR 8553.1, JSC Environmental Management System Manual; JWI 8553.1, EMS Aspect/Impact Assessment and EMP Process; NPR 8570.1, Energy Efficiency and Water Conservation; and JWI 8570.1, Energy Conservation. The Contractor shall provide data on affirmative procurement, waste reduction activity, energy efficient product procurement, and ozone depleting substances in accordance with NPR 8530.1.

(b) 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.

(c) 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.13 ADMINISTRATIVE LEAVE (JSC 52.242-94) (SEP 2008)

(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 recommence.

(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.14 WORK IN PROGRESS (WIP) REPORTING FOR ON-SITE VS. OFF-SITE WORK

For on-site Johnson Space Center work in progress reporting, the contractor shall only supply its labor costs associated with that work to the controlling JSC organization for that organization to establish the total cost of the item and coordinate establishment of the property record at JSC.

WIP performed off-site by the contractor shall be reported by the contractor IAW NASA FAR Supplement 1845.7101 "Instructions For Preparing NASA Form 1018" and controlled in accordance with FAR 52.245-1 (Aug 2010).

(End of clause)

H.15 SUBCONTRACTING WITH RUSSIAN ENTITIES FOR GOODS OR SERVICES

(a) Definitions: In this provision:

(1) The term "Russian entities" means:

(A) Russian persons, or

(B) Entities created under Russian law or owned, in whole or in part, by Russian persons or companies including, but not limited to, the following:

(i) The Russian Federal Space Agency (Roscosmos),

(ii) Any organization or entity under the jurisdiction or control of Roscosmos, or

(iii) Any other organization, entity, or element of the Government of the Russian Federation.

(2) The term "extraordinary payments" means payments in cash or in kind made or to be made by the United States Government prior to July 1, 2016, for work to be performed or services to be rendered prior to that date necessary to meet United States obligations under the Agreement Concerning Cooperation on the Civil International Space Station, with annex, signed at Washington January 29, 1998, and entered into force March 27, 2001, or any protocol, agreement, memorandum of understanding, or contract related thereto.

(b) This clause implements the reporting requirement in section 6(i) of the Iran, North Korea, and Syria Nonproliferation Act. The provisions of this clause are without

prejudice to the question of whether the Contractor or its subcontractor(s) are making extraordinary payments under section 6(a) or fall within the exceptions in section 7(1)(B) of the Act. NASA has applied the restrictions in the Act to include funding of Russian entities via U.S. Contractors.

(c)(1) The Contractor shall not subcontract with Russian entities without first receiving written approval from the CO. In order to obtain this written approval to subcontract with any Russian entity as defined in paragraphs (a), the Contractor shall provide the CO with the following information related to each planned new subcontract and any change to an existing subcontract with entities that fit the description in paragraph (a):

(A) A detailed description of the subcontracting entity, including its name, address, and a point of contact, as well as a detailed description of the proposed subcontract including the specific purpose of payments that will be made under the subcontract.

(B) The Contractor shall provide certification that the subcontracting entity is not, at the date of the subcontract approval request, on any of the lists of proscribed denied parties, specially designated nationals and entities of concern found at:

BIS's Listing of Entities of Concern (see <http://www.access.gpo.gov/bis/ear/pdf/744spir.pdf>)
BIS's List of Denied Parties (see <http://www.bis.doc.gov/dpl/Default.shtm>)
OFAC's List of Specially Designated Nationals (Adobe® PDF format) (see <http://www.treas.gov/offices/enforcement/ofac/sdn/t11sdn.pdf>)
List of Unverified Persons in Foreign Countries (see http://www.bis.doc.gov/Enforcement/UnverifiedList/unverified_parties.html)
State Department's List of Parties Statutorily Debarred for Arms Export Control Act Convictions (see <http://www.pmdtc.state.gov/debar059.htm>)
State Department's Lists of Proliferating Entities (see <http://www.state.gov/t/isn/c15231.htm>)

(2) Unless relief is granted by the CO, the information necessary to obtain approval to subcontract shall be provided to the CO 30 business days prior to executing any planned subcontract with entities defined in paragraph (a).

(d) After receiving approval to subcontract, the Contractor shall provide the CO with a report every six months that documents the individual payments made to an entity in paragraph (a). The reports are due on July 15th and January 15th. The July 15th report shall document all of the individual payments made from the previous January through June. The January 15th report shall document all of the individual payments made from the previous July through December. The content of the report shall provide the following information for each time a payment is made to an entity in paragraph (a):

- (1) The name of the entity
- (2) The subcontract number
- (3) The amount of the payment
- (4) The date of the payment

(e) The CO may direct the Contractor to provide additional information for any other prospective or existing subcontract at any tier. The CO may direct the Contractor to terminate for the convenience of the Government any subcontract at any tier with an entity described in paragraph (a), subject to an equitable adjustment.

(f) Notwithstanding FAR 52.216-7, "Allowable Cost and Payments," on or after June 30, 2016 the Contractor shall be responsible to make payments to entities defined in paragraph (a) of this provision. Any subcontract with entities defined in paragraph (a), therefore, shall be completed in sufficient time to permit the U.S. Government to make extraordinary payments on subcontracts with Russian entities on or before June 30, 2016.

(g) The Contractor shall include the substance of this clause in all its subcontracts, and shall require such inclusion in all other subcontracts of any tier. The Contractor shall be responsible to obtain written approval from the CO to enter into any tier subcontract that involves entities defined in paragraph (a).

(End of Clause)

H.16 EXTERNAL CUSTOMER EFFORT

The Government may allow nonexclusive, non-government use of Engineering and ARES Directorate facilities, Attachment J-25, by the contractor under this contract. If found appropriate by the Government through the Contracting Officer, the contractor and Government shall enter into a Reimbursable Space Act Agreement (RSAA) which will outline the benefit the Government will derive from the contractor's non-government use of designated property through rental receipts along with the terms and conditions related to the use of this equipment.

The contractor's use of such property for such purposes shall be subject to the terms and conditions of this contract.

The Government recognizes the benefit it derives from the contractor's non-government use of designated property through rental receipts as defined under the RSAA and that this benefit through the contractor's ability to provide non-government use services to its customers is dependent upon the reliability of the contractor's access to the designated property.

The contractor shall deliver external partners for NASA that off-set costs over the life of the JETS contract. The details of this commitment are documented in the JETS Award Fee Plan (Attachment J-11) and the JETS External Customer Plan (DRD MGMT-10).

The property authorized for non-Government use along with the terms and conditions for the use of this designated equipment will be set forth in the RSAA. Any dispute associated with this clause and/or the contractor's exercise of its authority for non-governmental use of the designated property shall be subject to the "Disputes" clause of this contract.

The Government reserves the right to enter into other reimbursable agreements within NASA or with other entities. Such agreements (e.g., Internal Task Agreements, Space Act Agreements) may require contractor support. In the case that contractor support is required in the execution of these other agreements; the contractor shall support these efforts via task orders issued by the Contracting Officer. As a matter of protocol and courtesy, the Government will provide notice before entering into other reimbursable agreements that would interfere with performance of a RSAA between the contractor and the Government or any other contractor work. The Government's intent is to avoid interfering with the execution of contractor agreements.

(End of clause)

H. 17 ASSOCIATE CONTRACTOR AGREEMENTS (ACA) FOR JETS ACTIVITIES

- (a) The success of the JETS Contract is dependent on the efforts of multiple Contractors. At a minimum, the Contractor shall develop, maintain and adhere to ACAs with the following contracts and their successors:
- i. The contractors that provide IT support services at JSC (end user services, desktop management, data center services, communication services, applications services, web based services, and media services)

ACES – Agency Consolidated End-User Services Contract
EPIC – Engineering Products Integration Contract
 - ii. The contractor that provides facility services and maintenance at JSC

FSS – Facility Support Services
 - iii. The contractor that provides quality and safety support services to the S&MA Directorate at JSC

SMASSC – Safety and Mission Assurance Support Services Contract
CISS – Center Institutional Safety Support Contract
 - iv. The other contractors that provides support to the JSC Engineering Directorate.

EFS – Engineering Fabrication Services Contract
CRAVE II – Crew, Robotics, Avionics and Vehicle Equipment
CAMS II – Calibration and Metrology Services II
SEETS – Specialized Engineering, Evaluation and Test Services
 - v. Contracts supporting other directorates, programs and offices at JSC which may interface with JETS

FBMS – Financial and Business Management Services Contract
BC – Bioastronautics Contract
International Space Station (ISS) Vehicle Sustaining Engineering Contract
CEV – Orion Crew Exploration Vehicle Contract

The Contractor shall develop, maintain and adhere to ACA's with any other interfaces the Contractor deems necessary to avoid negatively impacting the JETS contract work.

The Contractor shall make all ACAs available to the JETS Contracting Officer (CO) and Contracting Officer's Technical Representative (COTR).

- (b) The Contractor shall document agreements with other associate Contractors described in (a) above via Associate Contractor Agreements. The Government will not be a party in such Associate Contractor Agreements. All costs associated with such agreements are included in the negotiated price of this contract. Any additional ACA required shall be developed, modified and kept current at no additional cost to the Government. In order to achieve efficient and effective implementation of JETS operations; 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 JETS with increased safety, efficiency, and productivity.
- (c) The Contractor is not relieved of any contract requirements or entitled to any adjustments to the contract terms because of the failure to resolve a disagreement with an associate Contractor. Liability for the improper disclosure of any proprietary data contained in or referenced by any agreement shall rest with the parties to the agreement, and not the Government.
- (d) A copy of the ACA shall be provided to the Contracting Officer within 30-days after agreement is reached.

(End of clause)

H.18 GOVERNMENT-FURNISHED COMPUTER SOFTWARE AND RELATED TECHNICAL DATA

(a) Definitions. As used in this clause—

“Government-furnished computer software” or “GFCS” means computer software: (1) in the possession of, or directly acquired by, the Government whereby the Government has title or Government purpose license rights thereto; and (2) subsequently furnished to the Contractor for performance of a Government contract.

“Computer software,” “data” and “technical data” have the meaning provided in the

Federal Acquisition Regulations (FAR) Subpart 2.1—Definitions and the Rights in Data – General clause (FAR 52.227-14).

(b) The Government shall furnish to the Contractor the GFCS described in Section J-23 of this contract. The Government shall furnish related technical data needed for the intended use of the GFCS.

(c) Use of GFCS and related technical data. The Contractor shall use the GFCS and related technical data, and any modified or enhanced versions thereof, only for performing work under this contract unless otherwise provided for in this contract or approved by the Contracting Officer.

(1) The Contractor shall not, without the express written permission of the Contracting Officer, reproduce, distribute copies, perform publicly, display publicly, release, or disclose the GFCS or related technical data to any person except for the performance of work under this contract.

(2) The Contractor shall not modify or enhance the GFCS unless this contract specifically identifies the modifications and enhancements as work to be performed. If the GFCS is modified or enhanced pursuant to this contract, the Contractor shall provide to the Government the complete source code, if any, of the modified or enhanced GFCS.

(3) Allocation of rights associated with any GFCS or related technical data modified or enhanced under this contract shall be defined by the FAR Rights in Data clause(s) included in this contract. If no Rights in Data clause is included in the contract, then the FAR Rights in Data – General (FAR 52.227-14) shall apply to all data first produced in the performance of this contract.

(4) The Contractor may provide the GFCS, and any modified or enhanced versions thereof, to subcontractors as required for the performance of work under this contract. Before release of the GFCS, and any modified or enhanced versions thereof, to such subcontractors (at any tier), the Contractor shall insert, or require the insertion of, this clause, including this paragraph (c)(4), suitably modified to reflect the relationship of the parties, in all such subcontracts (regardless of tier).

(d) The Government provides the GFCS in an “AS-IS” condition. The Government makes no warranty with respect to the serviceability and/or suitability of the GFCS for contract performance.

(e) The Contracting Officer may by written notice, at any time—

- (1) Increase or decrease the amount of GFCS under this contract;
- (2) Substitute other GFCS for the GFCS previously furnished, to be furnished, or to be acquired by the Contractor for the Government under this contract;
- (3) Withdraw authority to use the GFCS or related technical data; or
- (4) Instruct the Contractor to return or dispose of the GFCS and related technical data.

(f) Title to or license rights in GFCS. The Government shall retain title to or license rights in all GFCS. Title to or license rights in GFCS shall not be affected by its incorporation into or attachment to any data not owned by or licensed to the Government.

(g) Waiver of Claims and Indemnification. The Contractor agrees to waive any and all claims against the Government and shall indemnify and hold harmless the Government, its agents, and employees from every claim or liability, including attorneys fees, court costs, and expenses, arising out of, or in any way related to, the misuse or unauthorized modification, reproduction, release, performance, display, or disclosure of the GFCS and related technical data by the Contractor or by any person to whom the Contractor has released or disclosed such GFCS or related technical data.

(End of clause)

H.19 CALIBRATION

(b) (4)

(End of clause)

H.20 Handling and Protection of Government Controlled Contractor Generated Data

- (a) In the performance of this contract it is anticipated that the Contractor may generate data which the Government intends to control the release, publication, distribution and use thereof.
- (b) For data generated by the Contractor in support of an identified Space Act Agreement, Commercial Space Launch Act Agreement, Commercial Space Competitiveness Act Agreement, or Cooperative Research and Development Agreement, to which the Contractor is not party to such agreements; or for data otherwise identified by the Contracting Officer, the Contractor agrees, for a period of 5 years from the date of development of such data, to:
- (1) use and disclose such data only to the extent necessary to perform the work required under this contract in support of such agreement, with particular emphasis on restricting disclosure of the data to those persons who have a definite need for the data in order to perform under this contract in support of such agreement;
 - (2) not reproduce the data unless reproduction of the data is required to accomplish work required under this contract in support of such agreement, the reproduction shall carry the same marking as which appears on the original pursuant to the requirements of Paragraph (b)(5) of this clause;

- (3) refrain from disclosing the data to third parties without the written consent of the Contracting Officer except for subcontractors, contract labor, consultants and agents of the Contractor who have a need to know to accomplish work required under this contract in support of such agreement;
- (4) return or deliver the data including all copies thereof to the Contracting Officer or his designated recipient when requested by the Contracting Officer; and
- (5) mark such data with the following or a similar restrictive notice:

SENSITIVE BUT UNCLASSIFIED INFORMATION – SPACE ACT AGREEMENT

The data herein were created on [enter date]; are restricted under the Data Rights Provision of Space Act Agreement (SAA) [provide applicable reference number]; and shall be used and disclosed only to the extent necessary to perform work required to support such SAA. After [enter date X years after creation date], these restrictions are no longer applicable.

- (c) The Contractor shall include the substance of this clause, including paragraph (c), suitably modified to reflect the relationship of the parties, in all subcontracts that may require the subcontractor to generate data in support of such agreements.

[End of Clause]

H.21 RECEIVING INSPECTION AND TEST FACILITY (RITF) UTILIZATION

The Contractor shall utilize the services of the RITF to the maximum extent practicable. Services provided by the RITF include: failure analysis; electrical, electronic, and electromechanical (EEE) part screening; metallic alloy testing for mechanical, chemical, and physical properties; fastener screening; and NASA unique and NASA approved IPC electronic workmanship training.

(End of clause)

H.22 USE OF JSC FABRICATION CAPABILITY

The Contractor shall utilize the services of the JSC fabrication capability located in buildings 9 and 10 to the maximum extent practicable for manufacturing, fabrication, assembly, and metal finishing utilized under this contract, the total cost of which would otherwise be a direct charge to this contract.

(End of clause)

H.23 MITIGATION OF ORGANIZATIONAL CONFLICTS OF INTEREST

(a) Mitigation plan. The Organizational Conflict of Interest Mitigation Plan and its obligations are hereby incorporated in the contract by reference.

(b) Changes.

(1) Either the Contractor or the Government may propose changes to the Organizational Conflict of Interest Mitigation Plan. Such changes are subject to the mutual agreement of the parties and will become effective only upon incorporating the change into the plan by contract amendment.

(2) In the event that the Government and the Contractor cannot agree upon a mutually acceptable change, the Government reserves the right to make a unilateral change to the OCI Plan as necessary, with the approval of the head of the contracting activity, subject to Contractor appeal as provided in the Disputes clause.

(c) Violation. The Contractor shall report any violation of the Organizational Conflict of Interest Mitigation Plan, whether by its own personnel or those of the Government or other contractors, to the Contracting Officer. This report shall include a description of the violation and the actions the Contractor has taken or proposes to take to mitigate and avoid repetition of the violation. After conducting such further inquiries and discussions as may be necessary, the Contracting Officer and the Contractor shall agree on appropriate corrective action, if any, or the Contracting Officer will direct corrective action.

(d) Breach. Any breach of the above restrictions or any nondisclosure or misrepresentation of any relevant facts required regarding organizational conflicts of interests to be disclosed may result in termination of this contract for default or other remedies as may be available under law or regulation.

(e) Subcontracts. The Contractor shall include the substance of this clause, including this paragraph (e), in subcontracts where the work includes or may include tasks related to the organizational conflict of interest. The terms "Contractor" and "Contracting Officer" shall be appropriately modified to reflect the change in parties and to preserve the Government's rights.

(End of clause)

H.24 DISCLOSURE OF ORGANIZATIONAL CONFLICT OF INTEREST AFTER CONTRACT AWARD

(a) If the Contractor identifies an actual or potential organizational conflict of interest that has not already been adequately disclosed and resolved (or waived in accordance with FAR 9.503), the Contractor shall make a prompt and full disclosure in writing to the Contracting Officer. This disclosure shall include a description of the action the Contractor has taken or proposes to take in order to resolve the conflict. This reporting requirement also includes subcontractors' actual or potential organizational conflicts of interest not adequately disclosed and resolved prior to award.

(b) Mitigation Plan. If there is a mitigation plan in the contract, the Contractor shall periodically update the plan, based on changes such as changes to the legal entity, the overall structure of the organization, subcontractor arrangements, contractor management, ownership, ownership relationships, or modification of the work scope.

(End of clause)

[END OF SECTION]