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PART I – THE SCHEDULE

SECTION H

SPECIAL CONTRACT REQUIREMENTS

ARTICLE H-1 CLAUSES INCORPORATED BY REFERENCE

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. The full text may be accessed electronically at: <http://ec.msfc.nasa.gov/hq/library/library.html>

NASA SUPPLEMENT TO THE FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 18) CLAUSES:

<u>Clause Number</u>	<u>Title</u>
1852.204-74	Central Contractor Registration (AUG 2000)
1852.208-81	Restrictions on Printing and Duplicating (AUG 1993)
1852.223-70	Safety and Health (APR 2002)
1852.223-75	Major Breach of Safety or Security (FEB 2002)
1852.225-70	Export Licenses (FEB 2000) and (Alternate 1) (FEB 2000) and Para (b) insert: Kennedy Space Center
1852.228-72	Cross-Waiver of Liability for Space Shuttle Services (SEP 1993)
1852.228-76	Cross-Waiver of Liability for Space Station Activities (DEC 1994)
1852.228-78	Cross-Waiver of Liability for NASA Expendable Launch Vehicle (ELV) Launches (SEP 1993)
1852.242-72	Observance of Legal Holidays (AUG 1992) and (Alternate II) (OCT 2000)
1852.244-70	Geographic Participation in the Aerospace Program (APR 1985)
1852.246-70	Mission Critical Space Systems Personnel Reliability Program (Mar 1997)
1852.247-71	Protection of the Florida Manatee (MAR 1989)

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ARTICLE H-2 KSC 52.204-90 SECURITY CONTROLS AT KSC (NOV 2000)

A. Identification of Employees

1. The contractor shall require each employee engaged on the work site to display NASA-furnished identification badges and special access badges at all times. The contractor shall obtain and submit badging request forms for each person employed or to be employed by the contractor under this contract. The contractor shall designate its own security and badging officials to act as points-of-contact for the KSC Security Office. Prior to proceeding with onsite performance, the contractor shall submit the following information to the Protective Services Branch, Code TA-E2, Kennedy Space Center:
 - a. Contract number and location of work site(s)
 - b. Contract commencement and completion dates
 - c. Status as prime or subcontractor
 - d. Names of designated security and badging officials
2. Identification and badging of employees shall be accomplished as soon as practicable after award of the contract. During performance of the contract, the contractor shall, upon termination of an employee, immediately deliver badges and/or passes issued to the employee to the NASA Security Office. It is agreed and understood that all NASA identification badges/passes remain the property of NASA, and the Government reserves the right to invalidate such badges/passes at any time.

B. Access to Controlled Areas within KSC

1. Certain areas within KSC have been designated as Controlled Areas. These are normally surrounded by fencing and have an entrance gate monitored by a guard or monitoring device. Access into such areas is classified into "escorted" or "unescorted" access. For each employee for which the contractor desires to have unescorted access, the prescribed forms must be submitted to the NASA Security Office. Due to the time required to process requests for unescorted access, the contractor is advised to complete and submit the required forms as soon as practicable after contract award. Within 14 working days after the receipt of the

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forms, the NASA Security Office will determine whether the person is eligible for unescorted access.

2. The prime contractor is responsible for providing escort services for any of his employees and/or any subcontractor employees who are not eligible for unescorted access.
3. All requests for unescorted access by subcontractors will be submitted through the prime contractor for forwarding to the NASA Security Office.

**ARTICLE H-3 KSC 52.208-90 MOTOR VEHICLE MANAGEMENT
(APR 2001)**

The contractor shall acquire and manage motor vehicles necessary to support the performance of the contract. Such needed vehicles are to be acquired and managed in the manner most efficient and economic to the Government. Vehicles may be obtained from the GSA Interagency Motor Pool, commercial sources, or other sources. Costs related to motor vehicles shall be borne by the contractor and reimbursed by the Government to the extent allowable in accordance with the terms of the contract relating to the reimbursement of costs.

The contractor will use KSC Form 7-490 (KSC Vehicle Use Record) to record vehicle utilization for all GSA and commercial rental vehicles. These records will be maintained and made available at the request of the Contracting Officer for a period of 18 months. Two copies of the monthly billings, both GSA and commercial, for motor vehicle services will be forwarded to the Contracting Officer each month with a copy to the KSC Transportation Office, Code TA. The contractor shall assure that all vehicle operators are appropriately licensed in the state. The contractor will furnish GSA a copy of their third party automobile insurance policy if acquiring GSA motor vehicles.

The contractor shall prepare and submit a Vehicle Utilization Plan semiannually. One copy of the form shall be forwarded to the Contracting Officer, with a copy to the NASA Transportation Office, TA-E1. This plan shall, as a minimum, demonstrate the economic and efficient management of vehicles and fuel. It shall forecast the vehicle requirements for 2 years allowing at least 6 months advance notice for additional requirements. It shall demonstrate the techniques utilized by the contractor to assure that vehicles are used for official purposes only.

ARTICLE H-4 RESERVED

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ARTICLE H-5 KSC 52.223-93 OCCUPATIONAL HEALTH (NOV 2000)

1. Occupational Health Services

The medical services set forth in KMI 1810.1I entitled KSC Occupational Medicine Program, will be provided to the contractor by the Government to the extent that there will not be any restriction of the employees' rights under applicable Workmen's Compensation statutory provisions.

Information from records generated as a result of rendition of these medical services may be obtained from the Chief, Aerospace Medicine and Occupational Health Branch, Code TA-C2, upon written request.

2. Health Examinations and Physical Requirements Standards

The contractor shall provide the following data to the Chief, Aerospace Medicine and Occupational Health Branch, Code TA-C2:

- a. A breakdown of the various health examinations required in support of this contract; providing type, frequency, and a roster of personnel affected.
- b. The applicable physical requirements standards for personnel certification, if the contractor has physical requirements standards that are stricter than the applicable KSC (Federal) standards; otherwise the KSC (Federal) physical requirements standards are applicable to this contract.

ARTICLE H-6 KSC 52.223-94 HAZARD COMMUNICATION (NOV 2000)

A. In order to comply with Federal, OSHA, and State Regulations, the Contractor shall participate in the KSC Chemical Hazard Communication Program as implemented by KMI 1800.2B, Chemical Hazard Communication.

B. The Contractor shall coordinate submission of hazardous material safety data, to the NASA/KSC Materials Safety Data Sheet Archive, with the Joint Base Operations Support Contract MSDS Program Administrator.

ARTICLE H-7 KSC 52.223-105 EMERGENCY MEDICAL TREATMENT (JUL 2000)

The contractor shall immediately call (see below for applicable telephone numbers) for assistance with personnel injury or illness for any incident requiring emergency medical treatment for contractor or subcontractor personnel, or

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invitees on KSC, or if any person on the job site is rendered unconscious. The contractor shall require the victim to sign an appropriate "refusal of treatment" form, if medical evaluation/treatment is offered and refused.

From KSC or CCAFS property: 911

From a KSC issued cellular telephone: 867-7911

From other than a KSC issued cellular telephone: 321-867-7911

Commercial telephone users on KSC or CCAFS property: 911

ARTICLE H-8 KSC 52.223-118 BREATHING AIR COMPATIBILITY (APR 2000)

The contractor shall take precautions to assure that connectors used in contractor-supplied breathing air systems are incompatible with connectors present on either KSC gas systems or on contractor supplied systems that are used to supply non-respirable gases. KSC-STD-Z0008, 'Standard for Design of Ground Life Support Systems and Equipment', establishes requirements for connectors to be used in KSC facility breathing air and non-respirable gas systems. Facility breathing air systems located at KSC/CCAFS are to use a Hansen 3/8 inch quick disconnect as a breathing air distribution interface. KSC facility non-respirable gas systems are to use 1/4 inch quick disconnects for gas distribution interfaces. Although most facility systems were designed in accordance with this standard, there are nonconforming locations at KSC/CCAFS.

The Contractor may use KSC facility breathing air systems, if available at the work location. The contractor shall perform a pre-work site inspection to identify coupling types in use at the work location before mobilizing or using any breathing air equipment. The contractor shall also submit a written certification to show the contractor's breathing air system has been recently inspected and meets Grade D breathing air standards. Alternately, the contractor may arrange for on-site testing of contractor-supplied breathing air by the Government at least five days prior to start of work. In addition, the contractor shall also provide a work site evaluation for the NASA Safety Office to review before using any breathing air system. The breathing air test and the safety inspection can be coordinated through the Contracting Officer, and will be at no cost to the contractor.

The contractor shall tag or label connector ends of all lines and flexible hoses of contractor-provided breathing air or non-respirable gas distribution systems. The tags or labels will clearly identify the contents of the lines or hoses.

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The contractor shall provide a description of the steps taken to comply with the requirements of this clause in their safety plan submittal.

ARTICLE H-9 KSC 52.236-102 EXCAVATION PERMITS (OCT 2000)
 (Applicable to Section 5 of CAPPS Statement of Work Attachment J-1)

The contractor shall request and obtain excavation permit(s) prior to performing any excavation. KSC Form 26-312NS, Utility Locate/Excavation Permit Request, shall be prepared by the contractor and submitted to the government for approval at least 15 working days prior to the planned excavation date. The contractor shall comply with the requirements of The Joint-Base Operations Support Contract (J-BOSC) "Excavation/Dig Permit Procedure" WCC-P-0002 (latest revision), in the preparation, submission and use of the permit(s).

ARTICLE H-10 KSC 52.242-90 CONTROLS APPLICABLE TO CONTRACTOR'S ACTIVITIES (AUG 2003)

The below listed Kennedy Space Center publications and subsequent revisions thereof are applicable to this contract and are incorporated herein by reference. These publications prescribe regulatory procedural criteria, which are applicable to the contractor. The contractor, upon receipt of notice of noncompliance with any provisions of the below listed publications from the Contracting Officer or his representatives, shall promptly take corrective action.

JHB 2000	Consolidated Comprehensive Emergency Management Plan
KHB 1200.1	Management of Facilities, Systems & Equipment Handbook
KHB 1610.1	KSC Security Handbook
KNPR 8715.3	KSC Safety Practices Procedural Requirements
KHB 1820.3	KSC Hearing Loss Prevention Program
KHB 1820.4	KSC Respiratory Protection Program
KHB 1870.1	KSC Sanitation Handbook
KHB 2570.1	KSC Radio Frequency Spectrum Management Procedures and Guidelines

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KHB 4000.1	Supply Support System Manual, Part 5, Equipment Management
KHB 6000.1	Transportation Support System Handbook
KHB 8800.6	KSC Environmental Control Handbook
KMI 1810.1 Rev 1	KSC Occupational Medicine Program On-site Contractors shall comply with Attachment D, KSC Skin Cancer Prevention Program
KHB 8800.7	Hazardous Waste Management
KMI 1860.1	KSC Radiation Protection Program
KMI 8800.8	KSC Environmental Management
KNPD 1800.2	Hazard Communication Program
UNNUMBERED	Construction Contractor's Safety Information & Requirements For KSC (Applicable to Construction Contracts Only)
KNPD 1600.3	Use of Alcoholic Beverages on KSC Property

**ARTICLE H-11 KSC 52.242-93 CENTERWIDE MANPOWER REPORTS
(NOV 2000)**

The Contractor shall submit, on a quarterly basis, a manpower report delineating information about its workforce. The report shall include: the contract number, the contractor's total on-site workforce, total on-site union represented employees by bargaining unit, total on-site non-union represented employees, and total off-site workforce performing on the contract. The Contractor shall provide this information no later than 10 days after the close of each reporting period, which end March 31, June 30, September 30, and December 31. The report shall be submitted to the Contracting Officer with copies to KSC Administration Office, Workforce Planning and Analysis (Code BA-D) and the Industry Relations Officer (Code QA-A-1).

ARTICLE H-12 KSC 52.243-90 AUTHORIZED CHANGES (FEB 1990)

The Contracting Officer or his duly appointed representative are the only individuals authorized to issue instructions to the contractor in matters relating to this contract. The identification, scope of authority and duties of representatives of the Contracting Officer shall be set forth in letters issued by the Contracting Officer and copies of such designations shall be furnished to the contractor.

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ARTICLE H-13 KSC 52.245-96 GOVERNMENT-FURNISHED PROPERTY AND SERVICES (AUG 1991)

Pursuant to NFS 1852.245-76, the property listed in Attachment J-1 is an exclusive list of property to be provided and no other property will be Government-furnished. No documents that form a part of this contract are intended to indicate any property will be furnished by the government unless that indication is verified in the list provided. All property to be used in the performance of this contract and not listed shall be furnished by the contractor. No services will be provided by the government except those services specifically set forth in Article H-14 of this contract.

Request for Government-furnished property shall be made in writing to the Contracting Officer no later than 15 days prior to the contractor's need date for that item.

The contractor shall verify the quantity and condition of such Government-furnished property upon receipt and acknowledge receipt thereof in writing to the Contracting Officer. In case of damage or shortage of such property the contractor shall within twenty-four (24) hours report in writing such damage or shortage to the Contracting Officer. The contractor shall be responsible for storage of all delivered Government-furnished property in such a manner as to protect the Government-furnished property from deterioration.

ARTICLE H-14 GOVERNMENT FURNISHED SERVICES

The government will furnish the following services to the contractor at KSC on a no-charge-for-use basis to the extent reasonably necessary for the contractor to fulfill its contractual obligations:

Administrative Desktop Computers (existing computers will be provided "As Is," replacements are Contractor Provided Property).

NOTE: Administrative Desktop Computers are limited to that subset of generic office type computers used on employee desks. It includes equipment physically connected to those computers such as personal printers, personal scanners, commercial digital cameras costing less than \$1000, and barcode readers. It does not include PDMS hardware, Office Servers, CAD workstations or servers, network printers, plotters, scanners costing more than \$1000, professional digital cameras costing \$1000 or greater, and video projectors. The offeror may utilize the Outsourcing Desktop Initiative for NASA (ODIN) contract as a means of acquiring administrative desktop computing services. Additional information regarding the ODIN Master Contract

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*and KSC ODIN Delivery Order at the following web-sites URL:
<http://www.odin.nasa.gov/> and URL: <http://osfodin/deliveryorder.html>.
Reference Contract Section A.1.3.4.*

Calibration Services (*except capability/services required to be provided by the contractor per Attachment J-1, SOW paragraph 7.2.1*)

Conference Room (*Mission Briefing Room in the Operations &Checkout Bldg, Training Auditorium*) audio/video set up support

Configuration Status Accounting System (CSAS) Software

Electrical Service

Emergency Medical Services

Facility Sanitation Monitoring

Fire Protection Service

Food Services (*cafeteria, snack bars, vending machines*)

Halon Systems in Computer Rooms

Hazardous Waste Disposal

Heating, Ventilating, and Air Conditioning (HVAC) (*in non-technical areas*)

Heavy Equipment Loan Pool (*from other contractors on a non-interference basis*)

Janitorial Services (*excludes operational work areas*)

Kennedy Unified Dial-In Access (KUDA)

Library Services

Locksmith Services

Mail Services (*to one CAPPS designated location*)

Maintenance of Facilities on CCAFS

NASA Equipment Management System (NEMS)

NASA Malfunction Laboratory

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Non-Destructive Evaluation For Radiography

Occupational Health Services

On-site Film Laboratory and Processing Service

On-Site Office Copier Machines and Services

On-site Passenger Bus Service

On-site Work Space *(See Attachment J-1, Appendix 21, DR-29)*

Operational Voice, Video and Data Communications per Appendix 12
(except systems/services required to be provided by the contractor per SOW Sections 5.1.11 and 6.1.5)

Institutional Voice, Video and Data Communications per Appendix 12
(except mobile phones, fax machines and pagers)

Oracle Licenses

Pesticide Control

Portable Support Services, as required, during Facility System outages
(i.e. Chillers, Boilers)

Potable Water Sampling

Payload Changeout Room, Rotating Service Structure Clean Room
Maintenance

Primary Power Distribution

Printing/Microimaging at Central KSC Print Shop

Propellants, Fluids, and Gasses *(See Attachment J-1, Appendix 21 DR-49)*

Range Safety, Range Support DOD Manager for Space Shuttle Support

Roads and Grounds Maintenance

Sand Blasting and Associated Coating

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Self Contained Atmospheric Protective Ensemble (SCAPE) Suit Support,
Scott Air Packs, Emergency Life Support Apparatus (ELSA)

*Security Services (badging, investigative and law enforcement tasks,
perimeter control, payload escort, and O&M of electronic surveillance
systems)*

Standards Laboratory

Water and Sewage

Weather Data and Forecasting

Weights for proof loading

ARTICLE H-15 COMMERCIAL USE OF GOVERNMENT PROPERTY

This clause establishes procedures whereby the contractor may allow commercial customers to use the property listed in Attachment J-1 of the CAPPS Statement of Work and enables the contractor and the government to agree to an equitable adjustment pursuant to FAR 45.4 for the use of the property identified in Attachment J-1. This equitable adjustment shall provide the government adequate consideration for the contractor's commercial use of the property on an "as available" basis.

A. Contents of Agreement: The contractor and the commercial user shall document all commercial services, which the contractor intends to render using the property identified in Attachment J-1. The agreement for commercial use shall detail the scope of work for the project, the required levels of service, and any other project unique requirements with performance expectations. The contractor and the commercial user shall also agree upon the terms and conditions for providing services to commercial customers.

B. Outside Approvals: The contractor shall obtain all necessary licenses and permits to perform commercial operations, including those relating to export control.

C. Approval of Use: The contractor shall provide its tentative agreement for commercial use, including all of the attendant business terms and conditions and proposed consideration for the government, to the Contracting Officer for review. In addition, the contractor shall calculate the overall capacity of the property identified in Attachment J-1 that is proposed to be used in the agreement for commercial use and provide evidence there is available capacity to support the commercial use. If the proposed agreement for commercial use involves

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enhancements and/or modifications to the property identified in Attachment J-1, the contractor must demonstrate that these enhancement/modifications will not interfere with the government's use of said property. The government will authorize the use of property identified in Attachment J-1 for commercial purposes upon determining that there is available capacity and that such use is consistent with the interests of the government. The contractor's use of the property shall be limited to scope of use described in the approved agreement for commercial use.

D. Equitable Adjustment: The parties shall equitably adjust this contract based on the use of the property identified in Attachment J-1. The equitable adjustment will recognize shared revenue from the sale of the available capacity, less any incurred cost, including contractor capital investments, for those commercial agreements resulting from the marketing efforts of the contractor. NASA and the contractor may negotiate alternate payment methods (for example, direct payment, voucher credit, offset, etc) for the period of commercial use in lieu of equitable adjustments recognizing shared revenue from the sale of available capacity.

E. "As Available" Use: The government recognizes that the contractor's commercial services to its customers depend upon the reliability of the contractor's access to that property. Accordingly, the government will use reasonable efforts to mitigate conflicts with the contractor regarding its commercial use of the property identified in Attachment J-1. Additionally, the government will make reasonable efforts to notify the contractor, in advance, of conditions which may affect its commercial use, such as, power outages and emergency or unusual facility access restrictions. The contractor, however recognizes that the government reserves the right to exercise priority for use of its property (e.g., government payload processing would take priority over commercial services.) In the event commercial use of the property identified in Attachment J-1 adversely effects the government operations, the Contracting Officer shall notify the contractor. The contractor shall immediately implement any action necessary to alleviate adverse effects, to include suspension of the specific commercial use.

F. Revocation of Permission to Use: Upon reasonable notice to the contractor, the Contracting Officer may withdraw any permission granted under this clause for commercial use of the property identified in Attachment J-1, in whole or in part, for any of the following reasons:

- (1) Termination of a relevant portion of this contract;
- (2) Removal of any designated property from the category of Government-furnished property under this contract;

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- (3) Actual or projected commercial use of any identified property, which may negatively affect performance under this contract; or
- (4) Revocation of permission for commercial use is in the government's best interest. If the Contracting Officer withdraws, in whole or in part, permission for commercial use of the property identified in Attachment J-1, the contractor shall be entitled to pursue an equitable adjustment in cost or fee under this contract so long as such equitable adjustment does not exceed that which was already obtained by the government for the particular commercial use. In no event, shall the contractor be entitled to lost profits it might have gained from its commercial customers.

G. Other Terms and Conditions:

- (1) Unless specifically identified in the approved agreement for commercial use, the government shall not be responsible for providing any related property such as consumables, or logistics services necessary for the contractor's commercial use of the property identified in Attachment J-1. The government shall not be responsible for shipment of any items related to this clause.
- (2) The government shall not be obligated to protect any non-NASA data related to the contractor's commercial use of the property identified in Attachment J-1. In recognition that the property may be located in accessible areas, the government also has no obligation to protect any data or property from viewing, photographing, or recording.
- (3) The contractor's commercial use of the property identified in Attachment J-1, as well as its access to NASA sites must fully comply with all applicable laws, rules, and regulations, including FAR 52.245-9, Use and Charges. The contractor must also provide advance notice necessary to enable commercial use, such as, clearance from the government for customer access to the property and receipt of contractor's property necessary for the commercial use.
- (4) If the agreement for commercial use involves enhancements to or modifications of property identified in Attachment J-1, the government shall have the right to take ownership of any enhancements or modifications without compensation or shall have the right to require return of the property to its original configuration at the contractor's expense and no cost to the government.
- (5) Neither the contractor nor its customers may represent in any promotional, advertising, or other material that NASA endorses any product or service provided through the commercial use of the property identified in

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Attachment J-1. The contractor further agrees that NASA shall have the opportunity to review and concur in all releases including requests for information, press, and news releases arising out of or related to the commercial use of the property prior to release.

- (6) The contractor shall be liable to the government, in accordance with the Government Property clause of this contract, for damage to or loss resulting from commercial use of the property identified in Attachment J-1.
- (7) The contractor shall indemnify and hold harmless the United States from any third party liability, including that from the contractor's customers arising out of any aspect of the commercial use of the property identified in Attachment J-1. The contractor shall obtain, at its own expense, insurance to cover this liability, naming the United States as an additional insured. The amount of general aggregate liability coverage under this insurance policy shall be at a minimum of \$10,000,000 for each occurrence, and in the aggregate, per year. The contractor shall procure and maintain the insurance described above, and provide NASA with proof of insurance prior to using the property to provide commercial services. The contractor shall notify the government whenever changes or renewals to the pertinent insurance policies occur.
- (8) The contractor shall obtain from each customer written waivers that release the government from liability for any damage caused by government action or inaction. These waivers shall be reflected in the agreement for commercial use.
- (9) The Contract Disputes Act of 1978 and the Disputes Clause of this contract, shall be the sole means for the contractor to file claims or seek redress for any government revocation of permission to use or alleged failure to perform any matter related to the commercial use of property identified in Attachment J-1.

ARTICLE H-16 PERMITS AND LICENSES

The contractor shall procure and keep effective all necessary permits and licenses required by the Federal, State, or local Government or subdivision thereof, or of any other duly constructed public authority in performance of the work unless otherwise directed by the Contracting Officer, and shall obey and abide by all applicable laws, regulations or ordinances.

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ARTICLE H-17 CONVERSION TO FIXED PRICE

During the course of contract performance, NASA should be able to procure some or all of the CAPPS requirements on other than a cost-reimbursement basis. NASA will consider proposals submitted by the contractor to convert cost-reimbursable work to firm-fixed price work prior to the exercise of Option 1 and again prior to Option 2. If the government decides to convert all or part of the contract to a fixed-price type of contractual arrangement, the parties shall negotiate, in good faith, to revise the contract type. Prior to the exercise of options 001B and 001C, the government will perform the required analysis per FAR 17.207 to determine if any or all of the contract requirements are suitable to conversion to fixed-price contract type.

ARTICLE H-18 AMERICANS WITH DISABILITIES ACT, SECTION 508 POLICY

The contractor shall comply with accessibility requirements for electronic and information technology access as defined in Section 508 of the Rehabilitation Act (29 U.S.C. 794d). Detailed requirements for accessibility have been established by the Architectural and Transportation Barriers Compliance Board (Access Board) at 36 CFR Part 1194.

ARTICLE H-19 CLAUSES APPLICABLE TO ARTICLE B-2 - INDEFINITE-DELIVERY INDEFINITE-QUANTITY SERVICES

**FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1)
CLAUSES INCORPORATED BY REFERENCE:**

<u>Clause Number</u>	<u>TITLE</u>
52.222-43	Fair Labor Standards Act and Service Contract Act – Price Adjustment (Multiple Year and Option Contracts) (MAY 1989)
52.246-4	Inspection of Services – Fixed Price (AUG 1996)
52.249-4	Termination for Convenience of the Government (Services) (Short Form) (APR 1984)
52.249-8	Default (Fixed-Price Supply and Service) (APR 1984)

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FAR 52.216-11 COST CONTRACT – NO FEE (APR 1984)
 (Applicable to CLIN 011 - Other Direct Cost)

- (a) The Government shall not pay the contractor a fee for performing this contract.
- (b) After payment of 80 percent of the total estimated cost shown in the schedule, the contracting officer may withhold further payment of allowable cost until a reserve is set aside in an amount that the contracting officer considers necessary to protect the government's interest. This reserve shall not exceed one percent of the total estimated cost shown in the schedule or \$100,000 whichever is less.

FAR 52.216-18 ORDERING (OCT 1995)

- (a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the Schedule. Such orders may be issued from contract award through contract completion.
- (b) All delivery orders or task orders are subject to the terms and conditions of this contract. In the event of conflict between a delivery order or task order and this contract, the contract shall control.
- (c) If mailed, a delivery order or task order is considered "issued" when the Government deposits the order in the mail. Orders may be issued orally, by facsimile, or by electronic commerce methods only if authorized in the Schedule.

FAR 52.216-19 ORDER LIMITATIONS (OCT 1995)

- (a) Minimum order. When the Government requires supplies or services covered by this contract in an amount of less than \$5,000, the Government is not obligated to purchase, nor is the Contractor obligated to furnish, those supplies or services under the contract.
- (b) Maximum order. The Contractor is not obligated to honor—
 - (1) Any order for a single item in excess of \$1,000,000;
 - (2) Any order for a combination of items in excess of \$5,000,000; or

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- (3) A series of orders from the same ordering office within 60 days that together call for quantities exceeding the limitation in subparagraph (b)(1) or (2) of this section.
- (c) If this is a requirements contract (i.e., includes the Requirements clause at subsection 52.216-21 of the Federal Acquisition Regulation (FAR), the Government is not required to order a part of any one requirement from the Contractor if that requirement exceeds the maximum-order limitations in paragraph (b) of this section.
- (d) Notwithstanding paragraphs (b) and (c) of this section, the Contractor shall honor any order exceeding the maximum order limitations in paragraph (b), unless that order (or orders) is returned to the ordering office within 3 days after issuance, with written notice stating the Contractor's intent not to provide the supplies or services called for and the reasons. Upon receiving this notice, the Government may acquire the supplies or services from another source.

FAR 52.216-22 INDEFINITE QUANTITY (OCT 1995)

- (a) This is an indefinite-quantity contract for the supplies or services specified, and effective for the period stated, in the Schedule. The quantities of supplies and services specified in the Schedule are estimates only and are not purchased by this contract.
- (b) Delivery or performance shall be made only as authorized by orders issued in accordance with the Ordering clause. The Contractor shall furnish to the Government, when and if ordered, the supplies or services specified in the Schedule up to and including the quantity designated in the Schedule as the "maximum." The Government shall order at least the quantity of supplies or services designated in the Schedule as the "minimum."
- (c) Except for any limitations on quantities in the Order Limitations clause or in the Schedule, there is no limit on the number of orders that may be issued. The Government may issue orders requiring delivery to multiple destinations or performance at multiple locations.

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- (d) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; provided, that the Contractor shall not be required to make any deliveries under this contract after contract expiration, including any extensions provided under FAR Clauses 52.217-8 and 52.217-9.

NFS 1852.216-80 TASK ORDERING PROCEDURE (OCT 1996)

- (a) Only the Contracting Officer may issue 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 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 order, the Contracting Officer shall provide the Contractor with the following data:
- A functional description of the work identifying the objectives or results desired from the contemplated task order.
 - Proposed performance standards to be used as criteria for determining whether the work requirements have been met.
 - A request for a task plan from the Contractor to include the technical approach, period of performance, appropriate cost information, 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 task order to the Contractor containing, as a minimum, the following:
- (1) Date of the order.

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- (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). 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 task order, accounting and appropriation data.
- (e) The Contractor shall provide acknowledgment of receipt to the Contracting Officer within 3 calendar days 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 tasks 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 task plan, the task order shall prevail.

ARTICLE H-20 RESERVED

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ARTICLE H-21 DATA RIGHTS NOTICE

A. Any proposal submitted during the course of contract performance must expressly identify any computer software or technical data that is to be provided with less than unlimited data rights. The contractor shall notify the contracting officer in writing prior to incorporating any item, component, subcomponent, process, or software, wherein the related technical data or computer software qualifies as limited rights data or restricted computer software in accordance with Alternate II and III of FAR 52.227-14 and NFS 1852.227-86. This notification does not apply to commercial off-the-shelf (shrink-wrapped) computer software, and corresponding documentation, that has a standard commercial license unless the software is to be incorporated as a subcomponent in a developmental effort.

B. Technical data and computer software delivered shall not be marked with restrictive legends unless the Contracting Officer has given prior written consent.

C. All license agreements shall be compliant with Federal laws, regulations and the terms and conditions of this contract and shall be transferable to the government upon completion of the contract without additional cost to the Government. One copy of the final negotiated license agreement shall be forwarded to the Contracting Officer within 30 days of agreement to ensure compliance.

ARTICLE H-22 RESTRICTED RIGHTS NOTICE

A. Alternate III of FAR 52.227-14, Rights in Data – General.

1. Paragraph (b)(1) of Alternate III of FAR 52.227-14, Rights in Data – General, is hereby deleted and the following paragraph (b)(1) is substituted in lieu thereof:

(b)(1) Used or copied for use in or with multiple computers provided they are not used simultaneously, including use at any government installation to which such computers may be transferred.

2. The following is added as paragraph (b)(7) of Alternate III of FAR 52.227-14:

(b)(7) Used on multiple computers for network applications.

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3. Alternate III of FAR 52.227-14 is applicable to the Configuration Status Accounting System software.

B. NASA FAR Supplement (NFS) 1852.227-86, Commercial Computer Software –Licensing.

1. Paragraph (d)(2)(i) of NFS 1852.227-86, is hereby deleted and the following paragraph (d)(2)(i) is substituted in lieu thereof:

(d)(2)(i) Used or copied for use in or with multiple computers provided they are not used simultaneously, including use at any government installation to which such computers may be transferred.

2. The following is added as paragraph (d)(2)(v) of NFS 1852.227-86:

(d)(2)(v) Used on multiple computers for network applications.

ARTICLE H-23 LIMITED RIGHTS DATA NOTICE

A. Notwithstanding any other terms and conditions of this contract, the Government shall have the right to disclose technical data marked as limited rights data outside of the Government, without obtaining permission from the contractor, under the following circumstances:

1. Use (except for manufacture) by support service contractors.
2. Evaluation by non-government evaluators.
3. Use (except for manufacture) by other contractors participating in the Government's program of which the specific contract is a part, for information and use in connection with the work performed under each contract.
4. Emergency repair or overhaul work.
5. Release to a foreign government, or instrumentality thereof, as the interests of the United States Government may require, for information or evaluation, or emergency repair or overhaul work by such government.

B. Prior to disclosure, except in emergency circumstances as identified in paragraphs 4 and 5 above, the Government shall require the recipient to sign an agreement, provided by and acceptable to the contractor, to protect the data from

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unauthorized use and disclosure. The contractor shall provide a copy of the acceptable nondisclosure agreement to the Contracting Officer no later than 30 days after contract award.

ARTICLE H-24 MANAGEMENT AND PROTECTION OF DATA OF THIRD PARTIES

A. It is anticipated that the contractor may have access to, be furnished, use, or generate the following types of data (recorded information) in performance of this contract:

1. Data of third parties bearing limited rights or restricted rights notices submitted either to NASA or directly to the contractor: or
2. Other data of third parties, which NASA has agreed to handle under protective arrangements;

B. In order to protect the interests of the government and the interests of other owners of such data, the contractor agrees with respect to data in category 1 above, and with respect to any data in category 2 when so identified by the Contracting Officer, to:

1. Use and disclose such data only to the extent necessary to perform the work required under this contract, with particular emphasis on restricting the data to employees having a "need to know";
2. Preclude disclosure of such data outside contractor's organization performing work under this contract without written consent of the Contracting Officer. The contractor's organization includes support contractors to the extent they are subject to the same requirements regarding protection of 3rd party data; and
3. Return or dispose of such data as directed by the Contracting Officer or the furnishing third party owner when such data is no longer needed for contract performance.

ARTICLE H-25 SPECIAL COMPUTER SOFTWARE PROVISION

A. In addition to any restricted or unrestricted computer software specified elsewhere to be delivered under this contract, the Contractor, upon request of the Contracting Officer, shall deliver to the Government any computer software, including its documentation and available source code, which was created in connection with this contract.

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B. The restricted and unrestricted rights in computer software acquired or created during the performance of this contract shall remain in the custody of the Contractor until such time as the Contracting Officer calls for the delivery thereof under paragraph A above or such computer software is delivered pursuant to DR-10, Data Management Plan.

ARTICLE H-26 ASSOCIATE CONTRACTOR AGREEMENT FOR ISS OPERATIONS, CONSTELLATION, AND UTILIZATION ACTIVITIES

A. The success of the International Space Station (ISS) and Constellation is dependent on the efforts of multiple contractors. The CAPPS contractor is a key participant. The other contracts of the key participating contractors are:

1. Space Flight Operations Contract – NAS9-20000
2. ISS Development Contract – NAS15-10000
3. Carrier Integration Contract – (Contract Number to be added when awarded)
4. Orion Project – NNJ06TA25C

Under the aforementioned contracts the contractors will provide the necessary technical, engineering and processing products and services required to develop, operate, maintain and utilize the International Space Station.

B. In order to achieve efficient and effective implementation of the operation and utilization phase of the ISS, 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 ISS and Constellation Projects with increased safety, efficiency, and productivity.

C. Given the unique role of this contract in developing, operating, maintaining and utilizing the ISS and Constellation Projects, the contractor will engage in cooperative relationships that facilitate effective management of the overall ISS and Constellation Projects. This joint cooperation will be evaluated as part of the contract award fee process, as defined in the 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 ISS and Constellation Projects, the contractors shall establish formal guidelines to address coordination, cooperation and communication. All program elements shall work in a coordinated fashion.

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Each contractor shall establish the means for the exchange of such data as needed to keep other project elements fully informed.

E. Additionally, under a barter agreement, the Italian Space Agency will provide the sustaining engineering for the Multi-Purpose Logistics Module (MPLM). The CAPPS contractor shall cooperate and coordinate with the Italian Space Agency, or its successor, to the same extent as required for the three key participating contractors listed in paragraph A., above. However, the Italian Space Agency agreement may not contain reciprocal terms and conditions similar to this Article H-26.

ARTICLE H-27 INTERNATIONAL PARTNERS AND CONTRACTORS

A. The CAPPS contractor shall be responsible for obtaining the appropriate export control licenses or other approvals from the Department of State or the Department of Commerce for provision of technical assistance or provides technical assistance to a foreign interest or "foreign person" as defined in 22 CFR 120.16, and for each export. There are no applicable or available exemptions/exceptions to the International Traffic in Arms Regulations /Export Administration Regulations.

B. The foreign government agencies the CAPPS contractor will be working with are listed below:

- The Brazilian Space Agency (Instituto Nacional de Pesquisas Espaciais)
- Canadian Space Agency (CSA)
- European Space Agency (ESA)
- National Space Development Agency (NASDA) of Japan
- Russian Space Agency (RSA)

C. The International Space Station international contractors and Shuttle payload international contractors are listed below:

- Aerospatiale – France
- Alenia Aerospazio - Italy
- Astrium - Germany

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- Daimler Benz Aerospace - Germany
- Embraer - Brazil
- Energia – Russia
- Ishikawajima-Harima Heavy Industries – Japan
- Japan Manned Space Systems (JAMSS) - Japan
- Krunichev - Russia
- MacDonald Detwiller (MDR) – Canada
- Mitsubishi Heavy Industries (MHI) - Japan
- OHB – Germany
- Toshiba - Japan

ARTICLE H-28 POST PRODUCTION SUPPORT (PPS) PROPERTY MANAGEMENT

The CAPPS contractor shall be responsible for all government property accountable to the International Space Station Development contract, NAS15-10000, in CAPPS possession as described in Attachment J-1, Appendix 7. The CAPPS contractor shall adhere to Federal Acquisition Regulation (FAR) Part 45, Government Property and the NASA FAR Supplement, Part 1845.5 - Management of Government Property in the Possession of Contractors and the NASA FAR Supplement, Part 1845.6, Reporting, Redistribution, and Disposal of Contractor Inventory. The CAPPS contractor shall accommodate ISS PPS material within their property system. The International Space Station (ISS) development contractor at JSC retains accountability for all NAS15-10000 government property in the CAPPS contractor's possession.

The CAPPS contractor shall report any incidents, issues, loss, damage, or destruction of ISS property in their possession or in the possession of their subcontractors, to the delegated Government Property Administrator at KSC responsible for the CAPPS contract and the ISS Development Contract Property Manager when such property is accountable to the NAS15-10000 contract.

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ARTICLE H-29 INFORMATION INCIDENTAL TO CONTRACT ADMINISTRATION

A. With the exception of financial information, the Government shall have unlimited rights to use and distribute to third parties any administrative or management information developed by the contractor or a subcontractor at any tier in whole or in part for the performance of the contract or first produced in the performance of the contract, whether or not said information is specified as a contract deliverable, if created in whole or in part at Government expense. The Contracting Officer may, at any time during the contract performance or within a period 3 years after acceptance of all items to be delivered under this contract, order any administrative or management information developed by the contractor or a subcontractor at any tier in whole or in part for the performance of the contract or first produced in the performance of the contract.

B. The Contracting Officer may release the contractor from the requirements of this clause for specifically identified information at any time during the 3-year period set forth in paragraph A of this clause.

ARTICLE H-30 INCORPORATION OF CAPPS APPROACHES AND FEATURES

The contractor shall provide the beneficial approaches and specific features described in Attachment J-10 to meet contract requirements. If necessary, schedules may be modified for reasons including, but not limited to, changing program priorities, by mutual agreement of the parties. Such changes shall be implemented by contract modification. The estimated cost and fee for providing these approaches and features, as described in Attachment J-10, is included in CLIN 001.

ARTICLE H-31 KSC 52.236-130 CONDUCT OF FACILITY PROJECTS (APR 2000)

A. Approval

The contractor shall not award or otherwise proceed with implementation of any facility project without a NASA approved Facility Project – Brief Project Document (NASA Form 1509). The contractor shall prepare or otherwise support the preparation of NASA Form 1509's in accordance with the current edition of NPG 8820.2, Facility Project Implementation Handbook, and the current version of the KSC procedure for Facility Project Approval and Implementation. For purposes of this requirement a Facility Project is defined as any new construction, repair, and /or modification affecting Government real property located on KSC

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regardless of the source of funding, or located elsewhere and funded by KSC, and costing more than \$50,000. Planning and design activities leading to the implementation of the actual construction, repair or modification work normally can be accomplished prior to 1509 approval. When in doubt, guidance as to whether or not a particular activity is a Facility Project, is “implementation” versus “planning and design,” and / or the applicability of this requirement in relation to specific projects should be obtained from the KSC Spaceport Services Management Integration Office.

B. File Documentation

Construction subcontract file documentation shall include a copy of the approved NASA Form 1509 authorizing the project. For construction subcontracts requiring Contracting Officer consent, the consent file shall include a copy of the approved NASA Form 1509 authorizing the project.

ARTICLE H-32 INDEMNIFICATION

For purposes of FAR Clause 52.250-1, Alternate 1, (APR 84) the following is the definition of unusually hazardous risks:

The unusually hazardous risks associated with this contract for which indemnification is authorized are risks arising out of or resulting from the burning, explosion, or detonation or landfall of Space Transportation System (STS) flight elements, components, or ground equipment or of other missiles, rocket engines, space systems, space vehicles, or components or parts occurring during the flight risk period and arising from the contractor’s activities under the CAPPS contract regardless of when those activities occur. The flight risk period begins from the time the CAPPS-processed payload is being loaded into the Orbiter’s payload bay prior to launch, to when the payload or payload carriers are removed from the payload bay upon the return of the Orbiter.

These risks are considered unusually hazardous in the sense that the potential occurrence of such risks during the Flight Risk Period may result in a catastrophic accident with potential liability that could be substantially in excess of the insurance coverage NASA contractors could reasonably be expected to purchase and maintain, considering the availability, cost, and terms and conditions of such insurance.

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ARTICLE H-33 MANAGEMENT AND PROTECTION OF INFORMATION

- (a) This clause applies only to effort described in Attachment J-1 SOW Subparagraph 9.0, Constellation Program. The Contractor's Organizational Conflict of Interest (OCI) Mitigation Plan dated July 27, 2006, is incorporated as a compliance document by Appendix 23 to the SOW.
- (b) It is anticipated that the Contractor will have access to Non-public NASA Constellation Program Sensitive information.
- (c) It is not anticipated the Contractor will have access to, be furnished, or use the following types of recorded information:
 - (1) Information of third parties with limited rights or restricted rights notices submitted to NASA or directly to the Contractor.
 - (2) Information of third parties which NASA has agreed to handle under protective arrangements.
 - (3) Information related to review or evaluation of another contractor's proposal information.
- (d) The Contractor agrees to (1) use and disclose Non-public NASA Constellation Program Sensitive information only to the extent necessary to perform the work required under this contract, and consistent with Appendix 23, OCI Mitigation Plan, and (2) to establish the necessary procedures to preclude disclosure of such information outside of the Identified Personnel as defined in the OCI Mitigation plan or their assigned work area, except in accordance with the written instructions of the Contracting Officer.

ARTICLE H-34 PERMISSION TO ASSERT COPYRIGHT IN SOFTWARE

The Boeing Company (hereinafter CONTRACTOR) has requested, under paragraph (d)(3) of the "Rights in Data-General" clause (FAR clause 52.227-14 (Jun 1987), as modified by NASA FAR Supplement clause 1852.227-14 (Oct 1995)) of this NASA Contract NAS 10-02007 Checkout, Assembly and Payload Processing (CAPPS) contract. (hereinafter CONTRACT), permission to publish, release to others and assert copyright in the computer software identified below under software descriptions (hereinafter SOFTWARE).

SOFTWARE DESCRIPTIONS:

1. OPP Automated PDF Generation Utility: Allows for automation of cost/schedule information and data product generation.
2. Electronic Kaizen Newspaper Software Application: Allows for LEAN deployment managing multiple and various projects automating data product generation.

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3. Flight Tool Box- Tool Report Access Program (TRAP): Allows for total tool control and for an improved system for controlling foreign object debris.

For purposes of further defining rights in the SOFTWARE, the SOFTWARE includes source codes, object codes, executables, ancillary files, screen displays, and documentation first produced in performance of the CONTRACT. SOFTWARE does not include any software and/or methodology developed by the CONTRACTOR or others outside of the CONTRACT.

The Contracting Officer hereby grants the CONTRACTOR permission to publish, release to others and assert copyright in the SOFTWARE, as authorized by FAR Clause 52.227-14, as modified by NASA FAR Supplement Clause 18.52.227-14, subject to the following conditions:

(a) The permission granted in this clause is subject to any rights in third parties under agreements executed by NASA prior to the effective date of this modification.

(b) The foregoing permission does not affect in any way the applicability of the United States (U.S.) export control laws and regulations on any use and release of such SOFTWARE which the CONTRACTOR may contemplate under this permission.

(c) The permission granted in this clause in no way grants or conveys to the CONTRACTOR any license or right under any other NASA patent, copyright, technology, or other intellectual property.

(d) The U.S. Government and others acting on its behalf retain a paid-up nonexclusive, irrevocable worldwide license to reproduce, prepare derivative works, perform publicly and display publicly by or on behalf of the U.S. Government all SOFTWARE. Such license includes, but is not limited to, use by NASA contractors, grantees and others working under agreements with the U.S. Government.

(e) If the CONTRACTOR determines to assert copyright protection for the SOFTWARE, the Contractor shall affix the copyright notice of 17 U.S.C. 401 to the SOFTWARE when it is delivered to the U.S. Government, released or furnished to third parties, or deposited for registration as a published work in the U.S. Copyright Office. Furthermore, the CONTRACTOR shall include the following citation in all SOFTWARE delivered to the U.S. Government, published or deposited for registration as a published work in the U.S. Copyright Office: "(name of software and version) was developed under NASA Contract NAS 10-02007 and the U.S. Government retains certain rights." If necessary, the shortened citation "The U.S. Government retains certain rights in this software" may be used. This citation requirement includes literature, Internet web-servers,

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and promotional materials. Uses of the NASA name or initials other than those provided for in this Paragraph shall require the express written approval of NASA. Approval by NASA shall be based on applicable law (e.g., 42 U.S.C. §§ 2459b, 2472(a), and 2473(c) (1); and 14 C.F.R. § 1221.100 et. seq.) and policy governing the use of the words "National Aeronautics and Space Administration" and the letters "N A S A."

(f) The CONTRACTOR agrees to deliver without charge, copies of any updated or enhanced versions of the SOFTWARE covered by the permission herein granted which are generated within a period of three (3) years following this permission grant. If the CONTRACTOR desires, such updated or enhanced versions may be delivered with restrictions on use for NASA purposes only.

(g) The CONTRACTOR shall not assign or transfer its rights and interest in the SOFTWARE granted herein to other organizations without prior written NASA approval.

The above conditions and NASA's rights relating thereto shall survive the termination or expiration of this CONTRACT.

All other terms and conditions of this CONTRACT remain unchanged.

**ARTICLE H-35 KSC 52.223-121 REPORTING OF INCIDENTS INVOLVING
WORKPLACE VIOLENCE JUL 2008**

The contractor shall conduct training on and develop procedures for recognizing, managing and responding to incidents and threats of workplace violence as defined in NASA Policy Directive (NPD) 1600.3. Contractors shall also promptly report all incidents involving workplace violence to the Protective Services Office. If the NASA Workplace Violence Prevention and Response (WVPR) Team Chair and Co Chair determine it is appropriate for the contractor to participate in a WVPR Team meeting, the contractor shall comply with the WVPR Team request. The contractor is also responsible for reporting disposition of the incident reported to the NASA WVPR Team.

This requirement shall flow down to the subcontractors, however the subcontractors shall report up through the prime contractor.