

Common Terms and Conditions Guide
Section 5 – Government Contract Requirements

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JPL CONTRACT 1250529
NSI POWER SYSTEM DESIGN (JIMO)

(a) FAR CLAUSES

The following contract clauses are incorporated by reference from the Federal Acquisition Regulation and apply to the extent indicated. Unless provided for otherwise elsewhere in this contract, the only FAR clauses applicable to any portion of this contract that is for commercial items or commercial components, as those terms are defined at FAR 52.202-1, are the clauses listed in FAR 52.244-6 [see subparagraph (34) below]. In all of the following clauses, "Contractor" and "Offeror" shall mean Seller.

- (1) 52.203-6 Restrictions on Subcontractor Sales to the Government (JUL 1995). This clause applies only if this contract exceeds \$100,000.
- (2) 52.203-7 Anti-Kickback Procedures (JUL 1995) [excluding subparagraph (c)(1)]. This clause applies only if this contract exceeds \$100,000. Buyer may withhold from sums owed Seller the amount of any kickback paid by Seller or its subcontractors at any tier if (a) the Contracting Officer so directs, or (b) the Contracting Officer has offset the amount of such kickback against money owed Buyer under the prime contract.
- (3) 52.203-10 Price or Fee Adjustment for Illegal or Improper Activity (JAN 1997). This clause applies only if this contract exceeds \$100,000. If the Government reduces Buyer's price or fee for violations of the Act by Seller or its subcontractors at any tier, Buyer may withhold or recover from Seller the amount of the reduction.
- (4) 52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (APR 1991). This clause applies only if this contract exceeds \$100,000.
- (5) 52.203-12 Limitation on Payments to Influence Certain Federal Transactions (JUN 1997). This clause applies only if this contract exceeds \$100,000. Paragraph (c) (4) is modified to read as follows: "(c) (4) Seller will promptly submit any disclosure required (with written notice to Buyer's Authorized Purchasing Representative) directly to the PCO for the prime contract. Buyer will identify the cognizant Government PCO at Seller's request. Each subcontractor certification will be retained in the subcontract file of the awarding contractor."
- (6) 52.204-2 Security Requirements (AUG 1996) (excluding any reference to the Changes clause of this contract). This clause applies only if access to classified information is required.

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- (7) 52.211-15 Defense Priority and Allocation Requirements (SEP 1990). The rating for this order is DO-C9.
- (8) 52.215-2 Audit and Records -- Negotiation (JUN 1999). This clause applies only if this contract exceeds \$100,000 and (i) is cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable type or any combination of these types; (ii) Seller was required to provide cost or pricing data, or (iii) Seller is required to furnish reports as discussed in paragraph (e) of the referenced clause.
- (9) 52.215-10 Price Reduction For Defective Cost or Pricing Data (OCT 1997). This clause applies only if this contract exceeds \$550,000. In subparagraph (3) of paragraph (a), insert "of this contract" after "price or cost." In Paragraph (c), "Contracting Officer" shall mean "Contracting Officer or Buyer." In Paragraphs (c)(1), (c)(1)(ii), and (c)(2)(i), "Contracting Officer" shall mean "Contracting Officer or Buyer." In Subparagraph (c)(2)(i)(A), delete "to the Contracting Officer." In Subparagraph (c)(2)(ii)(B), "Government" shall mean "Government or Buyer." In Paragraph (d), "United States" shall mean "United States or Buyer."
- (10) 52.215-11 Price Reduction For Defective Cost Or Pricing Data-Modifications (OCT 1997). This clause applies only if this contract exceeds \$550,000. "Contracting Officer" shall mean "Contracting Officer or Buyer." In Subparagraph (d)(2)(i)(A), delete "to the Contracting Officer." In Subparagraph (d)(2)(ii)(B), "Government" means "Government" or "Buyer." In Paragraph (e), "United States" shall mean "United States or Buyer."
- (11) 52.215-12 Subcontractor Cost or Pricing Data (OCT 1997). This clause applies only if this contract exceeds \$550,000. The certificate required by paragraph (b) of the referenced clause shall be modified as follows: delete "to the Contracting Officer or the Contracting Officer's representative" and substitute in lieu thereof "The Boeing Company or any of its wholly owned subsidiaries."
- (12) 52.215-13 Subcontractor Cost or Pricing Data – Modifications (OCT 1997). This clause applies only if this contract exceeds \$550,000. The certificate required by paragraph (b) of the referenced clause shall be modified as follows: delete "to the Contracting Officer or the Contracting Officer's representative" and substitute in lieu thereof "The Boeing Company or any of its wholly owned subsidiaries."
- (13) 52.215-14 Integrity of Unit Prices (OCT 1997) [excluding paragraph (b)]. This clause applies only if this contract exceeds \$100,000. This clause is not applicable to service contracts that do not require delivery of supplies.
- (14) 52.219-8 Utilization of Small Business Concerns (OCT 2000)

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- (15) 52.219-9 Small Business Subcontracting Plan (OCT 2001). This clause applies only if this contract exceeds \$500,000 and Seller is not a small business concern. In paragraph (c), "Contracting Officer" shall mean Buyer.
- (16) 52.222-1 Notice to the Government of Labor Disputes (FEB 1997). "Contracting Officer" shall mean Buyer.
- (17) 52.222-4 Contract Work Hours and Safety Standards Act – Overtime Compensation (JUL 1995). This clause applies only if this contract exceeds \$100,000. Buyer may withhold or recover from Seller such sums as the Contracting Officer withholds or recovers from Buyer because of liabilities of Seller or its subcontractors under this clause.
- (18) 52.222-21 Prohibition of Segregated Facilities (FEB 1999)
- (19) 52.222-26 Equal Opportunity (APR 2002) [subparagraphs (b)(1) through (11)]
- (20) 52.222-35 Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (DEC 2001). This clause applies only if this contract exceeds \$25,000.
- (21) 52.222-36 Affirmative Action for Workers With Disabilities (JUN 1998). This clause applies only if this contract exceeds \$10,000.
- (22) 52.222-37 Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (DEC 2001). This clause applies only if this contract exceeds \$25,000.
- (23) 52.223-14 Toxic Chemical Release Reporting (OCT 2000) [excluding paragraph (e)]. This clause applies only if this contract was competitively awarded, exceeds \$100,000 (including all options), is not for commercial items as defined in FAR Part 2.
- (24) 52.225-3 Buy American Act – Supplies (JAN 1994)
- (25) 52.225-13 Restrictions on Certain Foreign Purchases (JUL 2000)
- (26) 52.227-1 Authorization and Consent (JUL 1995), Alternate I (APR 1984)
- (27) 52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement (AUG 1996). This clause applies only if this contract exceeds \$100,000. A copy of each notice sent to the Government will be sent to Buyer's Authorized Purchasing Representative.
- (28) 52.227-11 Patent Rights – Retention by the Contractor (Short Form) (JUN 1997). This clause applies only if this contract is for experimental, developmental, or research work and Seller is a small business or nonprofit organization.

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- (29) 52.227-12 Patent Rights – Retention by the Contractor (Long Form) (JAN 1997). This clause applies only if this contract is for experimental, developmental, or research work and Seller is not a small business or nonprofit organization.
 - (30) 52.227-14 Rights in Data -- General (JUN 1987) and Alternates II, III, and V (JUN 1987) -- As modified by NASA FAR Supplement 18-52.227-14. This clause applies only if data will be produced, furnished, or acquired under this contract.
 - (31) 52.227-16 Additional Data Requirements (JUN 1987). This clause applies only if technical data or computer software will be generated or delivered under this contract.
 - (32) 52.228-5 Insurance - Work on a Government Installation (JAN 1997). Seller shall provide and maintain insurance as set forth in this contract.
 - (33) 52.230-6 Administration of Cost Accounting Standards (AUG 1992). This clause applies only if clause 3050, 3051, 3066 or 3067, is incorporated in this contract. Add "Buyer and the" before "Contracting Officer" in paragraph (f).
 - (34) 52.244-6 Subcontracts for Commercial Items (DEC 2001)
 - (35) 52.245-2 Government Property (Fixed-Price Contracts) (DEC 1989). This clause is not applicable if this contract incorporates GP4.
 - (36) 52.246-23 Limitation of Liability (FEB 1997)
 - (37) 52.246-25 Limitation of Liability – Services (FEB 1997). This only applies if the value of the order exceeds \$25,000.
 - (38) 52.247-63 Preference for U.S. – Flag Air Carriers (JAN 1997). This clause applies only if this contract may involve international air transportation
- (b) The following contract clauses are incorporated by reference from the National Aeronautics and Space Administration Federal Acquisition Regulation Supplement and apply to the extent indicated. In all of the following clauses, "Contractor" and "Offeror" shall mean Seller.
- (1) 18-52.208-81 Restrictions on Printing and Duplicating (AUG 1993).
 - (2) 18-52.219-74 Use of Rural Area Small Businesses (SEP 1990). This clause applies only if this contract offers subcontracting possibilities.
 - (3) 18-52.219-75 Small Business Subcontracting Reporting (MAY 1999). This clause applies only if this contract exceeds \$500,000 and Seller is not a Small Business concern.

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- (4) 8-52.223-74 Drug- and Alcohol-Free Workplace (MAR 1996). This clause applies only if work is performed by an employee in a sensitive position, except if this contract is for commercial items.
 - (5) 18-52.227-14 Rights in Data – General (OCT 1995). This clause applies only if data will be produced, furnished, or acquired under this contract except contracts for basic or applied research with universities or colleges.
 - (6) 18-52.227-70 New Technology (NOV 1998). This clause applies only if this contract is for experimental, developmental, or research work and Seller is not a small business or nonprofit organization.
 - (7) 18-52.227-86 Commercial Computer Software Licensing (DEC 1987). This clause only applies if technical data or computer software will be generated or delivered.
 - (8) 18-52-228-72 Cross-Waiver of Liability for Space Shuttle Services (SEP 1993)
 - (9) 18-52.228-76 Cross-Waiver of Liability for Space Station Activities (DEC 1994)
 - (10) 18.52.228-78 Cross-Waiver of Liability for NASA Expendable Launch Vehicle (ELV) Launches (SEP 1993)
 - (11) 18-52.244-70 Geographic Participation in the Aerospace Program (APR 1985). This clause applies only if this contract is for \$100,000 or more.
- (c) Cost Accounting Standards
- (1) The version of FAR 52.230-2, Cost Accounting Standards, incorporated by clause 3050 is the version dated April 1998.
 - (2) The version of FAR 52.230-3, Disclosure and Consistency of Cost Accounting Practices, incorporated by clause 3051 is the version dated April 1998.
 - (3) The version of Far 52.230-4, Consistency in Cost Accounting Practices, incorporated by clause 3065 is the version dated August 1992.
 - (4) The version of FAR 52.230-5, Cost Accounting Standards – Educational Institution, incorporated by clause 3066 is the version dated April 1998.
 - (5) The version of FAR 52.230-3, Disclosure and Consistency of Cost Accounting Practices, incorporated by clause 3067 is the version dated April 1998.
- (d) Export-Controlled Data Restrictions
- (1) For the purpose of this clause,

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- (A) Foreign person is any person who is not a citizen of the U.S. or lawfully admitted to the U.S. for permanent residence under the Immigration and Nationality Act, and includes foreign corporations, foreign organizations, and foreign governments;
 - (B) Foreign representative is anyone, regardless of nationality or citizenship, acting as an agent, representative, official, or employee of a foreign government, a foreign-owned or influenced firm, corporation, or person; and
 - (C) Foreign sources are those sources (vendors, subcontractors, and suppliers) owned and controlled by a foreign person.
- (2) Seller shall place a clause in subcontracts containing appropriate export control restrictions, set forth in this clause.
 - (3) Nothing in this clause waives any requirement imposed by any other U.S. Government agency with respect to employment of foreign nationals or export-controlled data and information.
 - (4) Equipment and technical data generated or delivered in the performance of this contract are controlled by the International Traffic in Arms Regulation (ITAR), 22 CFR Sections 121 through 128. An export license is required before assigning any foreign source to perform work under this contract or before granting access to foreign persons to any equipment and technical data generated or delivered during performance (see 22 CFR Section 125). Seller shall notify Buyer and obtain the written approval of Buyer prior to assigning or granting access to any work, equipment, or technical data generated or delivered in the performance of this contract to foreign persons or their representatives. This notification shall include the name and country of origin of the foreign person or representative, the specific work, equipment, or data to which the person will have access, and whether the foreign person is cleared to have access to technical data (DoD 5220.22-M, National Industrial Security Program Operating Manual (NISPOM)).
- (e) Prohibition of Contractor Use of Privately Owned Aircraft in Contract Performance.

Seller, its employees, agents and subcontractors, shall not use privately owned (noncommercial) aircraft in the performance of this order without the prior approval of JPL, obtained through Buyer. Any request for approval to use privately owned aircraft must include a certificate of insurance as evidence that Seller has in effect Aircraft Liability Insurance coverage of not less than \$5 million for all deaths, injuries and property damage arising from one accident or occurrence. Seller shall be required as a condition of approval to submit an endorsement naming Buyer and JPL as additional insureds in each such aircraft liability insurance policy.

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(f) Release of Information.

Buyer's customer requires that all materials directly relating to Seller's efforts on this order be reviewed by the customer before any public release of the materials in question. Before release, Seller shall send the materials to the Buyer, stating Seller's deadlines. In the event this order is cost type, review shall not constitute approval for reimbursement of expenditures made in connection with publicity or advertising releases; any such expenditures remain subject to applicable cost principles. Nothing in this clause shall be deemed to change existing requirement relating to the release of classified information.

(g) Compliance with Americans With Disabilities Act.

Seller agrees to comply with the Americans with Disabilities Act. Seller agrees that it will be responsible to Boeing and the Government for, and will indemnify and hold harmless Boeing and the Government, its trustees, officers and employees from any loss, cost, damage, expense or liability or suit therefore, by reason of actual or alleged property damage or personal injury of whatever kind or character, arising out of or in connection with performance of the requirements of this clause, however the same may be caused, excepting only such loss, cost, damage, expense or liability attributable to the sole or contributory active negligence of Boeing or the Government or its trustees, officers or employees.