

**CUSTOMER CONTRACT REQUIREMENTS
INITIAL TPS COUPONS FOR TESTING
CUSTOMER CONTRACT NNA07BC05C**

CUSTOMER CONTRACT REQUIREMENTS

The following customer contract requirements apply to this contract to the extent indicated below. If this contract is for the procurement of commercial items under a Government prime contract, as defined in FAR Part 2.101, see Section 3 below.

1. FAR Clauses. The following contract clauses are incorporated by reference from the Federal Acquisition Regulation and apply to the extent indicated. In all of the following clauses, "Contractor" and "Offeror" mean Seller.

52.203-6 Restrictions on Subcontractor Sales to the Government (Jul 1995). This clause applies only if this contract exceeds \$100,000.

52.203-7 Anti-Kickback Procedures (excluding subparagraph (c)(1)) (Jul 1995). 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. This clause applies only if this contract exceeds \$100,000.

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 from sums owed Seller the amount of the reduction.

52.203-12 Limitation on Payments to Influence Certain Federal Transactions (Sep 2005). 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 Boeing) directly to the PCO for the prime contract. Boeing will identify the cognizant Government PCO at Seller's request. Each subcontractor certification will be retained in the subcontract file of the awarding contractor.

52.211-5 Material Requirements (Aug 2000). Any notice will be given to Buyer rather than the Contracting Officer.

52.211-15 Defense Priority and Allocation Requirements (Sep 1990). This clause is applicable if a priority rating is noted in this contract.

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.

52.215-10 Price Reduction For Defective Cost or Pricing Data (Oct 1997). This clause applies only if this contract exceeds the threshold set forth in FAR 15.403-4 and is not otherwise exempt. 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." .

52.215-12 Subcontractor Cost or Pricing Data (Oct 1997). This clause applies only if this contract exceeds the threshold set forth in FAR 15.403-4 and is not otherwise exempt. 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." .

52.215-14 Integrity of Unit Prices (excluding subparagraph (b)) (Oct 1997). This clause applies except for contracts at or below \$100,000; construction or architect-engineer services under FAR Part 36; utility services under FAR Part 41; services where supplies are not required; commercial items; and petroleum products.

52.215-15 Pension Adjustments and Asset Reversions (Oct 2004). This Clause applies to this contract if it meets the requirements of FAR 15.408(g).

52.215-18 Reversion or Adjustment of Plans for Postretirement Benefits Other Than Pensions (PRB) (Jul 2005). This Clause applies to this contract if it meets the requirements of FAR 15.408(j).

52.215-19 Notification of Ownership Changes (Oct 1997). This Clause applies to this contract if it meets the requirements of FAR 15.408(k).

52.219-8 Utilization of Small Business Concerns (May 2004).

52.219-9 Small Business Subcontracting Plan (Sep 2006). This clause applies only if this contract exceeds \$550,000. and Seller is not a small business concern.

52.222-1 Notice to Government of Labor Disputes (Feb 1997). Contracting Officer shall mean Buyer.

52.222-20 Walsh-Healy Public Contracts Act (Dec 1996). This clause applies only if this contract exceeds \$10,000.

- 52.222-21 Prohibition of Segregated Facilities** (Feb 1999).
- 52.222-26 Equal Opportunity (subparagraph (b)(1) through (11))** (Apr 2002).
- 52.222-35 Equal Opportunity for Special Disabled, Veterans of the Vietnam Era, and Other Eligible Veterans** (Sep 2006). This clause applies only if this contract exceeds \$25,000.
- 52.222-36 Affirmative Action for Workers With Disabilities** (Jun 1998). This clause applies only if this contract exceeds \$ 10,000.
- 52.222-37 Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans** (Sep 2006). This clause applies only if this contract exceeds \$25,000.
- 52.223-3 Hazardous Material Identification and Material Safety Data** (Jan 1997). This clause applies only if Seller delivers hazardous material under this contract.
- 52.223-14 Toxic Chemical Release Reporting (excluding subparagraph (e))** (Aug 2003). This clause applies only if this contract is not for commercial items as defined in FAR Part 2, was competitively awarded, and exceeds \$100,000 (including all options).
- 52.225-1 Buy American Act - Balance of Payments - Supplies** (Jun 2003). This clause does not apply if this contract is placed under a Department of Defense contract.
- 52.225-13 Restrictions on Certain Foreign Purchases** (Feb 2006).
- 52.227-1 Authorization and Consent** (Jul 1995).
- 52.227-1 Authorization and Consent (JUL 1995) - Alternate I (APR 1984)**
- 52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement** (Aug 1996). A copy of each notice sent to the Government will be sent to Buyer. "Contracting Officer" shall mean "Buyer". This clause applies only if this contract exceeds \$100,000.
- 52.227-11 Patent Rights - Retention by the Contractor (Short Form)** (Jun 1997). This clause only applies if this Contract is for experimental, developmental, or research work and Seller is a small business firm or nonprofit organization.
- 52.227-12 Patent Rights - Retention by the Contractor (Long Form)** (Jan 1997). This clause only applies if this Contract is for experimental, developmental, or research work and Seller is other than a small business firm or nonprofit organization.
- 52.227-14 Rights in Data - General** (Jun 1987). (ALTERNATE II) (JUN 1987)
(ALTERNATE III) (JUN 1987) (ALTERNATE V) (JUN 1987) As modified by NFS

1852.22714, Paragraph (g)(2)(a) "Limited Rights Notice"- is revised to include portions of the following data deliverables (that are related to pre-existing constituents or processes for fabricating TPS material), that will not be shared with the Orion prime contractor: See Table. This clause applies only if data will be produced, furnished or acquired under this contract.

52.230-6 Administration of Cost Accounting Standards (Apr 2005). Add "Buyer and the" before "CFAO" in paragraph (m). This provision applies if Clause H001, H002 or H004 is included in Buyer's contract.

52.244-5 Competition in Subcontracting (Dec 1996).

52.244-6 Subcontracts for Commercial Items (Sep 2006).

52.245-2 Government Property (Fixed Price Contracts) (May 2004). This clause is not applicable if this contract incorporates Form GP4. "Government" shall mean Government throughout except the first time it appears in paragraph (f) when "Government" shall mean the Government or the Buyer.

2. NASA FAR Supplement Clauses. NASA Contracts. 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\" means Seller.

18-52.203-76 Security Requirements for Unclassified Information Technology Resources (Nov 2004). This clause applies if this contract meets the conditions contained in paragraph a. of this clause.

18-52.208-81 Restrictions on Printing and Duplicating (Nov 2004).

18-52.211-70 Packaging, Handling, and Transportation (Sep 2005).

18-52.219-74 Use of Rural Area Small Businesses (Sep 1990). This clause applies only if this contract offers subcontracting possibilities.

18-52.219-75 Small Business Subcontracting Reporting (May 1999). This clause applies if FAR 52.219-9 is included in this contract.

18-52.219-76 NASA 8 Percent Goal (Jul 1997). This clause applies only if Seller is not a small business.

18-52.223-70 Safety and Health (Apr 2002). This clause applies only if this contract exceeds \$1,000,000 or construction, repairs or alteration in excess of \$100,000, or it involve the use of hazardous materials or operations.

18-52.227-14 Rights in Data - General 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.

18-52.227-70 New Technology (May 2002). This clause only applies if this Contract is for experimental, developmental, or research work and Seller is other than a small business firm or nonprofit organization..

18-52.227-72 Designation of New Technology Representative (Jul 1997). The new technology representative (if any) will be designated in this contract. This is applicable to this contract if it includes a "New Technology" clause or a " Patents Rights - Retention by the Contract (Short Form)" clause.

18-52.227-86 Commercial Computer Software Licensing (Dec 1987). This clause applies only if Seller's software will be delivered to NASA under licensing.

18-52.237-72 Access to Sensitive Information (Jun 2005).

18-52.242-73 NASA Contractor Financial Management Reporting (Nov 2004). This clause applies only if this contract is a cost-type, price redetermination or FPI contract. "Contracting Officer" shall mean Buyer's Authorized Procurement Representative.

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.

3. Commercial Items. If goods or services being procured under this contract are commercial items and Clause H203 is set forth in the purchase order, the foregoing Government clauses in Sections 1 and 2 above are deleted and the following FAR/DFARS clauses are inserted in lieu thereof:

52.219-8 Utilization of Small Business Concerns (May 2004).

This clause applies only if the supplies are of a type described in paragraph (b)(2) of this clause. In paragraph (d), "45 days" is changed to "60 days." In paragraph (g) "Government" means Buyer. If this contract is at or below \$100,000, paragraphs (f) and (g) are excluded.

52.222-26 Equal Opportunity (subparagraph (b)(1) through (11)) (Apr 2002).

52.222-35 Affirmative Action for Special Disabled and Vietnam Era Veterans (Dec 2001). This clause applies only if this contract exceeds \$25,000.

52.222-36 Affirmative Action for Handicapped Workers (Jun 1998). This clause applies only if this contract exceeds \$10,000.

52.222-39 Notification of Employee Rights Concerning Payment of Union Dues or Fees (Dec 2004). This clause applies only if this contract exceeds \$100,000.

4. Cost Accounting Standards.

(1) (Applicable if this contract incorporates clause H001). The version of FAR 52.230-2, Cost Accounting Standards, incorporated by clause H001 is the version dated April 1998.

5. The following prime contract special provisions apply to this purchase order:

A. NOTIFICATION OF DEBARMENT/SUSPENSION STATUS

Seller shall provide immediate notice to Buyer in the event of being debarred suspended, or proposed for debarment by any Federal Agency during the performance of this contract.

B. ORGANIZATIONAL CONFLICT OF INTEREST

(a) The Contracting Officer has concluded that this acquisition may give rise to an organizational conflict of interest. Accordingly, the attention of the Contractor is directed to FAR Subpart 9.5, "Organizational and Consultant Conflicts of Interest."

(b) The nature of the actual or potential organizational conflicts of interest (OCI) in this acquisition is described below:

A continuing organizational conflicts of interest issue exists because the proposed solutions selected for award under this procurement will compete, although not directly, with the previously awarded Orion TPS Block 2 Phase II procurement. Since multiple awards are anticipated for this procurement, competition will exist between each of the Alternate Block 2 solutions. Furthermore, there is an appearance of competition between the existing Block 1 procurement and the current Block 2 procurement because the Orion Prime contractor is also a Block 1 Orion TPS contractor and a potential offeror for this Alternate Block 2 TPS procurement.

The goal of both the Orion project office and the Orion Prime contractor is the development of a Block 2 (lunar return-capable) system by Initial Operating Capability (IOC), thus the decision between Block 2 and Block 1 will not be based on a comparison between the Block 1 and Block 2 solutions, but instead, on the capability of the Block 2 solution. The Block 1 solution will only be selected in the event that the Block 2 solution presents a significantly unacceptable and unmitigated risk.

1. Even though the alternate Block 2 TPS candidates that result from this procurement will not be on a critical path to be immediately incorporated into the Orion heat shield, they might still be considered to be in competition for Block 2 TPS. If a selection were to prove necessary between the leading Block 2 solution (contract awarded for Orion TPS Block 2 Phase II), and one or more of the Alternate Orion TPS Block 2 solutions developed under the present

procurement, the NASA Orion Project Office will make a decision based upon a recommendation provided by the NASA Orion TPS ADP.

(c) To avoid, neutralize, or mitigate actual or potential organizational conflicts of interest should the Orion prime contractor and/or a Orion subcontractor be selected for contract award under this procurement, that company will be required to establish an internal firewall that segregates individuals and protects against the transfer of Limited Rights Data, Restricted Computer Software or Government Sensitive Information between those parts of the organization that work on Orion Prime responsibilities and those parts of the organization that work on this Block 2 TPS alternative solution. The internal firewall requirement will ensure that the only information exchanged between the Orion Prime group and its Alternate Block 2 TPS group is that which is required between any other Alternate Block 2 TPS contractor and the Orion Prime contractor.

Alternate Block 2 TPS contractors that are also the Orion Prime contractor must provide a proposed plan for communications between the Orion Prime contractor and all Alternate Block 2 TPS contractors that maintains the above referenced OCI requirements. The proposed plans will be evaluated by the Government to determine whether a Government liaison will be necessary to maintain the OCI requirements.

Identification by name of those Orion prime contract employees and their subcontractors working on the Orion Prime Contract who receive third party TPS contractor Sensitive Information is required. The Orion prime contractor shall be required to keep this list current and make this list available to all those authorized to access the data. Disclosure of Sensitive Information to Orion prime contract employees and their subcontractors not on this list and to any other unauthorized contractors is strictly prohibited. It is emphasized that individuals on this list shall be employees with a "need to know."

Companies (primarily NASA on-site support service contractors) participating in the Government TPS ADP team that cannot demonstrate appropriate mitigation of this potential conflict are prohibited from responding to the alternate Block 2 TPS solicitation.

The Contracting Officer may specifically approve an exception to this prohibition.

(d)(1) If, in the performance of work under this contract, the Contractor has access to proprietary data of other companies, the Contractor shall protect such data from unauthorized use or disclosure so long as it remains proprietary. In addition, the Contractor shall not be permitted to use such data in performing any other contract for any additional study or studies in the same or a closely related field, without the explicit written permission of the owner of such data.

(2) If, in the performance of work under this contract, the Contractor after receiving Contracting Officer permission through Boeing enters into a separate agreement with a company for the protection of proprietary data, the Contractor shall furnish a copy of that agreement to Boeing.

(3) The Contractor must educate its employees, through formal training, not to divulge the proprietary data, trade secrets, confidential information, or restricted data of companies received in connection with the performance of work under this contract. The Contractor shall provide a plan to implement this training for the approval of the Contracting Officer.

(4) The Contractor shall obtain from all employees having access to proprietary data under this contract a written agreement which shall prohibit those employees, during the term of their employment and thereafter, from disclosing to others or using for their own behalf, the Limited Rights Data, Restricted Computer Software or Government Sensitive Information received in connection with the performance of work under this contract.

(e) The term "Contractor" as used in this clause shall include (i) the corporate or other entity executing this contract with the Government; (ii) such entity's parent, subsidiary, affiliate, or successor entities to the extent that the parent, subsidiary, affiliate, or successor entity has responsibility for the performance of work under this contract; and (iii) the Contractor's subcontractors, as delineated in the Statement of Work of this contract or who handle, receive, reduce, interpret, or transmit data obtained, used, or produced in conjunction with Orion TPS.

(f) The term "contract" as used in this clause shall include options, extensions, and any successor contracts performed or to be performed by the Contractor without any other contractor intervening.