



## Section 9 : GOVERNMENT CONTRACT REQUIREMENTS

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**CLAUSE 90G (12/6/99)**  
**NCC8-190**  
**X-37/FUTURE X PROGRAM**  
**GOVERNMENT CONTRACT REQUIREMENTS**

(a) 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" shall mean Seller.

- (1) 52.203-7 Anti-Kickback Procedures (JUL 1995) [excluding subparagraph (c)(1)]. This clause applies only if this contract exceeds \$100,000. Boeing 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 Boeing under the prime contract.
- (2) 52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (APR 1991)
- (3) 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 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."
- (4) 52.215-1 Examination of Records by Comptroller General (OCT 1997). This clause applies only if this contract exceeds \$100,000.
- (5) 52.219-8 Utilization of Small, Small Disadvantaged and Women-Owned Small Business Concerns (JAN 1999)
- (6) 52.219-9 Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (JAN 1999). 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 Boeing.
- (7) 52.222-4 Contract Work Hours and Safety Standards Act -- Overtime Compensation (JUL 1995). This clause applies only if this contract exceeds \$100,000. Boeing may withhold or recover from Seller such sums as the Contracting Officer withholds or recovers from Boeing because of liabilities of Seller or its subcontractors under this clause.
- (8) 52.222-20 Walsh-Healey Public Contracts Act (DEC 1996). This clause applies only if this contract exceeds \$10,000.
- (9) 52.222-26 Equal Opportunity (FEB 1999) [subparagraphs (b)(1) through (11)]

(10) 52.222-35 Affirmative Action for Special Disabled and Vietnam Era Veterans (APR 1998). This clause applies only if this contract is for \$10,000 or more.

(11) 52.222-36 Affirmative Action for Handicapped Workers (JUN 1998). This clause applies only if this contract exceeds \$10,000.

(12) 52.222-37 Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era (JAN 1999). This clause applies only if this contract is for \$10,000 or more.

(13) 52.223-2 Clean Air and Water (APR 1984). This clause applies only if this contract exceeds \$100,000.

(14) 52.225-11 Restrictions on Certain Foreign Purchases (OCT 1996)

(15) 52.227-12 Patent Rights-Retention by Contractor (JAN 1997). Required reports shall be submitted directly to Boeing. In the event of a conflict between the terms of this clause and 14 CFR 1274.912 or 14 CFR 1274.913, the latter two provisions of the Code of Federal Regulations shall govern. This clause shall only apply to orders exceeding \$100,000 where research/ development effort is involved.

(16) 52.227-14 Rights in Data -- General (JUN 1987), ALT. I, II, III, IV. This clause applies only if data will be produced, furnished, or acquired under this contract.

(17) 52.227-18 Rights in Data - Existing Works (JUN 1987)

(b) The following contract clauses are incorporated by reference from the NASA Federal Acquisition Regulation Supplement and apply to the extent indicated. In all of the following clauses, "Contractor" and "Offeror" shall mean Seller.

(1) 18-52.219-76 NASA 8% Goal (JUL 1997)

(2) 18-52.227-14 Rights in Data - General (JUL 1997). In the event of a conflict between this clause and 14 CFR 1274.905, the latter clause shall govern.

(3) 18-52.227-71 Requests for Waiver of Rights to Inventions (APR 1984). In the event of a conflict between this clause and 14 CFR 1274.914, the latter clause shall govern.

(c) Foreign Nationals - Foreign Sources

(1) For the purposes of this clause,

(A) Foreign nationals are those persons not citizens of, not nationals of, or resident/immigrant aliens to, the United States;

(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) not owned and controlled by citizens or immigrant aliens of the United States.

(2) Nothing in this clause is intended to waive any requirement imposed by any other U.S. Government agency with

respect to employment of foreign nationals or export-controlled data and information.

(3) Seller acknowledges that equipment and technical data generated or delivered in the performance of this contract is controlled by the International Traffic in Arms Regulation (ITAR), 22 CFR Sections 121 through 128, and require an export license before assigning any foreign national to perform work under this contract or before granting access to foreign nationals to any equipment and technical data generated or delivered in performance of this contract (see 22 CFR Section 125). Seller agrees to notify 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 nationals or their representatives. This notification will include the name and country of origin of the foreign national or representative, the specific work, equipment, or data to which the person will have access, and whether the foreign national is cleared to have access to technical data (DoD 5220.22-M, National Industrial Security Program Operating Manual (NISPOM)).

(d) Restrictions on Sale or Transfer of Technology to Foreign Firms or Institutions. For purposes of this clause, a transfer includes a sale of the company, or sales or licensing of the technology; but does not include sale of products or components, licenses of software or documentation related to sales of products or components, or transfers to foreign subsidiaries of Seller for purposes related to this contract. Seller shall provide timely notice in writing to NASA through Buyer of any proposed transfer of technology developed under this contract. If NASA determines that the transfer may have adverse consequences to the national security interests of the United States, or to the establishment of a robust United States industry, Buyer and Seller shall jointly endeavor to find alternatives to the proposed transfer which obviate or mitigate potential adverse consequences of the transfer.

(e) Cost Principles & Accounting Standards. The expenditure of Government funds by Seller and the allowability of costs recognized by NASA as a resource contribution shall be governed by the FAR cost principles, 48 CFR Part 31. Seller's method for accounting for the expenditure of funds must be consistent with Generally Accepted Accounting Principles.

(f) Publications & Reports: Non-Proprietary Research Results. All information disseminated as a result of this order shall contain a statement which acknowledges NASA's support and identifies the cooperative agreement by number. Prior approval, obtained through Buyer, is required only where Seller requests that the results of the research be published in a NASA scientific or technical publication; two copies of each draft publication shall accompany the approval request. Seller shall submit to Buyer the following technical reports (containing full bibliographic references, abstracts of publications, and lists of other media in which the research was discussed): 1) a performance report for every year of the order, submitted 30 days before the anniversary date of the order, describing research accomplished during the report period; 2) a summary of research, due 45 days after the end of the performance period of the order, summarizing the entire research accomplished during the duration of the order. Performance reports and summaries of research shall display the following on the first page: purchase order number; title and number of the cooperative agreement between Buyer and NASA; type of report; period covered by the report; Seller's name and address.

(g) Equipment & Other Property. Seller may not purchase, as a direct cost to this order, items of non-technical property, examples of which include but are not limited to office equipment and furnishings, air conditioning equipment, reproduction and printing equipment, motor vehicles, and automatic data processing equipment. If Seller requests an exception, Seller shall submit a written request to NASA through Buyer, prior to purchase by Seller, stating why Seller cannot charge the property to indirect costs. Under no circumstances shall Seller use funds derived from this order to acquire land or any interest therein, acquire or construct facilities (as defined in FAR 45.301), or procure passenger-carrying vehicles. The Government shall have title to equipment and other personal property acquired under this order with Government funds. Seller shall establish and maintain property management standards for nonexpendable personal property and otherwise manage such property as set forth in 14 CFR 1260.507. Annually by October 10, Seller shall submit 3 copies of an inventory report which lists all Government and Buyer furnished equipment and equipment acquired with Government funds in their custody as of September 30. Seller shall submit 3 copies of a final inventory report by 30 days after the end of the performance period of this order, which shall contain a list of all Seller acquired equipment and a list of Government and

Buyer furnished equipment. Annual and final inventory reports shall reflect the elements required in 14 CFR 1260.507(A)(1)(I), (ii), (iii), (v) through (viii) and beginning and ending dollar values for the reporting period. When Government furnished equipment is no longer needed, the recipient shall notify Buyer, who will provide disposition instructions.

(h) Foreign National Employee Investigative Requirements. Seller shall submit to Buyer a properly executed Name Check Request (NASA Form 531) and a completed applicant fingerprint card (FBI Card FD-258) for each foreign national employee requiring access to Boeing or NASA installations at least 100 days prior to the estimated duty date. The NASA Form 531 and fingerprint card may be obtained from the NASA Installation Security Office. Buyer will request on Seller's behalf permission for access from the NASA Installation Security Office.

(i) Restrictions on Lobbying. This order is subject to the provisions of 14 CFR part 1271, "New Restrictions on Lobbying".

(j) Travel & Transportation. Seller will use U.S.-flag air carriers for international air transportation of personnel and property to the extent that services by those carriers is available. Department of Transportation regulations, 49 CFR part 173, govern Seller shipment of hazardous materials and other items.

(k) Retention & Examination of Records. Financial records, supporting documents, statistical records, and all other records pertinent to this order shall be retained for a period of 3 years from the date of the completion of performance by Buyer on its cooperative agreement with NASA, except that records for nonexpendable property acquired with Government funds shall be retained for 3 years after its final disposition, and except that if any litigation, claim or audit is started before the expiration of the 3-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved. The Administrator of NASA and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any pertinent books, documents, papers and records of the Seller to make audits, examinations, excerpts, and transcripts.

(l) Inventory Listings of Equipment. An annual inventory listing of Government and Buyer furnished equipment will be submitted to Buyer by October 10 of each year. A final inventory report of Government and Buyer furnished equipment, and Seller acquired equipment, is due 30 days after the end of the performance on this order.