



## Section 9 : GOVERNMENT CONTRACT REQUIREMENTS

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### **CLAUSE 91N (8/23/01) JPL PO 1232072 GOVERNMENT CONTRACT REQUIREMENTS**

(a) The following contract clauses are incorporated by reference from the Federal Acquisition Regulation and apply to the extent indicated. Unless provided for elsewhere in this contract, only subparagraphs (13), (14), (15), and (27) of this paragraph (a) shall apply to any portion of this contract that is for commercial items or commercial components, as those terms are defined at FAR 52.202-1. 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) 52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (APR 1991)
- (4) 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) 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."
- (5) 52.211-5 New Materials (AUG 2000)
- (6) 52.211-15 Defense Priority and Allocation Requirements (SEP 1990)
- (7) 52.215-2 Audit and Records -- Negotiation (AUG 1996). 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.
- (8) 52.215-14 Integrity of Unit Prices (OCT 1997) [excluding paragraph (c)]
- (9) 52.219-8 Utilization of Small, Small Disadvantaged and Women-Owned Small Business Concerns (JUN 1997)
- (10) 52.219-9 Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (AUG 1996). 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.

(11) 52.222-1 Notice to the Government of Labor Disputes (FEB 1997). "Contracting Officer" shall mean Buyer.

(12) 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.

(13) 52.222-26 Equal Opportunity (APR 1984) [subparagraphs (b)(1) through (11)]

(14) 52.222-35 Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era (APR 1998). This clause applies only if this contract is for \$10,000 or more.

(15) 52.222-36 Affirmative Action for Workers With Disabilities (JUN 1998). This clause applies only if this contract exceeds \$10,000.

(16) 52.222-37 Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era (JAN 1988). This clause applies only if this contract is for \$10,000 or more.

(17) 52.223-2 Clean Air and Water (APR 1984). This clause applies only if this contract exceeds \$100,000.

(18) 52.223-11 Ozone Depleting Substances (JUN 1996)

(19) 52.223-14 Toxic Chemical Release Reporting (OCT 1996) [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 12 and Seller has a SIC designation of major groups 20 through 39 as set forth in FAR 19.102.

(20) 52.225-3 Buy American Act - Supplies (JAN 1994)

(21) 52.225-11 Restrictions on Certain Foreign Purchases (OCT 1996)

(22) 52.227-1 Authorization and Consent (JUL 1995), Alternate I (APR 1984)

(23) 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.

(24) 52.227-14 Rights in Data -- General (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.

(25) 52.227-16 Additional Data Requirements (JUN 1987). This clause applies only if this contract involves experimental, developmental, research, or demonstration work.

(26) 52.237-2 Protection of Government Buildings, Equipment, and Vegetation (APR 1984). This clause applies only if this contract requires work on a Government installation.

(27) 52.244-6 Subcontracts for Commercial Items and Commercial Components (OCT 1998)

(28) 52.245-2 Government Property (DEC 1989)

(29) 52.246-23 Limitation of Liability (FEB 1997)

(30) 52.246-25 Limitation of Liability - Services (FEB 1997). This clause applies only if this contract exceeds \$25,000.

(31) 52.247-63 Preference for U.S. - Flag Air Carriers (JAN 1997). This clause applies only if this contract may involve international air transportation

(32) 52.247-64 Preference for Privately-Owned U.S. Flag Commercial Vessels (JUN 97). This clause applies only if this contract exceeds the small purchase limitation. Except in paragraph (C)(2) "20" and "30" are changed to 10 and 20 respectively.

(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) 18-52.227-14 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.

(4) 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.

(5) 18-52.227-87 Transfer of Technical Data Under Space Station International Agreement (APR 1989)

(6) 18-52.228-72 Cross-Waiver of Liability for Space Shuttle Services (SEP 1993)

(7) 18-52.228-76 Cross-Waiver of Liability for Space Station Activities (DEC 1994)

(8) 18.52.228-78 Cross-Waiver of Liability for NASA Expendable Launch Vehicle (ELV) Launches (SEP 1993)

(9) 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) Asbestos Notification. (This clause applies only if this contract requires Seller to work in JPL?Pasadena buildings.)

Seller acknowledges receipt of the attached "Asbestos Notification," form JPL 2895, identifying JPL buildings containing asbestos and agrees to distribute the Notice to all its personnel prior to their commencing work in such buildings. Seller agrees to coordinate with the JPL Safety Operations Section for special asbestos handling instructions to be given to all Seller's personnel, including subcontractors' personnel, prior to their commencing work, if any, which could disturb asbestos in JPL?controlled buildings. The substance of this clause will be included in all subcontracts issued under this contract for work performed in JPL?Pasadena buildings.

(d) Compliance With Export Regulations

(1) Hardware, software and related materials, including technical data, may be subject to U.S. export control laws, including the U.S. Export Administration Act, Arms Export Control Act, and their associated regulations, and may be subject to export or import regulations in other countries. Seller agrees to strictly comply with all U.S. Export Control Regulations and acknowledges that, when applicable, it has the responsibility to obtain export licenses, or other export authority as may be required, for hardware, software, and related materials and services, including technical data, related to the performance of this contract, which are in its possession or under its control.

(2) JPL's NASA Contracting Officer is required to provide reports to NASA headquarters on the status and location of government property which has left United States Territory. Seller will not export any government property without prior approval from the NASA CO through the JPL negotiator. Seller will submit request for prior approval to Buyer's Authorized Procurement Representative.

(3) (1) The International Traffic in Arms Regulation (ITAR) 22 CFR Parts 120 to 130 inclusive, and Export Administration Regulation (EAR) 15 CFR parts 730 to 774 inclusive, restrict foreign national access to technological information. This information is available on JPL Web Space, in unpublished JPL documents, through technical conversations with JPL employees, and through visual inspection of JPL hardware. For the purpose of this clause, foreign nationals are defined as all individuals in the United States or overseas who are not U.S. Citizens, holders of U.S. green cards, or holders of political asylum papers issued by the U.S. Department of State.

(4) Seller shall not allow access by any foreign national to: JPL material which reveals technology, financial information, or business strategy information, and to JPL internal Web Space in performance of this contract, without prior written approval by JPL Security, the JPL Network and Computer Security Group, and the JPL International and Legislative Affairs Office through the JPL Negotiator. Seller will submit request for prior approval to Buyer's Authorized Procurement Representative.

(5) Seller agrees to insert this clause, including this paragraph, in all subcontracts which could involve: an export as defined in the ITAR and EAR, subcontractor employee access to JPL Web Space, or subcontractor employee access to JPL material which reveals technology, financial information, or business strategy information.

(e) Compliance With the Americans With Disabilities Act

(1) Seller agrees to comply with the Americans with Disabilities Act (42 U.S.C. 12101, et. seq.) and all implementing regulations.

(2) Seller agrees that it will be responsible to the Government and the Institute for, and will indemnify and hold harmless the Government and the Institute, its trustees, officers, and employees from any loss, cost, damage, expense or liability or suit therefor, 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 paragraph (1) above by Seller or any of its subcontractors, however the same may be caused, excepting only such loss, cost, damage, expense or liability attributable to the sole or contributory active negligence of the Government or of the Institute, its trustees, officers, or employees.

(3) Seller agrees to insert this clause, including this subparagraph, in all subcontracts.

(f) Release of Information

(1) Seller agrees that all information released by Seller for publicity or promotional purposes (e.g., news and photo releases, exhibit copy, motion picture scripts, advertising copy) directly related to Seller's work with and for JPL will be submitted to JPL for review for technical accuracy prior to issuance. (See enclosed form letter JPL 1737, "Release

of Information.")

(2) Seller agrees to insert this clause, including this subparagraph, in all subcontracts.

(g) Cost and Pricing Data

If clause 307 or 308 is incorporated in this contract, the following changes are made:

(1) In paragraph (a): Delete "FAR 52.215-25" and substitute in lieu thereof "FAR 52.215-13 (OCT 1997)." Delete the words "in effect on the date of this contract." In clause 307 only, delete "FAR 52.215-24" and substitute in lieu thereof "FAR 52.215-12 (OCT 1997)."

(2) In paragraph (b)(1): Delete "FAR 15.804-2, 15.804-4, 15.804-6, 15.806-1, and 15.806-2, in effect on the date of this contract" and substitute in lieu thereof "FAR 15.403-4, 15.403-5, 15.404-3, and 15.406-2, in effect in October 1997."

(3) In paragraph (b)(3): Delete "FAR 52.215-22(d) or 52.215-23(e)" and substitute in lieu thereof "FAR 52.215-10(d) (OCT 1997) or 52.215-11(e) (OCT 1997)."

(4) In paragraph (b)(5): Delete "FAR 52.215-22(c)(1)" and substitute in lieu thereof "FAR 52.215-10(c)(1) (OCT 1997)."