## E.1. STATEMENT OF WORK - CONSTRUCTION

See Section Attachment A – Statement Of Work.

(End of Clause)

## E.2. PLACE OF PERFORMANCE

The effort required under this contract shall be performed at the following location(s):

NASA Glenn Research Center
21000 Brookpark Road
Cleveland, Ohio 44135

(End of Clause)

## E.3. SUPPLEMENTAL INFORMATION

Safety, Health, and Environmental Index Page
http://smad-ext.grc.nasa.gov/shed/index.html

Glenn Safety Manual
http://smad-ext.grc.nasa.gov/gso/manual/chapter_index.shtml

Environmental Programs Manual
http://smad-ext.grc.nasa.gov/shed/pub/epm/epm-manual.pdf

Occupational Health Manual
http://smad-ext.grc.nasa.gov/shed/pub/ohpm/ohpm-manual.pdf

## E.4. The following information applies to this order <u>if selected:</u>

[X] **C-198 Instructions:** Upon satisfactory completion of the required services, the Government Representative shall, to ensure prompt payment to the Contractor, issue and distribute a NASA-C-198 form. The form can be obtained from the Glenn Electronic Forms Page at:
**http://ltid.grc.nasa.gov/Eforms/InformedWebPages/Home.htm**

[X] The Government Representative responsible for scheduling the required services and
verifying satisfactory completion is: **Mark Bodziony**
This individual may be reached by calling: **216-433- 3819**

[ ] **Certificate of Conformances:**
Certificate of Conformance is required and must accompany shipment for items:(s)

[ ] The Glenn Human Capital Development Branch is authorized to initiate, discuss,

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☐ and
finalize with the vendor any necessary modifications to the training date(s) specified in this order only to the extent that such modifications shall not result in any change to the order price or the scope of the contract

## E.5. PACKAGING INSTRUCTIONS - GRC 52.211-108 (SEP 2006)

All deliverables under this contract shall be packaged in accordance with: (1) best commercial practice and in a manner that will afford protection against corrosion, deterioration and physical damage during direct shipment and (2) the regulations of the carriers as applicable to the mode of transportation employed.

(End of Clause)

## E.6. SHIPMENT AND PROTECTION OF MATERIAL AND EQUIPMENT - GRC 52.211-109 (OCT 2012)

All shipments shall be addressed to the Contractor. The Contractor shall be responsible for their receipt, unloading, handling, and storage at the site. The Government will not accept deliveries on behalf of the Contractor or Subcontractors or assume any responsibility for security of materials, equipment, or supplies delivered to the site.

The Contractor shall, at all times, protect and preserve all materials, supplies, and equipment of every description (including property which may be Government-furnished or owned) and all work performed. All requests from the Contracting Officer's Representative (COR) to enclose or specially protect such property shall be complied with. If, as determined by the COR, material, equipment, supplies, and work performed are not protected by the Contractor, such property will be protected by the Government and the cost thereof will be charged to the Contractor or deducted from the unpaid retainage under the contract.

(End of Clause)

## E.7. LISTING OF CLAUSES INCORPORATED BY REFERENCE

The following contract clause(s)/provisions are incorporated by reference, with the same force and effect as if they were given in full text. Clauses incorporated by reference which require a fill-in by the Government include the text of the affected paragraph(s) only. This does not limit the clause to the affected paragraph(s). The Contractor is responsible for understanding and complying with the entire clause. The full text of the clause is available at the addresses contained in clause 52.252-2, Clauses Incorporated by Reference, of this contract.

I. FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1)

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| Clause Number | Date | Title |
|---|---|---|
| 52.246-12 | AUG 1996 | INSPECTION OF CONSTRUCTION |

II. NASA FAR SUPPLEMENT (48 CFR CHAPTER 18) CLAUSES

No NASA By reference clauses in Section E.

**E.8. INSPECTION AND ACCEPTANCE**

Final inspection and acceptance of all work under this contract will be conducted by the Contracting Officer's Representative (COR) or the Alternate Contracting Officer's Representative (Alt COR) for this effort. Upon satisfactory completion of the contract, the Contractor shall be paid the fixed-price value of the contract, less the amount of any progress payments made under FAR Clause 52.232.5, Payments Under Fixed-Price Construction Contracts and any deductions incurred from Section E 24.

(End of clause)

**E.8. GOVERNMENT CONTRACT QUALITY ASSURANCE FUNCTIONS (1852.246-71) (OCT 1988)**

In accordance with the inspection clause of this contract, the Government intends to perform the following functions at the locations indicated: Inspection and acceptance of all work shall be performed at NASA Glenn Research Center and other places of performance or delivery of work required under this contract.

(End of Clause)

**E.9. MATERIAL INSPECTION AND RECEIVING REPORT (1852.246-72)(AUG 2003)**

(a) At the time of each delivery to the Government under this contract, the Contractor shall furnish a Material Inspection and Receiving Report (DD Form 250 series) prepared in [Insert number of copies, including original] copies, an original and copies [Insert number of copies].

(b) The Contractor shall prepare the DD Form 250 in accordance with NASA FAR Supplement 1846.6. The Contractor shall enclose the copies of the DD Form 250 in the package or seal them in a waterproof envelope, which shall be securely attached to the exterior of the package in the most protected location.

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(c) When more than one package is involved in a shipment, the Contractor shall list on the DD Form 250, as additional information, the quantity of packages and the package numbers. The Contractor shall forward the DD Form 250 with the lowest numbered package of the shipment and print the words "CONTAINS DD FORM 250" on the package.

(End of Clause)

## E.10. LISTING OF CLAUSES INCORPORATED BY REFERENCE

The following contract clause(s)/provisions are incorporated by reference, with the same force and effect as if they were given in full text. Clauses incorporated by reference which require a fill-in by the Government include the text of the affected paragraph(s) only. This does not limit the clause to the affected paragraph(s). The Contractor is responsible for understanding and complying with the entire clause. The full text of the clause is available at the addresses contained in clause 52.252-2, Clauses Incorporated by Reference, of this contract.

I. FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1) PROVISIONS

| Clause Number | Date | Title |
|---|---|---|
| 52.242-17 | APR 1984 | GOVERNMENT DELAY OF WORK |

II. NASA FAR SUPPLEMENT (48 CFR CHAPTER 18) CLAUSES

No NASA By reference clauses in Section F.

(End of clause)

## E.11. PRE-CONSTRUCTION CONFERENCE

The Contractor shall meet with the Contracting Officer's Representative for the purpose of presenting a progress schedule, safety program, and other factors relating to the performance of work on-site prior to the commencement of actual on site work.

(End of Clause)

## E.12. LISTING OF CLAUSES INCORPORATED BY REFERENCE

The following contract clause(s)/provisions are incorporated by reference, with the same force and effect as if they were given in full text. Clauses incorporated by reference which require a

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fill-in by the Government include the text of the affected paragraph(s) only. This does not limit the clause to the affected paragraph(s). The Contractor is responsible for understanding and complying with the entire clause. The full text of the clause is available at the addresses contained in clause 52.252-2, Clauses Incorporated by Reference, of this contract.

I. FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1)

| CLAUSE NUMBER | DATE | TITLE |
|---|---|---|
| 52.232 -11 | APR 1984 | EXTRAS |
| 52.232 -17 | JUN 1996 | INTEREST |
| 52.232- 23 | JAN 1986 | ASSIGNMENT OF CLAIMS |

II. NASA FAR SUPPLEMENT (48 CFR CHAPTER 18) CLAUSES

| | | |
|---|---|---|
| 1852.245-72 | MAR 1989 | LIABILITY FOR GOVERNMENT PROPERTY FURNISHED FOR REPAIR OR OTHER SERVICES |

(End of clause)

**E.13. SUBCONTRACTING - CONSTRUCTION (GRC 52.244-92)(AUG 2002)**

(a) Should the Contractor desire to have subcontractors perform any portion of the work covered by this contract, the Contractor is required to submit the following information to the Contracting Officer prior to the start of any field work by the subcontractor:

(1) The name and address of the subcontractor;

(2) The category of work they will perform; and,

(3) Evidence of the subcontractor's compliance with the insurance requirements set forth in contract Clause 52.228-5 entitled "INSURANCE - WORK ON A GOVERNMENT INSTALLATION" and Clause 1852.228-75 entitled "MINIMUM INSURANCE COVERAGE".

(b) Failure of the Contractor to comply with these requirements will be cause for the Government to bar the subcontractors, singly or collectively, from access to the site of the work; or to stop the work from being performed by such subcontractors, singly or collectively; until the insurance requirements have been complied with. Such stoppage of work will not be considered cause for equitable adjustment for time or money under the applicable clauses of the contract.

(End of Clause)

**E.14. COMMUNICATION SKILLS / DISABILITIES - CONSTRUCTION**

For the mutual safety of all NASA and Contractor employees, it is required that all personnel working on the site of the NASA Glenn Research Center under the Contractor's employ, as well as the employ of all subcontractors working on site, must be able to communicate and understand written and oral instructions relating to NASA safety procedures and hazard signs. It is recognized and allowed that some employees may utilize devices and take other measures to accommodate otherwise disability conditions, and that American English may not be the

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native tongue for all employees working on site.

(End of Clause)

**E.15. PAYMENTS UNDER FIXED PRICE CONSTRUCTION CONTRACTS (FAR 52.232-5)(SEPT 2002)**

(a) Payment of price. The Government shall pay the Contractor the contract price as provided in this contract.

(b) Progress payments. The Government shall make progress payments monthly as the work proceeds, or at more frequent intervals as determined by the Contracting Officer, on estimates of work accomplished which meets the standards of quality established under the contract, as approved by the Contracting Officer.

(1) The Contractor's request for progress payments shall include the following substantiation:

(i) An itemization of the amounts requested, related to the various elements of work required by the contract covered by the payment requested.

(ii) A listing of the amount included for work performed by each subcontractor under the contract.

(iii) A listing of the total amount of each subcontract under the contract.

(iv) A listing of the amounts previously paid to each such subcontractor under the contract.

(v) Additional supporting data in a form and detail required by the Contracting Officer.

(2) In the preparation of estimates, the Contracting Officer may authorize material delivered on the site and preparatory work done to be taken into consideration. Material delivered to the Contractor at locations other than the site also may be taken into consideration if--

(i) Consideration is specifically authorized by this contract; and

(ii) The Contractor furnishes satisfactory evidence that it has acquired title to such material and that the material will be used to perform this contract.

(c) Contractor certification. Along with each request for progress payments, the Contractor shall furnish the following certification, or payment shall not be made: (However, if the Contractor elects to delete paragraph (c)(4) from the certification, the certification is still acceptable.)

I hereby certify, to the best of my knowledge and belief, that--

(1) The amounts requested are only for performance in accordance with the specifications, terms, and conditions of the contract;

(2) All payments due to subcontractors and suppliers from previous payments received under the contract have been made, and timely payments will be made from the proceeds of the

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payment covered by this certification, in accordance with subcontract agreements and the requirements of chapter 39 of Title 31, United States Code;

(3) This request for progress payments does not include any amounts which the prime contractor intends to withhold or retain from a subcontractor or supplier in accordance with the terms and conditions of the subcontract; and

(4) This certification is not to be construed as final acceptance of a subcontractor's performance.

_____

(Name)

_____

(Title)

_____

(Date)

(d) Refund of unearned amounts. If the Contractor, after making a certified request for progress payments, discovers that a portion or all of such request constitutes a payment for performance by the Contractor that fails to conform to the specifications, terms, and conditions of this contract (hereinafter referred to as the "unearned amount"), the Contractor shall--

(1) Notify the Contracting Officer of such performance deficiency; and

(2) Be obligated to pay the Government an amount (computed by the Contracting Officer in the manner provided in paragraph (j) of this clause) equal to interest on the unearned amount from the 8th day after the date of receipt of the unearned amount until--

(i) The date the Contractor notifies the Contracting Officer that the performance deficiency has been corrected; or

(ii) The date the Contractor reduces the amount of any subsequent certified request for progress payments by an amount equal to the unearned amount.

(e) Retainage. If the Contracting Officer finds that satisfactory progress was achieved during any period for which a progress payment is to be made, the Contracting Officer shall authorize payment to be made in full. However, if satisfactory progress has not been made, the Contracting Officer may retain a maximum of 10 percent of the amount of the payment until satisfactory progress is achieved. When the work is substantially complete, the Contracting Officer may retain from previously withheld funds and future progress payments that amount the Contracting Officer considers adequate for protection of the Government and shall release to the Contractor all the remaining withheld funds. Also, on completion and acceptance of each separate building, public work, or other division of the contract, for which the price is stated separately in the contract, payment shall be made for the completed work without retention of a percentage.

(f) Title, liability, and reservation of rights. All material and work covered by progress payments shall not be construed as--

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(1) Relieving the Contractor from the sole responsibility for all material and work upon which payments have been made or the restoration of any damaged work; or

(2) Waiving the right of the Government to require the fulfillment of all of the terms of the contract.

(g) Reimbursement for bond premiums. In making these progress payments, the Government shall, upon request, reimburse the Contractor for the amount of premiums paid for performance and payment bonds (including coinsurance and reinsurance agreements, when applicable) after the Contractor has furnished evidence of full payment to the surety. The retainage provisions in paragraph (e) of this clause shall not apply to that portion of progress payments attributable to bond premiums.

(h) Final payment. The Government shall pay the amount due the Contractor under this contract after--

(1) Completion and acceptance of all work;

(2) Presentation of a properly executed voucher; and

(3) Presentation of release of all claims against the Government arising by virtue of this contract, other than claims, in stated amounts, that the Contractor has specifically excepted from the operation of the release. A release may also be required of the assignee if the Contractor's claim to amounts payable under this contract has been assigned under the Assignment of Claims Act of 1940 (31 U.S.C. 3727 and 41 U.S.C. 15).

(i) Limitation because of un-definitized work. Notwithstanding any provision of this contract, progress payments shall not exceed 80 percent on work accomplished on un-definitized contract actions. A "contract action" is any action resulting in a contract, as defined in FAR Subpart 2.1, including contract modifications for additional supplies or services, but not including contract modifications that are within the scope and under the terms of the contract, such as contract modifications issued pursuant to the Changes clause, or funding and other administrative changes.

(j) Interest computation on unearned amounts. In accordance with 31 U.S.C. 3903(c)(1), the amount payable under subparagraph (d)(2) of this clause shall be—

(1) Computed at the rate of average bond equivalent rates of 91-day Treasury bills auctioned at the most recent auction of such bills prior to the date the Contractor receives the unearned amount; and

(2) Deducted from the next available payment to the Contractor.

(End of clause)

## E.16. PROMPT PAYMENT FOR CONSTRUCTION CONTRACTS (52.232-27) (OCT 2003)

Notwithstanding any other payment terms in this contract, the Government will make invoice payments under the terms and conditions specified in this clause. The Government considers

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payment as being made on the day a check is dated or the date of an electronic funds transfer. Definitions of pertinent terms are set forth in sections 2.101, 32.001, and 32.902 of the Federal Acquisition Regulation. All days referred to in this clause are calendar days, unless otherwise specified. (However, see paragraph (a)(3) concerning payments due on Saturdays, Sundays, and legal holidays.)

(a) Invoice payments-(1) Type of invoice payments. For purposes of this clause, there are several types of invoice payments that may occur under this contract, as follows:

(i) Progress payments, if provided for elsewhere in this contract, based on Contracting Officer approval of the estimated amount and value of work or services performed, including payments for reaching milestones in any project.

(A) The due date for making such payments is 14 days after the designated billing office receives a proper payment request. If the designated billing office fails to annotate the payment request with the actual date of receipt at the time of receipt, the payment due date is the 14th day after the date of the Contractor's payment request, provided the designated billing office receives a proper payment request and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

(B) The due date for payment of any amounts retained by the Contracting Officer in accordance with the clause at 52.232-5, Payments Under Fixed-Price Construction Contracts, is as specified in the contract or, if not specified, 30 days after approval by the Contracting Officer for release to the Contractor.

(ii) Final payments based on completion and acceptance of all work and presentation of release of all claims against the Government arising by virtue of the contract, and payments for partial deliveries that have been accepted by the Government (e.g., each separate building, public work, or other division of the contract for which the price is stated separately in the contract).

(A) The due date for making such payments is the later of the following two events:
(1) The 30th day after the designated billing office receives a proper invoice from the Contractor.
(2) The 30th day after Government acceptance of the work or services completed by the Contractor. For a final invoice when the payment amount is subject to contract settlement actions (e.g., release of claims), acceptance is deemed to occur on the effective date of the contract settlement.

(B) If the designated billing office fails to annotate the invoice with the date of actual receipt at the time of receipt, the invoice payment due date is the 30th day after the date of the Contractor's invoice, provided the designated billing office receives a proper invoice and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

(2) Contractor's invoice. The Contractor shall prepare and submit invoices to the designated billing office specified in the contract. A proper invoice must include the items listed in paragraphs (a)(2)(i) through (a)(2)(xi) of this clause. If the invoice does not comply with these requirements, the designated billing office must return it within 7 days after receipt, with the reasons why it is not a proper invoice. When computing any interest penalty owed the Contractor, the Government will take into account if the Government notifies the Contractor of an improper invoice in an untimely manner.

(i) Name and address of the Contractor.
(ii) Invoice date and invoice number. (The Contractor should date invoices as close as possible

to the date of mailing or transmission.)
(iii) Contract number or other authorization for work or services performed (including order number and contract line item number).
(iv) Description of work or services performed.
(v) Delivery and payment terms (e.g., discount for prompt payment terms).
(vi) Name and address of Contractor official to whom payment is to be sent (must be the same as that in the contract or in a proper notice of assignment).
(vii) Name (where practicable), title, phone number, and mailing address of person to notify in the event of a defective invoice.
(viii) For payments described in paragraph (a)(1)(i) of this clause, substantiation of the amounts requested and certification in accordance with the requirements of the clause at 52.232-5, Payments Under Fixed-Price Construction Contracts.
(ix) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.
(x) Electronic funds transfer (EFT) banking information.

(A) The Contractor shall include EFT banking information on the invoice only if required elsewhere in this contract.

(B) If EFT banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the Contractor shall have submitted correct EFT banking information in accordance with the applicable solicitation provision (e.g., 52.232-38, Submission of Electronic Funds Transfer Information with Offer), contract clause (e.g., 52.232-33, Payment by Electronic Funds Transfer- Central Contractor Registration, or 52.232-34, Payment by Electronic Funds Transfer-Other Than Central Contractor Registration), or applicable agency procedures.

(C) EFT banking information is not required if the Government waived the requirement to pay by EFT.
(xi) Any other information or documentation required by the contract.

(3) Interest penalty. The designated payment office will pay an interest penalty automatically, without request from the Contractor, if payment is not made by the due date and the conditions listed in paragraphs (a)(3)(i) through (a)(3)(iii) of this clause are met, if applicable. However, when the due date falls on a Saturday, Sunday, or legal holiday, the designated payment office may make payment on the following working day without incurring a late payment interest penalty.
(i) The designated billing office received a proper invoice.
(ii) The Government processed a receiving report or other Government documentation authorizing payment and there was no disagreement over quantity, quality, Contractor compliance with any contract term or condition, or requested progress payment amount.
(iii) In the case of a final invoice for any balance of funds due the Contractor for work or services performed, the amount was not subject to further contract settlement actions between the Government and the Contractor.

(4) Computing penalty amount. The Government will compute the interest penalty in accordance with the Office of Management and Budget prompt payment regulations at 5 CFR part 1315.
(i) For the sole purpose of computing an interest penalty that might be due the Contractor for payments described in paragraph (a)(1)(ii) of this clause, Government acceptance or approval is deemed to occur constructively on the 7th day after the Contractor has completed the work or services in accordance with the terms and conditions of the contract. If actual acceptance or approval occurs within the constructive acceptance or approval period, the Government will base the determination of an interest penalty on the actual date of acceptance or approval.

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Constructive acceptance or constructive approval requirements do not apply if there is a disagreement over quantity, quality, or Contractor compliance with a contract provision. These requirements also do not compel Government officials to accept work or services, approve Contractor estimates, perform contract administration functions, or make payment prior to fulfilling their responsibilities.
(ii) The prompt payment regulations at 5 CFR 1315.10(c) do not require the Government to pay interest penalties if payment delays are due to disagreement between the Government and the Contractor over the payment amount or other issues involving contract compliance, or on amounts temporarily withheld or retained in accordance with the terms of the contract. The Government and the Contractor shall resolve claims involving disputes, and any interest that may be payable in accordance with the clause at FAR 52.233-1, Disputes.

(5) Discounts for prompt payment. The designated payment office will pay an interest penalty automatically, without request from the Contractor, if the Government takes a discount for prompt payment improperly. The Government will calculate the interest penalty in accordance with the prompt payment regulations at 5 CFR part 1315.

(6) Additional interest penalty.
(i) The designated payment office will pay a penalty amount, calculated in accordance with the prompt payment regulations at 5 CFR part 1315 in addition to the interest penalty amount only if-

(A) The Government owes an interest penalty of $1 or more;

(B) The designated payment office does not pay the interest penalty within 10 days after the date the invoice amount is paid; and

(C) The Contractor makes a written demand to the designated payment office for additional penalty payment, in accordance with paragraph (a)(6)(ii) of this clause, postmarked not later than 40 days after the date the invoice amount is paid.

(ii)(A) The Contractor shall support written demands for additional penalty payments with the following data. The Government will not request any additional data. The Contractor shall-
(1) Specifically assert that late payment interest is due under a specific invoice, and request payment of all overdue late payment interest penalty and such additional penalty as may be required;
(2) Attach a copy of the invoice on which the unpaid late payment interest was due; and
(3) State that payment of the principal has been received, including the date of receipt.

(B) If there is no postmark or the postmark is illegible-
(1) The designated payment office that receives the demand will annotate it with the date of receipt provided the demand is received on or before the 40th day after payment was made; or
(2) If the designated payment office fails to make the required annotation, the Government will determine the demand's validity based on the date the Contractor has placed on the demand, provided such date is no later than the 40th day after payment was made.
(b) Contract financing payments. If this contract provides for contract financing, the Government will make contract financing payments in accordance with the applicable contract financing clause.

(c) Subcontract clause requirements. The Contractor shall include in each subcontract for property or services (including a material supplier) for the purpose of performing this contract the following:

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(1) Prompt payment for subcontractors. A payment clause that obligates the Contractor to pay the subcontractor for satisfactory performance under its subcontract not later than 7 days from receipt of payment out of such amounts as are paid to the Contractor under this contract.
(2) Interest for subcontractors. An interest penalty clause that obligates the Contractor to pay to the subcontractor an interest penalty for each payment not made in accordance with the payment clause-
(i) For the period beginning on the day after the required payment date and ending on the date on which payment of the amount due is made; and
(ii) Computed at the rate of interest established by the Secretary of the Treasury, and published in the Federal Register, for interest payments under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) in effect at the time the Contractor accrues the obligation to pay an interest penalty.

(3) Subcontractor clause flowdown. A clause requiring each subcontractor to-
(i) Include a payment clause and an interest penalty clause conforming to the standards set forth in paragraphs (c)(1) and (c)(2) of this clause in each of its subcontracts; and
(ii) Require each of its subcontractors to include such clauses in their subcontracts with each lower-tier subcontractor or supplier.
(d) Subcontract clause interpretation. The clauses required by paragraph (c) of this clause shall not be construed to impair the right of the Contractor or a subcontractor at any tier to negotiate, and to include in their subcontract, provisions that-

(1) Retainage permitted. Permit the Contractor or a subcontractor to retain (without cause) a specified percentage of each progress payment otherwise due to a subcontractor for satisfactory performance under the subcontract without incurring any obligation to pay a late payment interest penalty, in accordance with terms and conditions agreed to by the parties to the subcontract, giving such recognition as the parties deem appropriate to the ability of a subcontractor to furnish a performance bond and a payment bond;

(2) Withholding permitted. Permit the Contractor or subcontractor to make a determination that part or all of the subcontractor's request for payment may be withheld in accordance with the subcontract agreement; and

(3) Withholding requirements. Permit such withholding without incurring any obligation to pay a late payment penalty if-
(i) A notice conforming to the standards of paragraph (g) of this clause previously has been furnished to the subcontractor; and
(ii) The Contractor furnishes to the Contracting Officer a copy of any notice issued by a Contractor pursuant to paragraph (d)(3)(i) of this clause.

(e) Subcontractor withholding procedures. If a Contractor, after making a request for payment to the Government but before making a payment to a subcontractor for the subcontractor's performance covered by the payment request, discovers that all or a portion of the payment otherwise due such subcontractor is subject to withholding from the subcontractor in accordance with the subcontract agreement, then the Contractor shall-

(1) Subcontractor notice. Furnish to the subcontractor a notice conforming to the standards of paragraph (g) of this clause as soon as practicable upon ascertaining the cause giving rise to a withholding, but prior to the due date for subcontractor payment;

(2) Contracting Officer notice. Furnish to the Contracting Officer, as soon as practicable, a copy of the notice furnished to the subcontractor pursuant to paragraph (e)(1) of this clause;

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(3) Subcontractor progress payment reduction. Reduce the subcontractor's progress payment by an amount not to exceed the amount specified in the notice of withholding furnished under paragraph (e)(1) of this clause;

(4) Subsequent subcontractor payment. Pay the subcontractor as soon as practicable after the correction of the identified subcontract performance deficiency, and-
(i) Make such payment within-

(A) Seven days after correction of the identified subcontract performance deficiency (unless the funds therefore must be recovered from the Government because of a reduction under paragraph (e)(5)(i)) of this clause; or

(B) Seven days after the Contractor recovers such funds from the Government; or
(ii) Incur an obligation to pay a late payment interest penalty computed at the rate of interest established by the Secretary of the Treasury, and published in the Federal Register, for interest payments under section 12 of the Contracts Disputes Act of 1978 (41 U.S.C. 611) in effect at the time the Contractor accrues the obligation to pay an interest penalty;

(5) Notice to Contracting Officer. Notify the Contracting Officer upon-
(i) Reduction of the amount of any subsequent certified application for payment; or
(ii) Payment to the subcontractor of any withheld amounts of a progress payment, specifying-
(A) The amounts withheld under paragraph (e)(1) of this clause; and
(B) The dates that such withholding began and ended; and
(6) Interest to Government. Be obligated to pay to the Government an amount equal to interest on the withheld payments (computed in the manner provided in 31 U.S.C. 3903(c)(1)), from the 8th day after receipt of the withheld amounts from the Government until-
(i) The day the identified subcontractor performance deficiency is corrected; or
(ii) The date that any subsequent payment is reduced under paragraph (e)(5)(i) of this clause.
(f) Third-party deficiency reports-
(1) Withholding from subcontractor. If a Contractor, after making payment to a first-tier subcontractor, receives from a supplier or subcontractor of the first-tier subcontractor (hereafter referred to as a "second-tier subcontractor") a written notice in accordance with section 2 of the Act of August 24, 1935 (40 U.S.C. 270b, Miller Act), asserting a deficiency in such first-tier subcontractor's performance under the contract for which the Contractor may be ultimately liable, and the Contractor determines that all or a portion of future payments otherwise due such first-tier subcontractor is subject to withholding in accordance with the subcontract agreement, the Contractor may, without incurring an obligation to pay an interest penalty under paragraph (e)(6) of this clause-
(i) Furnish to the first-tier subcontractor a notice conforming to the standards of paragraph (g) of this clause as soon as practicable upon making such determination; and
(ii) Withhold from the first-tier subcontractor's next available progress payment or payments an amount not to exceed the amount specified in the notice of withholding furnished under paragraph (f)(1)(i) of this clause.

(2) Subsequent payment or interest charge. As soon as practicable, but not later than 7 days after receipt of satisfactory written notification that the identified subcontract performance deficiency has been corrected, the Contractor shall-
(i) Pay the amount withheld under paragraph (f)(1)(ii) of this clause to such first-tier subcontractor; or
(ii) Incur an obligation to pay a late payment interest penalty to such first-tier subcontractor computed at the rate of interest established by the Secretary of the Treasury, and published in

the Federal Register, for interest payments under section 12 of the Contracts Disputes Act of 1978 (41 U.S.C. 611) in effect at the time the Contractor accrues the obligation to pay an interest penalty.
(g) Written notice of subcontractor withholding. The Contractor shall issue a written notice of any withholding to a subcontractor (with a copy furnished to the Contracting Officer), specifying-
(1) The amount to be withheld;
(2) The specific causes for the withholding under the terms of the subcontract; and
(3) The remedial actions to be taken by the subcontractor in order to receive payment of the amounts withheld.

(h) Subcontractor payment entitlement. The Contractor may not request payment from the Government of any amount withheld or retained in accordance with paragraph (d) of this clause until such time as the Contractor has determined and certified to the Contracting Officer that the subcontractor is entitled to the payment of such amount.

(i) Prime-subcontractor disputes. A dispute between the Contractor and subcontractor relating to the amount or entitlement of a subcontractor to a payment or a late payment interest penalty under a clause included in the subcontract pursuant to paragraph (c) of this clause does not constitute a dispute to which the Government is a party. The Government may not be interpleaded in any judicial or administrative proceeding involving such a dispute.

(j) Preservation of prime-subcontractor rights. Except as provided in paragraph (i) of this clause, this clause shall not limit or impair any contractual, administrative, or judicial remedies otherwise available to the Contractor or a subcontractor in the event of a dispute involving late payment or nonpayment by the Contractor or deficient subcontract performance or nonperformance by a subcontractor.

(k) Non-recourse for prime contractor interest penalty. The Contractor's obligation to pay an interest penalty to a subcontractor pursuant to the clauses included in a subcontract under paragraph (c) of this clause shall not be construed to be an obligation of the Government for such interest penalty. A cost-reimbursement claim may not include any amount for reimbursement of such interest penalty.
(l) Overpayments. If the Contractor becomes aware of a duplicate payment or that the Government has otherwise overpaid on an invoice payment, the Contractor shall immediately notify the Contracting Officer and request instructions for disposition of the overpayment.

(l) Overpayments. If the Contractor becomes aware of a duplicate contract financing or invoice payment or that the Government has otherwise overpaid on a contract financing or invoice payment, the Contractor shall immediately notify the Contracting Officer and request instructions for disposition of the overpayment.

(End of clause)

**E.17. TECHNICAL DIRECTION (NFS 1852.242-70) (SEP 1993)**

(a) Performance of the work under this contract is subject to the written technical direction of the Contracting Officer Representative (COR), who shall be specifically appointed by the Contracting Officer in writing in accordance with NASA FAR Supplement 1842.270. "Technical direction" means a directive to the Contractor that approves approaches, solutions, designs, or

refinements; fills in details or otherwise completes the general description of work or documentation items; shifts emphasis among work areas or tasks; or furnishes similar instruction to the Contractor.

(b) The COR does not have the authority to, and shall not, issue any instruction purporting to be technical direction that--

(1) Constitutes an assignment of additional work outside the statement of work;

(2) Constitutes a change as defined in the changes clause;

(3) Constitutes a basis for any increase or decrease in the total estimated contract cost,

the fixed fee (if any), or the time required for contract performance;

(4) Changes any of the expressed terms, conditions, or specifications of the contract; or

(5) Interferes with the Contractor's rights to perform the terms and conditions of the contract.

(c) All technical direction shall be issued in writing by the COR.

(d) The Contractor shall proceed promptly with the performance of technical direction duly issued by the COR in the manner prescribed by this clause and within the COR's authority.

If, in the Contractor's opinion, any instruction or direction by the COR falls within any of the categories defined in paragraph (b) above, the Contractor shall not proceed but shall notify the Contracting Officer in writing within 5 working days after receiving it and shall request the Contracting Officer to take action as described in this clause. Upon receiving this notification, the Contracting Officer shall either issue an appropriate contract modification within a reasonable time or advise the Contractor in writing within 30 days that the instruction or direction is--

(1) Rescinded in its entirety; or

(2) Within the requirements of the contract and does not constitute a change under the changes clause of the contract, and that the Contractor should proceed promptly with its performance.

(e) A failure of the Contractor and Contracting Officer to agree that the instruction or direction is both within the requirements of the contract and does not constitute a change under the changes clause, or a failure to agree upon the contract action to be taken with respect to the instruction or direction, shall be subject to the Disputes clause of this contract.

(f) Any action(s) taken by the Contractor in response to any direction given by any person other than the Contracting Officer or the COR shall be at the Contractor's risk.

(End of clause)

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## E.18. SAFETY & HEALTH OFFICER

The minimum qualifications for the (contractor provided) Safety & Health Officer are:

A. Minimum of at least 5 years' experience as an Occupational Health and Safety Professional.

This shall include field experience as well as time in the office preparing Health and Safety Plans. Demonstrated knowledge of job hazard recognition for construction. Demonstrated knowledge in performing Job Hazard Analysis (JHA). Experience needs to be broad based and not a specific discipline (i.e. mold, indoor air quality, etc.).

B. OSHA "30-Hour Training" (Mandatory)

C. AIHA "Fundamentals of Industrial Hygiene" (Preferred)

D. 40-Hour HAZWOPER Training (Preferred)

E. Asbestos Hazard Evaluation Specialist Certification and Asbestos Hazard Abatement Specialist Certification (Preferred)

F. OSHA "Excavation, Trenching and Shoring" (Preferred)

G. OSHA "Fall Protection and Fall Arrest Systems" (Preferred)

H. OSHA "Scaffolding" (Preferred)

(End of Clause)

## E.19. LISTING OF CLAUSES INCORPORATED BY REFERENCE

The following contract clause(s)/provisions are incorporated by reference, with the same force and effect as if they were given in full text. Clauses incorporated by reference which require a fill-in by the Government include the text of the affected paragraph(s) only. This does not limit the clause to the affected paragraph(s). The Contractor is responsible for understanding and complying with the entire clause. The full text of the clause is available at the addresses contained in clause 52.252-2, Clauses Incorporated by Reference, of this contract.

I. FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1)

| CLAUSE NUMBER | DATE | TITLE |
|---|---|---|
| 52.236-13 | NOV 1991 | ACCIDENT PREVENTION |

II. NASA FAR SUPPLEMENT (48 CFR CHAPTER 18) CLAUSES

| | | |
|---|---|---|
| 1852.223-75 | FEB 2002 | MAJOR BREACH OF SAFETY OR SECURITY |

(End of clause)

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## E.20. SAFETY AND HEALTH (1852.223-70)(APR 2002)

(a) Safety is the freedom from those conditions that can cause death, injury, occupational illness, damage to or loss of equipment or property, or damage to the environment. NASA's safety priority is to protect: (1) the public, (2) astronauts and pilots, (3) the NASA workforce (including contractor employees working on NASA contracts), and (4) high-value equipment and property.

(b) The Contractor shall take all reasonable safety and occupational health measures in performing this contract. The Contractor shall comply with all Federal, State, and local laws applicable to safety and occupational health and with the safety and occupational health standards, specifications, reporting requirements, and any other relevant requirements of this contract.

(c) The Contractor shall take, or cause to be taken, any other safety, and occupational health measures the Contracting Officer may reasonably direct. To the extent that the Contractor may be entitled to an equitable adjustment for those measures under the terms and conditions of this contract, the equitable adjustment shall be determined pursuant to the procedures of the changes clause of this contract; provided, that no adjustment shall be made under this Safety and Health clause for any change for which an equitable adjustment is expressly provided under any other clause of the contract.

(d) The Contractor shall immediately notify and promptly report to the Contracting Officer or a designee any accident, incident, or exposure resulting in fatality, lost-time occupational injury, occupational disease, contamination of property beyond any stated acceptable limits set forth in the contract Schedule; or property loss of $25,000 or more, or Close Call (a situation or occurrence with no injury, no damage or only minor damage (less than $1,000) but possesses the potential to cause any type mishap, or any injury, damage, or negative mission impact) that may be of immediate interest to NASA, arising out of work performed under this contract. The Contractor is not required to include in any report an expression of opinion as to the fault or negligence of any employee. In addition, service contractors (excluding construction contracts) shall provide quarterly reports specifying lost-time frequency rate, number of lost-time injuries, exposure, and accident/incident dollar losses as specified in the contract Schedule.

(e) The Contractor shall investigate all work-related incidents, accidents, and Close Calls, to the extent necessary to determine their causes and furnish the Contracting Officer a report (SF1627), in such form as the Contracting Officer may require, of the investigative findings and proposed or completed corrective actions.

(f) (1) The Contracting Officer may notify the Contractor in writing of any noncompliance with this clause and specify corrective actions to be taken. When the Contracting Officer becomes aware of noncompliance that may pose a serious or imminent danger to safety and health of the public, astronauts and pilots, the NASA workforce (including contractor employees working on NASA contracts), or high value mission critical equipment or property, the Contracting Officer shall notify the Contractor orally, with written confirmation. The Contractor shall promptly take and report any necessary corrective action. (2) If the Contractor fails or refuses to institute prompt corrective action in accordance with subparagraph (f)(1) of this clause, the Contracting Officer may invoke the stop-work order clause in this contract or any other remedy available to the Government in the event of such failure or refusal.

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(g) The Contractor (or subcontractor or supplier) shall insert the substance of this clause, including this paragraph (g) and any applicable Schedule provisions and clauses, with appropriate changes of designations of the parties, in all solicitations and subcontracts of every tier, when one or more of the following conditions exist:

(1) The work will be conducted completely or partly on premises owned or controlled by the Government.

(2) The work includes construction, alteration, or repair of facilities in excess of the simplified acquisition threshold.

(3) The work, regardless of place of performance, involves hazards that could in danger the public, astronauts and pilots, the NASA workforce (including Contractor employees working on NASA contracts), or high value equipment or property, and the hazards are not adequately addressed by Occupational Safety and Health Administration (OSHA) or Department of Transportation (DOT) regulations (if applicable).

(4) When the Contractor (or subcontractor or supplier) determines that the assessed risk and consequences of a failure to properly manage and control the hazard(s) warrants use of the
clause.

(h) The Contractor (or subcontractor or supplier) may exclude the provisions of paragraph (g) from its solicitation(s) and subcontract(s) of every tier when it determines that the clause is not necessary because the application of the OSHA and DOT (if applicable) regulations constitute adequate safety and occupational health protection. When a determination is made to exclude the provisions of paragraph (g) from a solicitation and subcontract, the Contractor must notify and provide the basis for the determination to the Contracting Officer. In subcontracts of every tier above the micro-purchase threshold for which paragraph (g) does not apply, the Contractor (or subcontractor or supplier) shall insert the substance of paragraphs (a), (b), and (f) of this clause).

(i) Authorized Government representatives of the Contracting Officer shall have access to and the right to examine the sites or areas where work under this contract is being performed in order to determine the adequacy of the Contractor's safety and occupational health measures under this clause.

(j) The contractor shall continually update the safety and health plan when necessary. In particular, the Contractor shall furnish a list of all hazardous operations to be performed, and a list of other major or key operations required or planned in the performance of the contract, even though not deemed hazardous by the Contractor. NASA and the Contractor shall jointly decide which operations are to be considered hazardous, with NASA as the final authority. Before hazardous operations commence, the Contractor shall submit for NASA concurrence.

(1) Written hazardous operating procedures for all hazardous operations; and/or
(2) Qualification standards for personnel involved in hazardous operations.

(End of clause)

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## E.21. SAFETY AND HEALTH SUPPLEMENT

1) SAFETY SUPERVISION

a) Contractor's Safety Officer shall ensure that:

(i) NASA fall protection requirements are included in work instructions where NASA employees and/or contractors will be working in situations that require fall protection.
(ii) Ensure that anyone who is identified as a qualified person (per ANSI/ASSE Z359.0-007, paragraph 2.109) to serve as a subject matter expert in support of the enter's Fall Protection Program has been trained by an industry-recognized trainer, ASA-recognized trainer/training center, or NASA-developed training program equivalent to ANSI and OSHA compliant training (Ref: ANSI/ASSE Z359.2 -2007 Section C.5).
(iii) For each situation that requires fall protection, ensure that there is a competent person (per ANSI/ASSE Z359.0-2007, paragraph 2.27) assigned responsibility for the immediate application of fall protection work where fall protection is required whose education and training has been administered by an industry-recognized trainer, NASA-recognized trainer/training center, or NASA-developed training program equivalent to ANSI and OSHA compliant training.
(iv) Construction personnel are performing work in compliance with the approved site specific health and safety plan.

2) GENERAL SAFETY PROVISIONS

a) In addition to the requirements set forth in the clause entitled "Safety and Health (NASA 1852.223-70)", the Contractor shall comply with all applicable requirements of the NASA Glenn Safety Manual, with particular attention to Chapters 17, Construction Safety, and 21, Mishap Reporting/Accident Investigation.

b) These documents are incorporated by reference into this contract as if fully rewritten herein.

(i) The GRC Safety Manual, GLM-QS-1700.1, is available online at http://smad-ext.grc.nasa.gov/shed/pub/gsm/gsm-manual.pdf.

(ii) The GRC Occupational Health Programs Manual, GLM-QS-1800.1, is available on-line at http://smad-ext.grc.nasa.gov/shed/pub/ohpm/ohpm-manual.pdf

(iii) The GRC Construction Safety Guidebook, is available on-line at https://smad-ext.grc.nasa.gov/shed/pub/ConstructionSafety/

The GRC Construction Safety Guidebook summarizes policies and processes associated from the NASA GRC Safety Manual and Occupation Health and Programs manual. If there is any difference in requirement, the referenced manual supersedes the guidebook.

a) The Contractor and all subcontractors are subject to applicable federal, state, and local laws, regulations, ordinances, codes, and orders relating to safety and health in effect on the date of this Contract. During the performance of work under this Contract, the Contractor shall comply with procedures prescribed for control and safety of persons visiting the project site. Contractor is responsible for his personnel and for familiarizing each of his subcontractors with safety requirements. Contractor shall advise the

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Contracting Officer of any special safety restriction he has established so that Government personnel can be notified of these restrictions. All contractor and subcontractor employees shall sign the HASP to document that they understand and will comply with the contents.

b) Contractor shall comply with the requirements of NASA NPR 8715.3, which is available at: http://nodis3.gsfc.nasa.gov/displayDir.cfm?Internal_ID=N_PR_8715_003C_&page_Page4 name=main

3) FALL PROTECTION

a) The contractor shall protect workers who may be exposed to a fall of six feet or greater to a lower level for construction activities. This requirement is more stringent in some cases than that required by 29 CFR 1926, such as for steel erection.

b) It is NASA's policy to provide fall protection for any walking working surface where a person is exposed to a fall to a lower level. Fall protection programs shall focus on eliminating the fall hazard before an individual is exposed to the hazard. Fall protection programs shall protect workers who may be exposed to a fall six feet or greater to a lower level for all construction activities - including steel erection.

c) When structural steel erection is performed a Site specific Steel Erection plan as per 29 CFR 1926.Subpart R Appendix A shall be submitted to NASA for concurrence. Fall Protection shall be required for steel erection activities where the workers are exposed to a height of 6 feet or greater including connectors

4) COMPETENT PERSON

a) Whenever fall protection is worn it shall be under constant supervision of a competent person.

b) Competent person: For each situation that requires fall protection at GRC, there is a competent person (per ANSI/ASSE Z359.0-2007, paragraph 2.27) assigned responsibility for the immediate application of fall protection work where fall protection is required whose education and training has been administered by an industry-recognized trainer. The fall protection competent person shall be on the construction site 100% of the time that active fall protection is being used.

(End of Clause)

**E.22. SAFETY AND HEALTH PLAN – GRC SUPPLEMENTAL REQUIREMENTS (GRC 52.223-100)(NOV 2013)**

The Contractor shall submit a final, detailed, site-specific Safety and Health Plan to the Contracting Officer (CO) within 30 calendar days of contract award for concurrence by the GRC Safety, Health and Environmental Division (SHED), and approval by the CO.

If the contract is for services and/or operations, the final Safety and Health Plan shall be prepared in accordance with NASA Procedural Requirements (NPR) 8715.3 NASA General

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Safety Program Requirements, Appendix E.

If the contract is for construction, the final Safety and Health Plan shall be prepared in accordance with: 1) Chapter 17 of GLM-QS-1700.1, Glenn Research Center Safety Manual, and 2) the General Safety Specification 01 35 26.98.

If the contract statement of work or specification includes site-specific and/or unique safety and health plan requirements, they shall be addressed in the final Safety and Health Plan as well.

Upon approval, the final Safety and Health Plan will be incorporated as an Attachment to the contract via modification, and will replace the general safety and health plan description. Upon its incorporation, the Contractor shall comply with the requirements of the final Safety and Health Plan.

(End of Clause)

## E.23. WASTE REDUCTION REPORTING (GRC 52.223-98)(JUN 2008)

In addition to the requirements of FAR clause 52.223-10, Waste Reduction Program, the Contractor shall submit an annual report for all operations and facilities covered by this contract about its program to promote and implement cost effective waste reduction and affirmative procurement programs required by 42 U.S.C. 6962 for all products designated in EPA's Comprehensive Procurement Guideline (40 CFR Part 247). Both the FAR 23.404(b) and NPG 8830.01 require that Government purchases of EPA-designated items contain the specified amount of recovered materials unless a request for waiver or justification documentation has been processed. The reporting period shall be from October 1 of each year through September 30 of the following year. The report shall be submitted December 15. The report shall be submitted at the address listed at http://netsdata.grc.nasa.gov . Copies of the report shall also be provided to the Contracting Officer and the GRC Environmental Management Branch. The Contractor's programs shall comply with applicable Federal, State, and local requirements, NASA Environmental policy, and the NASA Glenn Research Center Environmental Program Manual, specifically including Section 6002 of the Resource Conservation and Recovery Act (42 U.S.C. 6962, et seq.) and implementing regulations (40 CFR Part 247). A complete listing of all categories and products designated in EPA's Comprehensive Procurement Guideline can be found at http://www.epa.gov/cpg/products.htm .

(End of Clause)

## E.24. PRICE DEDUCTION FOR NON-SATISFACTORY WORK PERFORMANCE

The Government has identified several key areas that will be monitored and addressed in accordance with a Deduction Schedule below. Violations of certain metrics, defined in the Deduction Schedule by the Contractor will result in financial penalties and/or the entry of written reprimands in the Government's Past Performance database.

The Government reserves the right to deduct from monthly task invoices or the final task payment an amount as indicated for non-satisfactory performance of work.

**Deductive amounts are not negotiable**

| Violations | Application | Source of Evaluation Data | Notes |
|---|---|---|---|

| LEVEL I VIOLATION ($260 Deduction Value) | | | |
|---|---|---|---|
| Health and Safety Violations | Deduct for each occurrence | IRIS Reports, CPAR's, SHeTrack Findings, and Government Inspection Reports, or Contractor Activity Reports | Violations would be work activity or worksite conditions that are in nonconformance with the GRC Safety Manual, GRC Occupational Health Program Manual, approved task Health and Safety Plan, or failure to comply with contract requirements for health and safety. |
| Environmental Violations | Deduct for each occurrence | CPAR's, SHeTrack Findings, Government Inspection Reports, Contractor Activity Reports, or written communications to the Contractor from the CO/COR. | Violations would be work activity or worksite conditions that are in nonconformance with the GRC Environmental Program Manual, the approved task's Storm Water Pollution Prevention Plan (SWPPP), or contract requirements for environmental aspects of the task. |
| Schedule Updates | Deduct for each monthly occurrence | Task submittals, CPAR's, or written communications to the Contractor from the CO/COR. | Violations would be a failure to officially submit a schedule update on every task (as defined in SOW section 7.4) |
| Invoicing | Deduct for each occurrence | Task pay requests, written communications to the contractor from the CO/COR, or CPAR's | Violations would be a failure to: provide certified payrolls, provide certified subcontract listing and paid amounts to each subcontractor. |
| **LEVEL II VIOLATION ($1,000 Deduction Value)** | | | |
| Recurring/ Unresolved Level I Violations | Deduct for each occurrence | Written communications to the contractor from the CO/COR, meeting minutes, or CPAR's | Violations would be a failure to apply corrective actions within a reasonable timeframe specified by the government, or three recurring Level I violations on any task |

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| Staffing | Deduct for each occurrence | CPAR's, SHeTrack Findings, Government Inspection Reports, Contractor Activity Reports, or written communications to the contractor from the CO/COR | Violations would be active construction without the staff required by the contract documents (Safety Officer, Site Supervisor, Competent Persons, etc.) |
| Unapproved Installations | Deduct for each occurrence | CPAR's, Meeting Minutes, Government Inspection Reports, Contractor Activity Reports, or written communications to the contractor from the CO/COR | Violations would be installation of any material or equipment without an approved submittal. |
| **LEVEL III VIOLATION ($2,000 Deduction Value)** | | | |
| Recurring/ Unresolved Level II Violations | Deduct for each occurrence | Written communications to the contractor from the CO/COR, meeting minutes, or CPAR's | Violations would be a failure to apply corrective actions within a reasonable timeframe specified by the government, or three recurring Level II violations on any task |
| Significant Health and Safety Violation | Deduct for each occurrence | IRIS Reports, CPAR's, SHeTrack Findings, OSHA investigation findings, Mishap Investigation Reports, and Government Inspection Reports, or Contractor Activity Reports | Violations would be any Type A or Type B Mishap (as defined in the GRC Safety Manual) or a close call that had a potential loss of life for incidents not otherwise addressed by OSHA |
| Incident Reporting | Deduct for each occurrence | IRIS Reports, CPAR's, SHeTrack Findings, OSHA investigation findings, Mishap Investigation Reports, and Government Inspection Reports, or Contractor Activity Reports | Violations would be failure to report a mishap or close call (as defined in the GRC Safety Manual) to NASA Emergency Dispatch and the COR within one hour of the incident. |

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| Unscheduled System Outages | Deduct for each occurrence | IRIS Reports, CPAR's, SHeTrack Findings, and Government Inspection Reports, or Contractor Activity Reports | Violations would be any unscheduled outage to a GRC system (domestic water, sanitary, storm, natural gas, chilled water, service air, combustion air, low voltage electrical, high voltage electrical, steam, communication, life safety/ security, etc.) due to a fault of the Contractor. An example would be striking an existing utility system because proper excavation and/or permitting procedures were not followed. |

(End of Clause)

**E.25. PERFORMANCE OF WORK BY THE CONTRACTOR (FAR 52.236 1) (APR 1984)**

Unless indicated on specific task orders, the Contractor shall perform on the site, and with its own organization, work equivalent to at least **15** percent for General Construction of the total amount of work to be performed under the contract. This percentage may be reduced by a supplemental agreement to this contract if, during performing the work, the Contractor requests a reduction and the Contracting Officer determines that the reduction would be to the advantage of the Government.

(End of clause)

**E.26. PHYSICAL DATA (FAR 52.236-4) (APR 1984)**

Data and information furnished or referred to below is for the Contractor's information. The Government shall not be responsible for any interpretation of or conclusion drawn from the data or information by the Contractor.

(a) The indications of physical conditions on the drawings and in the specifications are the result of site investigations by....NO INFORMATION PROVIDED AT THIS TIME

(b) Weather conditions....NO INFORMATION PROVIDED AT THIS TIME

(c) Transportation facilities....RAIL FACILITIES ARE NOT AVAILABLE

(End of clause)

**E.27. SUPERINTENDENCE BY THE CONTRACTOR (FAR 52.236-6) (APR 1984)**

At all times during performance of this contract and until the work is completed and accepted,

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the Contractor shall directly superintend the work or assign and have on the work a competent superintendent who is satisfactory to the Contracting Officer and has authority to act for the Contractor.

(End of clause)

## E.28. SUPERINTENDENCE BY THE CONTRACTOR – SUPPLEMENT

The Superintendent is considered essential to the work being performed under this contract. The Contractor shall identify the Project Superintendent in writing to the Contracting Officer's Representative (COR) prior to the pre-construction conference. This superintendent shall be dedicated solely to this contract and shall be on site full time whenever work is being performed under this contract.

Before removing, replacing or diverting the superintendent, the Contractor shall (1) notify the Contracting Officer in writing 30 calendar days in advance and (2) submit justification (including proposed substitution(s)) in sufficient detail to permit evaluation of the impact on this contract.

The Contractor shall make no deviation without the Contracting Officer's written consent. The Contracting Officer may ratify in writing the proposed change. That ratification shall constitute the Contracting Officer's consent required by this clause.

(End of Clause)

## E.29. SPECIFICATIONS AND DRAWINGS FOR CONSTRUCTION (FAR 52.236-21) (FEB 1997)

(a) The Contractor shall keep on the work site a copy of the drawings and specifications and shall at all times give the Contracting Officer access thereto. Anything mentioned in the specifications and not shown on the drawings, or shown on the drawings and not mentioned in the specifications, shall be of like effect as if shown or mentioned in both. In case of difference between drawings and specifications, the specifications shall govern. In case of discrepancy in the figures, in the drawings, or in the specifications, the matter shall be promptly submitted to the Contracting Officer, who shall promptly make a determination in writing. Any adjustment by the Contractor without such a determination shall be at its own risk and expense. The Contracting Officer shall furnish from time to time such detailed drawings and other information as considered necessary, unless otherwise provided.

(b) Wherever in the specifications or upon the drawings the words "directed," "required," "ordered," "designated," "prescribed," or words of like import are used, it shall be understood that the "direction," "requirement," "order," "designation," or "prescription," of the Contracting Officer is intended and similarly the words "approved," "acceptable," "satisfactory," or words of like import shall mean "approved by," or "acceptable to," or "satisfactory to" the Contracting Officer, unless otherwise expressly stated.

(c) Where "as shown," "as indicated," "as detailed," or words of similar import are used, it shall be understood that the reference is made to the drawings accompanying this contract unless stated otherwise. The word "provided" as used herein shall be understood to mean "provide complete in place," that is "furnished and installed."

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(d) Shop drawings means drawings, submitted to the Government by the Contractor, subcontractor, or any lower tier subcontractor pursuant to a construction contract, showing in detail (1) the proposed fabrication and assembly of structural elements and (2) the installation (i.e., form, fit, and attachment details) of materials of equipment. It includes drawings, diagrams, layouts, schematics, descriptive literature, illustrations, schedules, performance and test data, and similar materials furnished by the Contractor to explain in detail specific portions of the work required by the contract. The Government may duplicate, use, and disclose in any manner and for any purpose shop drawings delivered under this contract.
(e) If this contract requires shop drawings, the Contractor shall coordinate all such drawings, and review them for accuracy, completeness, and compliance with contract requirements and shall indicate its approval thereon as evidence of such coordination and review. Shop drawings submitted to the Contracting Officer without evidence of the Contractor's approval may be returned for resubmission. The Contracting Officer will indicate an approval or disapproval of the shop drawings and if not approved as submitted shall indicate the government's reasons therefore. Any work done before such approval shall be at the Contractor's risk. Approval by the Contracting Officer shall not relieve the Contractor from responsibility for any errors or omissions in such drawings, nor from responsibility for complying with the requirements of this contract, except with respect to variations described and approved in accordance with (f) below.

(f) If shop drawings show variations from the contract requirements, the Contractor shall describe such variations in writing, separate from the drawings, at the time of submission. If the Contracting Officer approves any such variation, the Contracting Officer shall issue an appropriate contract modification, except that, if the variation is minor or does not involve a change in price or in time of performance, a modification need not be issued.

(g) The Contractor shall submit to the Contracting Officer for approval four copies (unless otherwise indicated) of all shop drawings as called for under the various headings of these specifications. Three sets (unless otherwise indicated) of all shop drawings, will be retained by the Contracting Officer and one set will be returned to the Contractor.

(h) This clause shall be included in all subcontracts at any tier.

(End of clause)

## E.30. SUBMITTALS - CONTRACT CLAUSE (52.236-21) SUPPLEMENT

A. General

1. Submittals shall be made for all materials where required under various sections of the specifications and for all materials being proposed as substitutes for materials specified on the drawings or in the specifications.

2. Submittals shall consist of shop drawings, samples and maintenance data as required in each technical section of the specifications.

3. Submit a list of all equipment to be furnished including the name of the manufacturer, the model number and other identifying data and information related to performance, capacity, nature and rating.

B. Definitions

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1. The term "shop drawing" includes drawings, diagrams, layouts, schematics, descriptive literature, illustrations, schedules, performance and test data, and similar materials furnished by the contractor to explain in detail specific portions of the work required by the contract.

2. "Maintenance data" shall consist of operating manuals, parts lists, maintenance manuals, and other operational information submitted for information only.

C. Shop Drawings

1. Drawings shall be submitted for approval in the form of direct reading unfolded transparencies suitable for reproduction and Five (5) accompanying prints.

a. Sheet size shall be 44 inches by 30 inches.

b. Provide minimum blank area of 4 inches by 7 inches in the lower right hand corner for use by the Government.

2. Six (6) copies of all data other than drawings shall be submitted for approval.

3. If shop drawings show variation from the contract requirements, the Contractor shall describe such variations in writing, separate from the drawings, at the time of submission and shall give the reason therefor.

D. Submittals of Maintenance Data

The Contractor shall submit one CD and six (6) copies of maintenance data as required under various sections of the specifications.

E. Samples

The Contractor shall submit for approval, samples, as required under various sections of the specifications.

F. Submittal Identification

The Contractor shall identify all shop drawings, samples and maintenance data with the following information:

1. Job name and contract number.

2. Contractor's name and contract number.

3. Subcontractor's name and contract number.

4. Item name or number and reference to applicable contract drawings and specification section.

5. Issue date and identification of all revisions on transparencies.

6. Identification of samples, including brand name, color, type of material and any other data to verify contract requirements.

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G. Submittals

1. All drawings, samples and materials shall be submitted for approval along with accompanying transmittal letters (two (2) copies each) and a CD shall be sent directly to:

NASA Glenn Research Center
Attn: Contracting Officer's Representative
21000 Brookpark Rd. (M. S. 21-15)
Cleveland, OH 44135

2. Correspondence other than submittals shall be forwarded in quadruplicate to the Contracting Officer's Technical Representative. The Government contract number shall be marked on all correspondence.

3. Within twenty one (21) calendar days after receipt of the submittals, two (2) copies of each submittal will be returned to the Contractor by the Government marked either "APPROVED", "APPROVED AS NOTED" or "DISAPPROVED". In the event the Government requires additional time in excess of the twenty one days specified in this paragraph, the contract completion date may be extended an appropriate number of days, not to exceed sixty (60) calendar days.

4. "DISAPPROVED" and "APPROVED AS NOTED" submittals returned to the Contractor shall be corrected and returned to the Government within fifteen (15) calendar days after receipt of the submittals by the Contractor. If the Contractor does not return the revised submittals within the said period of time or if the revised submittals returned are not approved by the Government, he Government will be entitled to invoke the provisions of the contract Clause 52.249 10 entitled "DEFAULT".

5. Approval by the Government will not be construed as a complete approval, but only that the general method of construction, fabrication and detailing is satisfactory. Approval of such submittals will not relieve the Contractor of the responsibility for any error which may exist, as the Contractor shall be responsible for compliance with the contract requirements. In the event the submittals marked "APPROVED" or "APPROVED AS NOTED" reflect information which is not in full conformance with the contract specifications, the Contractor shall notify the Contracting Officer immediately, pursuant to the contract Clause 52.236 21 entitled "SPECIFICATIONS AND DRAWINGS FOR CONSTRUCTION".

6. The Government reserves the right to request the use of electronic methods for the transmission of submittals.

(End of Clause)

**E.31. OBSERVANCE OF LEGAL HOLIDAYS (1852.42-72) (AUG 1992) ALTERNATE I (SEP 1989)AND ALTERNATIVE II (OCT 2000)**

(a) (a) The on-site Government personnel observe the following listed days as holidays:

(1) New Year's Day

(2) Martin Luther King Jr's Birthday

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(3) President's Day

(4) Memorial Day

(5) Independence Day

(6) Labor Day

(7) Columbus Day

(8) Veteran's Day

(9) Thanksgiving Day

(10) Christmas Day

(11) Any other Day designated by Federal Statute, Executive Order, or the President's proclamation

(b) When any holiday falls on a Saturday, the preceding Friday is observed. When any holiday falls on a Sunday, the following Monday is observed. Observance of such days by Government personnel shall not by itself be cause for an additional period of performance, or entitlement of compensation except as set forth within the contract.

(End of Clause)

## E.32. DOWNTIME AND GOVERNMENT HOLDS

The Contractor shall allow in his task order offer for a maximum of 10 calendar days during which all construction activities will be prohibited. The Government will provide twelve hours of notice each time these restrictions are invoked. Government research at the adjacent facilities may alter contractor working hours during the period of performance. The COR will provide 48 hour notice of such a change.

(End of Clause)

## E.33. TIME EXTENSIONS FOR UNUSUALLY SEVERE WEATHER

A. This clause specifies the procedure for the determination of time extensions for unusually severe weather in accordance with the Contract Clause entitled "Default (Fixed Price Construction)." In order for the Contracting Officer to award a time extension under this clause, the following conditions shall be satisfied.

1. The weather experienced at the project site during the Contract period shall be found to be unusually severe, that is, more severe than the adverse weather anticipated for the project location during any given month.

2. The unusually severe weather shall actually cause a delay to the completion of the project. The delay shall be beyond the control and without the fault or negligence of the Contractor.

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B. The following schedule of monthly anticipated adverse weather delays is based on historical climatic data for the project location and will constitute the baseline for monthly weather time evaluations. The Contractor's progress schedule shall reflect these anticipated adverse weather delays in all weather dependent activities.

MONTHLY ANTICIPATED ADVERSE WEATHER CALENDAR DAYS

| JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 13 | 12 | 11 | 9 | 10 | 11 | 11 | 9 | 7 | 8 | 9 | 10 |

C. Upon acknowledgement of the Notice to Proceed and continuing throughout the contract, the contractor will record the occurrence of adverse weather and resultant impact to normally scheduled work. Actual adverse weather delay days must prevent work on critical activities for 50 percent or more of the Contractor's scheduled work day.

D. The number of actual adverse weather days shall include days impacted by actual adverse weather (even if adverse weather occurred in previous month), be calculated chronologically from the first to the last day in each month, and be recorded as full days. If the number of actual adverse weather delay days exceeds the number of days anticipated in the schedule of monthly anticipated adverse weather delays above, the Contracting Officer will determine whether the Contractor is entitled to a time extension. The Contracting Officer will convert any qualifying delays to equivalent work days and issue a modification in accordance with the Contract Clause entitled "Default (Fixed Price Construction)." Modifications for unusually severe weather will be for time extensions only and will not include monetary consideration.

(End of Clause)

**E.34. PERSONAL IDENTITY VERIFICATION (PIV) CARD ISSUANCE PROCEDURES (GRC 52.204-96)(AUG 2006)**

"PIV Card Issuance Procedures", posted on the World Wide Web at http://www.grc.nasa.gov/WWW/Procure/PIVCardIssuanceProcedures.doc, are incorporated herein by reference and made a part hereof.

These PIV Card Issuance Procedures are in accordance with FAR clause 52.204-9, "Personal Identity Verification of Contractor Personnel" and NASA Procurement Information Circular (PIC) 06-01 entitled "Personal Identity Verification of Contractors," dated January 18, 2006.

(End of Clause)

**E.35. GRC 52.209-90 CONTRACTORS' DUTIES AND RESPONSIBILITIES ON-SITE (APRIL 2013)**

(a) BADGES AND PASSES

(i) Badge and Pass Issuance

Support Service Contractor personnel having a need to enter areas of the Glenn Research Center Lewis Field or Plum Brook Station shall have an identification badge or pass. This badge or pass shall be obtained at the Badge Control Office or Visitor Control Office located at the Main Gate of either Lewis Field or Plum Brook Station.

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(1) Permanent Badge (Personal Identify Verification (PIV) Credential) Requirements

a. It is recommended that the contractor complete the new employee hiring process at least 10 work days prior to the employee's start date.
b. Upon the selection of a new employee, the contractor's Human Resource (HR) representative shall create an identity in the Identity and Access Management Tool (IdMAX).
c. The contractor's HR representative shall also complete NASA Form 1760, Position Risk Designation for Non-NASA Employee and NASA-C-1760, Position Risk Designation Cover sheet. Once completed, both forms shall be signed by the NASA COTR and sent to the Office of Protective Services POC for Non-Government Investigations.
d. At the time of the Center visit or the Entry-on-Duty appointment, the new employee shall complete the Enroll for PIV credential process at the Main Gate Badge Control Office.
e. During this activity the new employee shall provide verification of their identity by providing two forms of I-9 documentation and fingerprints.
f. Upon Entry-on-Duty, the employee shall be issued a temporary credential (badge) for access to the Center until a Permanent Credential (badge) is created.

Please reference the GRC Office of Protective Services web site for the Permanent Support Service Contractor (SSC) New Hire Identity Creation Process (https://security.grc.nasa.gov/im_ssc_new_hire.cfm), and for additional information.

(2) Temporary Pass Requirements

• Short Term Visitors (1-29 days) shall receive a Visitor Pass. Please reference the GRC Office of Protective Services web site (https://security.grc.nasa.gov/form_visit_information.cfm) to complete the on-line visitor request form.

• NASA GRC Service and Vendor Personnel shall receive a Service / Vendor Personnel Pass which will allow only physical access to NASA GRC. Please reference the GRC Office of Protective Services web site (https://security.grc.nasa.gov/crm_grc_serv_vend_pers.cfm) for complete information.

The contractor shall ensure that, for badging purposes, each contractor employee is in possession of NASA Form C-9975 (Construction Contractor Registration & ID Badge), prior to reporting to work. Contractor employees not in possession of the above mentioned form will be delayed at the gate until the contractor supervisor/foreman or that individual's representative reports to the Main Gate with the appropriate paperwork for badging

• Temporary workers are defined as those employees that are on Center for more than 29 days and less than 180 days. Please reference the GRC Office of Protective Services web site (https://security.grc.nasa.gov/crm_temporary_worker.cfm) for complete information.

All lost or stolen badges or passes shall be reported immediately to the GRC Office of Protective Services.

(ii) Employee Separation

(1) When an employee terminates and/or resigns employment, the contractor shall issue to the employee NASA Form C-10087, Non-NASA Separation Clearance Record. The contractor shall be responsible for making an inquiry of all offices listed on the form to see if the employee has

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any outstanding Government items. The employee shall then take this form to all offices that list he/she as having outstanding items. The employee's last stop is for the return of their Government issued I.D. badge. The contractor is also required to send a notice to the Grc-Ssc-Separations@Lists.Nasa.Gov within 1 day of employees' separation.

(2) The contractor shall ensure that the terminated and/or resigned employee has returned his/her badge to the Main Gate Badge Clerk. Final clearance of a contractor upon completion of a contract will depend in part upon accounting for all badges issued to employees during the performance of the contract. Security badges are Government property and any alteration or misuse of these badges may be prosecuted as a violation of Section 499, Title 18, U.S. Code.

(3) The contractor's on-site manager shall comply with the Badge and Property Regulations (NASA Form C-421), a copy of which will be given to the contractor's supervisors at the time of the Construction Site Showing.

(4) Upon termination of duties, each employee's badge will be collected and returned to the Main Gate by the contractor. Final clearance of a contractor upon completion of a contract will depend in part upon the accounting for all badges issued to employees during the performance of the contract. Security badges are Government property and any alteration or misuse of these badges may be prosecuted as a violation of Section 499, Title 18, U.S. Code.

(b) PERSONNEL LOCATION AND IDENTIFICATION
The contractor shall:
(1) Ensure that office space occupied by its personnel is clearly labeled with the name of the company.

(2) Ensure, to the extent practicable, that external correspondence signed by its personnel is on company letterhead. Internal correspondence, including e-mail and memoranda, must include the name of the company in the signature line or in another clearly identifiable location.

(3) Ensure that its onsite personnel, when receiving or placing telephone calls, identify their employer, in addition to whatever other appropriate greeting is used.

(4) When participating in meetings with Government and/or other contractor personnel, ensure that its personnel properly identify themselves as contractor employees so that their actions will not be construed as acts of Government officials.

(c) EMERGENCY PREPAREDNESS
(1) Emergencies are defined as incidents involving serious personal injury or damage, incidents that cause possible hazardous conditions, or incidents that require immediate attention of the Plant Protection Department or Security. The contractor shall ensure that its employees are informed that Emergency, Fire, Medical, Safety, and Security assistance can be summoned by Dialing "911" on the Center's PABX telephone system.

(2) For incidents not classified as an emergency, contractor personnel shall be instructed to immediately notify the Contracting Officer's Representative (COR) (rather than dialing "911").

(3) In the event of any accident investigation activity, the contactor shall cooperate fully with the Government Accident Investigator and the Center Accident Investigation Board. This cooperation shall include interviews at the accident site and/or at a Board meeting.

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(4) The contractor shall provide written guidance to its employees in the event of an emergency, an incident other than an emergency, a Center closure, a building closure, a fire alarm, or tornado alarm. The contractor is encouraged to include in this guidance pre-established instructions, when feasible, to employees such that unnecessary delays and confusion may be avoided by employees who may otherwise be awaiting management instructions. For example, the contractor is encouraged to address what actions employees should immediately take in the event of fire, building closure, Center closure (i.e. late Center opening or early center dismissal) for snow or other causes.

(d) TRAFFIC
The contractor agrees to comply, and agrees to require that all of its personnel will comply with all posted traffic signs, signals and instructions of personnel assigned for traffic control and parking purposes and with the provisions of the NASA Glenn Research Center Safety Manual (GLM-QSA-1700.1), Chapter 19, Vehicle & Pedestrian Safety, incorporated herein by reference and made a part hereof.

(e) PROHIBITION OF FIREARMS
Firearms or weapons of any kind are strictly prohibited at the Glenn Research Center.

(f) SECURITY INCIDENTS
Theft of Property, Bomb threats, malicious damage and any other threat or violent situations shall be immediately reported to the GRC Office of Protective Services.

(g) AFTER-HOUR ACCESS
During normal working hours, 6:00 a.m. to 6:00 p.m. Monday through Friday, the guards at the gates will permit contractor entrance and departure. At any other time, advance clearance is required. Advance clearance may be obtained through the Glenn/Plum Brook COR, who will make the request to the Main Gate Officer (PABX 3-2204 at Glenn and 3-3221 at Plum Brook). After-hour clearances, as approved by the COR, are certification to the guards as authority for admittance of a contractor during off hours, including Saturdays, Sundays, and Holidays. This procedure ONLY applies to temporary contractors who are on-site at Glenn for 1 - 179 days within 365 day timeframe and are issued temporary badges(non-smartcard credentials) NOTE: Per Plum Brook management ALL Plum Brook Station employees are required to follow the after-hour access procedures.

(h) GOVERNMENT PROPERTY ACCOUNTABILITY
(1) Government property and material is subject to the requirements of Federal Acquisition Regulation (FAR) Part 45 and NASA FAR Supplement (NFS) Part 1845. All NASA contractors are required to follow all applicable FAR and NFS regulations as well as applicable NASA Directives. Removal of NASA property from GRC and Plum Brook Station without prior authorization is strictly prohibited and is subject to denial of Center access and criminal prosecution. Contractors shall ensure that their employees are familiar with the requirements of the contract with regard to Government Property, including the disposal and removal of scrap and residual materials. The removal of scrap and residual job materials from GRC requires written approval from the NASA COR or authorized representative. The appropriate documentation must be completed and signed by the COR or authorized representative before exiting the Center. Each driver is required to surrender the completed documentation to the security officer at the security control point upon departure. Each vehicle is then subject to inspection prior to departure from the Center to check the contents of the respective vehicle against the information listed on the documentation authorizing removal of the property.

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(2) In addition to the above, Municipal Waste, Recyclables, and Hazardous Materials must also be properly disposed of utilizing the appropriate containers and collection points for each type of scrap and residual material. Failure to adhere to the proper disposal of these materials or unauthorized use of municipal waste or recycling containers may result in the denial of Center access and possible civil or criminal prosecution for the offender.

(3) Property movement and disposal shall be coordinated through the Logistic and Technical Information Division's (LTID) Supply and Equipment Management Officer/Property Disposal Officer in accordance with the requirements in NASA Policy Document (NPD) 4200.1, Equipment Management, NPD 4300.1, NASA Personal Property Disposal Policy, NPR 4200.1, NASA Equipment Management Procedural Requirements, and NPR 4300.1, NASA Personal Property Disposal.

(4) Questions concerning the proper removal and disposal of property, scrap, waste or other residual job materials should be forwarded to the NASA COR, or the GRC Supply and Equipment Management Officer (SEMO).

(End of Clause)

## E.36. USE OF THE MEDICAL/HEALTH SERVICES FACILITIES - CONSTRUCTION

The Contractor can be seen in the Occupational Medicine Services Office for EMERGENCY MEDICAL PROBLEMS and ON THE JOB INJURIES. Appropriate medical treatment and follow up deemed necessary by the OMS physician or practitioner will be provided. Referrals to tertiary care centers and/or private physicians will be made in cases requiring long term follow up, or when specific services required are unavailable at Occupational Medicine Services.

Examples of emergency medical problems and on the job injuries include:

Lacerations; Eye injuries;
Acute chemical exposures from spills or splashes;
Falls or accidents that occur on Glenn property which incur injury

For treatment of chronic, non acute episodic medical care (colds, flu, allergies, etc.) the services of the contract employee's private physician should be utilized.

(End of Text)

## E.37. RECOVERED MATERIAL REPORTING (GRC 52.223-97)(JUN 2008)

In addition to the requirements of FAR clause 52.223-9, Estimate of Percentage of Recovered Material Content for EPA-Designated Products, the Contractor shall submit an annual report,

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estimating the percentage of the total recovered material used in contract performance, including, if applicable, the percentage of post-consumer material content. The reporting period shall be from October 1 of each year through September 30 of the following year. The report shall be submitted by December 31. The report shall be submitted at the address listed at http://netsdata.grc.nasa.gov. Copies of the report shall also be provided to the Contracting Officer and the GRC Environmental Management Branch. A complete listing of all categories and products the EPA has designated as having to meet recycled/reclaimed percentages can be found at http://www.epa.gov/cpg/products.htm

(End of Clause)

**E.38. UTILITY SERVICE CHARGES (GRC 52.236-98)(AUG 1989)**

In accordance with Clause 52.236-14 entitled "Availability and Use of Utility Services", the Government does not intend to charge the Contractor for utility services consumed. Therefore, there is also no requirement for the Contractor to install meters for the purpose of measuring usage.

(End of Clause)

**E.39. EXPORT LICENSES (1852.225-70)(FEB 2000)**

(a) The Contractor shall comply with all U.S. export control laws and regulations, including the International Traffic in Arms Regulations (ITAR), 22 CFR Parts 120 through 130, and the Export Administration Regulations (EAR), 15 CFR Parts 730 through 799, in the performance of this contract. In the absence of available license exemptions/exceptions, the Contractor shall be responsible for obtaining the appropriate licenses or other approvals, if required, for exports of hardware, technical data, and software, or for the provision of technical assistance.

(b) The Contractor shall be responsible for obtaining export licenses, if required, before utilizing foreign persons in the performance of this contract, including instances where the work is to be performed on-site at NASA Glenn Research Center, where the foreign person will have access to export-controlled technical data or software.

(c) The Contractor shall be responsible for all regulatory record keeping requirements associated with the use of licenses and license exemptions/exceptions.

(d) The Contractor shall be responsible for ensuring that the provisions of this clause apply to its subcontractors.

(End of Clause)

**E.40. RESTRICTION ON FUNDING ACTIVITY WITH CHINA (1852.225-71)(FEB 2012)**

(a) Definition - “China” or “Chinese-owned company” means the People’s Republic of China, any company owned by the People’s Republic of China or any company incorporated under the laws of the People’s Republic of China.

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(b) Public Laws 112-10, Section 1340(a) and 112-55, Section 539, restrict NASA from contracting to participate, collaborate, coordinate bilaterally in any way with China or a Chinese-owned company using funds appropriated on or after April 25, 2011. Contracts for commercial and non-developmental items are exempted from the prohibition because they constitute purchase of goods or services that would not involve participation, collaboration, or coordination between the parties.

(c) This contract may use restricted funding that was appropriated on or after April 25, 2011. The contractor shall not contract with China or Chinese-owned companies for any effort related to this contract except for acquisition of commercial and non-developmental items. If the contractor anticipates making an award to China or Chinese-owned companies, the contractor must contact the contracting officer to determine if funding on this contract can be used for that purpose.

(d) Subcontracts - The contractor shall include the substance of this clause in all subcontracts made hereunder.

(End of Clause)

**E.41. PARTNERING FOR CONSTRUCTION CONTRACTS (1852.236-75) (AUGUST 1998)**

(a) The terms "partnering" and "partnership" used herein shall mean a relationship of open communication and close cooperation that involves both Government and contractor personnel working together for the purpose of establishing a mutually beneficial, proactive, cooperative environment within which to achieve contract objectives and resolve issues and implementing actions as required.

(b) Partnering will be a voluntary commitment mutually agreed upon by at least NASA and the prime contractor, and preferably the subcontractors and the A&E design contractor, if applicable. Sustained commitment to the process is essential to assure success of the relationship.

(c) NASA intends to facilitate contract management by encouraging the foundation of a cohesive partnership with the Contractor, its subcontractors, the A&E design contractor, and NASA's contract management staff. This partnership will be structured to draw on the strengths of each organization to identify and achieve mutual objectives. The objectives are intended to complete the contract requirements within budget, on schedule, and in accordance with the plans and specifications.

(d) To implement the partnership, it is anticipated that within 30 days of the Notice to Proceed the prime Contractor's key personnel, its subcontractors, the A&E design contractor, and NASA personnel will attend a partnership development and team building workshop. Follow-up team building workshops will be held periodically throughout the duration of the contract as agreed to by the Government and the Contractor.

(e) Any cost with effectuating the partnership will be agreed to in advance by both parties and will be shared with no change in the contract price. The contractor's share of the costs are not recoverable under any other Government award.

(End of clause)

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## E.42. LISTING OF CLAUSES INCORPORATED BY REFERENCE

The following contract clause(s)/provisions are incorporated by reference, with the same force and effect as if they were given in full text. Clauses incorporated by reference which require a fill-in by the Government include the text of the affected paragraph(s) only. This does not limit the clause to the affected paragraph(s). The Contractor is responsible for understanding and complying with the entire clause. The full text of the clause is available at the addresses contained in clause 52.252-2, Clauses Incorporated by Reference, of this contract.

### I. FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1)

| | | |
|---|---|---|
| 52.202-1 | JAN 2012 | DEFINITIONS |
| 52.203-3 | APR 1984 | GRATUITIES |
| 52.203-5 | APR 1984 | COVENANT AGAINST CONTINGENT FEES |
| 52.203-6 | SEP 2006 | RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT |
| 52.203-7 | OCT 2010 | ANTI-KICKBACK PROCEDURES |
| 52.203-8 | JAN 1997 | CANCELLATION, RESCISSION AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY |
| 52.203-10 | JAN 1997 | PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY |
| 52.203-12 | OCT 2010 | LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS |
| 52.203-13 | APR 2010 | CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT |
| 52.203-14 | DEC 2007 | DISPLAY OF HOTLINE POSTER(S) Paragraph(b)(3) **Hotline # (800) 424-9098** |
| 52.204-2 | APR 1984 | SECURITY REQUIREMENTS ALT II |
| 52.204-4 | MAY 2011 | PRINTED OR COPIED DOUBLE-SIDED ON POST CONSUMER FIBER CONTENT PAPER |
| 52.204-7 | JULY 2013 | SYSTEM FOR AWARD MANAGEMENT. |
| 52.204-9 | JAN 2011 | PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL |
| 52.204-10 | FEB 2012 | REPORTING EXECUTIVE COMPENSATION AND FIRST-TIER SUBCONTRACT AWARDS |
| 52.204-13 | JUL 2013 | SYSTEM FOR AWARD MANAGEMENT |
| 52.204-14 | JAN 2014 | SERVICE CONTRACT REPORTING REQUIREMENTS |
| 52.209-6 | DEC 2010 | PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT |
| 52.209-9 | JUL 2013 | UPDATES OF PUBLICLY AVAILABLE INFORMATION |

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| | | REGARDING RESPONSIBILITY MATTERS |
| 52.209-10 | MAY 2012 | PROHIBITION OF CONTRACTING WITH INVERTED DOMESTIC CORPORATIONS |
| 52.211-3 | JUN 1988 | AVAILABILITY OF SPECIFICATIONS NOT LISTED IN THE GSA INDEX OF FEDERAL SPECIFICATIONS, STANDARDS AND COMMERCIAL ITEM DESCRIPITIONS |
| 52.211-12 | SEP 2000 | LIQUIDATED DAMAGES CONSTRUCTION |
| 52.213-13 | SEP 2000 | TIME EXTENSION |
| 52.216-4 | JAN 1997 | ECONOMIC PRICE ADJUSTMENT—LABOR AND MATERIAL. |
| 52.219-1 | APR 2012 | SMALL BUSINESS PROGRAM REPRESENTATIONS |
| 52.219-14 | NOV 2011 | LIMITATIONS ON SUBCONTRACTING |
| 52.219-28 | APR 2012 | POST AWARD SMALL BUSINESS PROGRAM REPRESENTATIONS |
| 52.219-30 | APR 2012 | NOTICE OF SET-ASIDE FOR WOMAN-OWNED SMALL BUSINESS CONCERNS ELIGIBLE UNDER THE WOMAN-OWNED SMALL BUSINESS PROGRAM |
| 52.222-1 | FEB 1997 | NOTICE TO THE GOVERNMENT OF LABOR DISPUTES |
| 52.222-3 | JUN 2003 | CONVICT LABOR |
| 52.222-4 | JUL 2005 | CONTRACT WORK HOURS AND SAFETY STANDARDS ACT -OVERTIME COMPENSATION |
| 52.222-7 | FEB 1988 | WITHHOLDING OF FUNDS |
| 52.222-8 | JUN 2010 | PAYROLLS AND BASIC RECORDS |
| 52.222-9 | JUL 2005 | APPRENTICES AND TRAINEES |
| 52.222-10 | FEB 1988 | COMPLIANCE WITH COPELAND ACT REQUIREMENTS |
| 52.222-11 | JUL 2005 | SUBCONTRACTS (LABOR STANDARDS) |
| 52.222-12 | FEB 1988 | CONTRACT TERMINATION--DEBARMENT |
| 52.222-13 | FEB 1988 | COMPLIANCE WITH DAVIS-BACON AND RELATED ACT REGULATIONS |
| 52.222-14 | FEB 1988 | DISPUTES CONCERNING LABOR STANDARDS |
| 52.222-15 | FEB 1988 | CERTIFICATION OF ELIGIBILITY |
| 52.222-21 | FEB 1999 | PROHIBITION OF SEGREGATED FACILITIES |
| 52.222-26 | MAR 2007 | EQUAL OPPORTUNITY |
| 52.222-27 | FEB 1999 | AFFIRMATIVE ACTION COMPLIANCE REQUIREMENTS FOR CONSTRUCTION |
| 52.222-35 | SEP 2010 | EQUAL OPPORTUNITY FOR VETERANS |
| 52.222-36 | OCT 2010 | AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES |
| 52.222-37 | SEP 2010 | EMPLOYMENT REPORTS ON VETERANS |
| 52.222-40 | DEC 2010 | NOTIFICATION OF THE EMPLOYEE RIGHTS UNDER THE NATIONAL LABOR RELATIONS ACT |
| 52.222-41 | NOV 2007 | SERVICE CONTRACT ACT OF 1965 |
| 52.222.42 | MAY 1989 | STATEMENT OF EQUIVALENT RATES FOR FEDERAL HIRES |

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In compliance with the Service Contract Act of 1965, as amended, and the regulations of the Secretary of Labor (29 CFR Part 4), this clause identifies the classes of service employees expected to be employed under the contract and states the wages and fringe benefits payable to each if they were employed by the contracting agency subject to the provisions of 5 U.S.C. 5341 or 5332.

*This Statement is for Information Only:*
*It is not a Wage Determination*

| **Employee Class** | **Monetary Wage - Fringe Benefits** |
|---|---|
| Electrical Technician (GS-9) | $55,902 yearly |
| Electrical Technician (GS-11) | $67,637 yearly |

(End of clause)

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|---|---|---|
| 52.222-44 | SEP 2009 | FAIR LABOR STANDARDS ACT AND SERVICE CONTRACT ACT - PRICE ADJUSTMENT. |
| 52.222-50 | FEB 2009 | COMBATING TRAFFICKING IN PERSONS |
| 52.222-54 | JAN 2009 | EMPLOYMENT ELIGIBILITY VERIFICATION |
| 52.223-2 | JUL 2012 | AFFIRMATIVE PROCUREMENT OF BIOBASED PRODUCTS UNDER SERVICE AND CONSTRUCTION CONTRACTS |
| 52.223-3 | JAN 1997 | HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA |
| 52.223-5 | MAY 2011 | POLUTION PREVENTION AND RIGHT-TO-KNOW INFORMATION |
| 52.223-6 | MAY 2001 | DRUG-FREE WORKPLACE |
| 52.223-10 | MAY 2011 | WASTE REDUCTION PROGRAM |
| 52.223-15 | DEC 2007 | ENERGY EFFICIENCY IN ENERGY-CONSUMING PRODUCTS |
| 52.223-17 | MAY 2008 | AFFIRMATIVE PROCUREMENT OF EPA DESIGNATED ITEMS IN SERVICE AND CONSTRUCTION CONTRACTS |
| 52.223-18 | AUG 2011 | ENCOURAGING CONTRACTOR POLICIES TO BAN TEXT MESSAGING WHILE DRIVING |
| 52.225-9 | SEPT 2010 | BUY AMERICAN ACT-CONSTRUCTION MATERIALS |
| 52.225-10 | FEB 2009 | NOTICE OF BUY AMERICAN ACT REQUIRMENT - CONSTRUCTION MATERIALS |
| 52.225-13 | JUN 2008 | RESTRICTIONS ON CERTAIN FOREIGN PURCHASES |
| 52.227-1 | DEC 2007 | AUTHORIZATION AND CONSENT |
| 52.227-4 | DEC 2007 | PATIENT INDEMNITY-CONSTRUCTION CONTRACTS |
| 52.228-5 | JAN 1997 | INSURANCE--WORK ON A GOVERNMENT |

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| | | INSTALLATION |
| 52.228-11 | JAN 2012 | PLEDGES OF ASSETS |
| 52.228-12 | OCT 1995 | PROSPECTIVE SUBCONTRACTOR REQUESTS FOR BONDS |
| 52.228-14 | DEC 1999 | IRREVOCABLE LETTER OF CREDIT |
| 52.229-3 | APR 2003 | FEDERAL, STATE, AND LOCAL TAXES |
| 52.232-5 | SEPT 2002 | PAYMENTS UNDER FIXED-PRICE CONSTRUCTION CONTRACTS |
| 52.232-17 | OCT 2010 | INTEREST |
| 52.232-18 | APR 1984 | AVAILIABILTY OF FUNDS |
| 52.232-23 | JAN 1986 | ASSIGNMENT OF CLAIMS |
| 52.232-27 | OCT 2008 | PROMPT PAYMENT FOR CONSTRUCTION CONTRACTS |
| 52.232-33 | JUL 2013 | PAYMENT BY ELECTRONIC FUNDS TRANSFER SYSTEM FOR AWARDS MANAGEMENT |
| 52.232-39 | JUNE 2013 | UNENFORCEABILITY OF UNAUTHORIZED OBLIGATIONS |
| 52.233-1 | JUL 2002 | DISPUTES |
| 52.233-3 | AUG 1996 | PROTEST AFTER AWARD |
| 52.233-4 | OCT 2004 | APPLICABLE LAW FOR BREACH OF CONTRACT CLAIM |
| 52.236-2 | APR 1984 | DIFFERING SITE CONDITIONS |
| 52.236-3 | APR 1984 | SITE INVESTIGATION AND CONDITIONS AFFECTING THE WORK |
| 52.236-5 | APR 1984 | MATERIAL AND WORKMANSHIP |
| 52.236-6 | APR 1984 | SUPERINTENDENCE BY THE CONTRACTOR |
| 52.236-7 | NOV 1991 | PERMITS AND RESPONSIBILITIES |
| 52.236-8 | APR 1984 | OTHER CONTRACTS |
| 52.236-9 | APR 1984 | PROTECTION OF EXISTING VEGETATION, STRUCTURES, EQUIPMENT, UTILITIES, AND IMPROVEMENTS |
| 52.236-10 | APR 1984 | OPERATIONS AND STORAGE AREAS |
| 52.236-11 | APR 1984 | USE AND POSESSION PRIOR TO COMPLETION |
| 52.236-12 | APR 1984 | CLEANING UP |
| 52.236-13 | NOV 1991 | ACCIDENT PREVENTION |
| 52.236-14 | APR 1984 | AVAILABILITY AND USE OF UTILITY SERVICES |
| 52.236-15 | APR 1984 | SCHEDULES FOR CONSTRUCTION CONTRACTS |
| 52.236-17 | APR 1984 | LAYOUT OF WORK |
| 52.236-21 | FEB 1997 | SPECIFICATIONS AND DRAWINGS FOR CONSTRUCTION |
| 52.236-26 | FEB 1995 | PRECONSTRUCTION CONFERENCE |
| 52.242-13 | JUL 1995 | BANKRUPTCY |
| 52.242-14 | APR 1984 | SUSPENSION OF WORK |
| 52.243-4 | JUN 2007 | CHANGES |
| 52.244-6 | DEC 2010 | SUBCONTRACTS FOR COMMERCIAL ITEMS |
| 52.245-1 | AUG 2010 | GOVERNMENT PROPERTY |
| 52.245-9 | APR 2012 | USE AND CHARGES |
| 52.246-21 | MAR 1994 | WARRANTY OF CONSTRUCTION |
| 52.248-3 | OCT 2010 | VALUE ENGINEERING-- CONSTRUCTION |
| 52.249-2 | APR 2012 | TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED-PRICE) (ALTERNATE 1) |
| 52.249-10 | APR 1984 | DEFAULT (FIXED-PRICE CONSTRUCTION) |

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| | | |
|---|---|---|
| 52.253-1 | JAN 1991 | COMPUTER GENERATED FORMS |

II. NASA FAR SUPPLEMENT (48 CFR CHAPTER 18) CLAUSES

| | | |
|---|---|---|
| 1852.203-70 | JUN 2001 | DISPLAY OF INSPECTOR GENERAL HOTLINE POSTERS |
| 1852.204-76 | JAN 2011 | SECURITY REQUIRMENTS FOR UNCLASIFIED TECHNOLOGY RESOURCES |
| 1852.209-72 | DEC 1988 | COMPOSITION OF THE CONTRACTOR |
| 1852.219-74 | SEP 1990 | USE OF RURAL AREA SMALL BUSINESSES |
| 1852.219-76 | JUL 1997 | NASA 8 PERCENT GOAL |
| 1852.219-77 | MAY 2009 | NASA MENTOR-PROTÉGÉ PROGRAM |
| 1852.223-74 | MAR 1986 | DRUG AND ALCOHOL-FREE WORK FORCE |
| 1852.236-71 | MAR 1989 | ADDITIVE OR DEDUCTIVE ITEMS |
| 1852.237-70 | DEC 1988 | EMERGENCY EVACUATION PROCEDURES |
| 1852.237-73 | JUN 2005 | RELEASE OF SENSITIVE INFORMATION |
| 1852.243-71 | MAR 1997 | SHARED SAVINGS |

## E.43. UPDATES OF PUBLICLY AVAILABLE INFORMATION REGARDING RESPONSIBILITY MATTERS (FAR 52.209-9) (FEB 2012)

(a) The Contractor shall update the information in the Federal Awardee Performance and Integrity Information System (FAPIIS) on a semi-annual basis, throughout the life of the contract, by posting the required information in the Central Contractor Registration database at https://www.acquisition.gov

(b) As required by section 3010 of the Supplemental Appropriations Act, 2010 (Pub.L. 111-212), all information posted in FAPIIS on or after April 15, 2011, except past performance reviews, will be publicly available. FAPIIS consists of two segments—

(1) The non-public segment, into which Government officials and the Contractor post information, which can only be viewed by—

(i) Government personnel and authorized users performing business on behalf of the Government; or

(ii) The Contractor, when viewing data on itself; and

(2) The publicly-available segment, to which all data in the non-public segment of FAPIIS is automatically transferred after a waiting period of 14 calendar days, except for—

(i) Past performance reviews required by subpart 42.15;

(ii) Information that was entered prior to April 15, 2011; or

(iii) Information that is withdrawn during the 14-calendar-day waiting period by the Government official who posted it in accordance with paragraph (c)(1) of this clause.

(c) The Contractor will receive notification when the Government posts new information to the Contractor's record.

(1) If the Contractor asserts in writing within 7 calendar days, to the Government official who posted the information, that some of the information posted on the non-public segment of FAPIIS is covered by a disclosure exemption under the Freedom of Information Act, the Government official who posted the information must within 7 calendar days remove the posting from FAPIIS and resolve the issue in accordance with agency Freedom of Information procedures, prior to reposting the releasable information. The contractor must cite 52.209-9 and request removal within 7 calendar days of the posting to FAPIIS.

(2) The Contractor will also have an opportunity to post comments regarding information that has been posted by the Government. The comments will be retained as long as the associated information is retained, i.e., for a total period of 6 years. Contractor comments will remain a part of the record unless the Contractor revises them.

(3) As required by section 3010 of Pub. L. 111-212, all information posted in FAPIIS on or after April 15, 2011, except past performance reviews, will be publicly available.

(d) Public requests for system information posted prior to April 15, 2011, will be handled under Freedom of Information Act procedures, including, where appropriate, procedures promulgated under E.O. 126000.

(End of clause)

**E.44. HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA (FAR 52.223-3) ALTERNATE 1 (JUL 1995)**

(a) "Hazardous material," as used in this clause, includes any material defined as hazardous under the latest version of Federal Standard No. 313 (including revisions adopted during the term of the contract).

(b) The offeror must list any hazardous material, as defined in paragraph (a) of this clause, to be delivered under this contract. The hazardous material shall be properly identified and include any applicable identification number, such as National Stock Number or Special Item Number. This information shall also be included on the Material Safety Data Sheet submitted under this contract.

Material Identification No.

NONE AT THIS TIME

(c) This list must be updated during performance of the contract whenever the Contractor determines that any other material to be delivered under this contract is hazardous.

(d) The apparently successful offeror agrees to submit, for each item as required prior to award, a Material Safety Data Sheet, meeting the requirements of 29 CFR 1910.1200(g) and the latest version of Federal Standard No. 313, for all hazardous material identified in paragraph (b) of this

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clause. Data shall be submitted in accordance with Federal Standard No. 313, whether or not the apparently successful offeror is the actual manufacturer of these items. Failure to submit the Material Safety Data Sheet prior to award may result in the apparently successful offeror being considered non-responsible and ineligible for award.

(e) If, after award, there is a change in the composition of the item(s) or a revision to Federal Standard No. 313, which renders incomplete or inaccurate the data submitted under paragraph (d) of this clause, the Contractor shall promptly notify the Contracting Officer and resubmit the data.

(f) Neither the requirements of this clause nor any act or failure to act by the Government shall relieve the Contractor of any responsibility or liability for the safety of Government, Contractor, or subcontractor personnel or property.

(g) Nothing contained in this clause shall relieve the Contractor from complying with applicable Federal, State, and local laws, codes, ordinances, and regulations (including the obtaining of licenses and permits) in connection with hazardous material.

(h) The Government's rights in data furnished under this contract with respect to hazardous material are as follows:

(1) To use, duplicate and disclose any data to which this clause is applicable. The purposes of this right are to--

(i) Apprise personnel of the hazards to which they may be exposed in using, handling, packaging, transporting, or disposing of hazardous materials;

(ii) Obtain medical treatment for those affected by the material; and

(iii) Have others use, duplicate, and disclose the data for the Government for these purposes.

(2) To use, duplicate, and disclose data furnished under this clause, in accordance with subparagraph (h)(1) of this clause, in precedence over any other clause of this contract providing for rights in data.

(3) The Government is not precluded from using similar or identical data acquired from other sources.

(i) Except as provided in paragraph (i)(2), the Contractor shall prepare and submit a sufficient number of Material Safety Data Sheets (MSDS's), meeting the requirements of 29 CFR 1910.1200(g) and the latest version of Federal Standard No. 313, for all hazardous materials identified in paragraph (b) of this clause.

(1) For items shipped to consignees, the Contractor shall include a copy of the MSDS's with the packing list or other suitable shipping document which accompanies each shipment. Alternatively, the Contractor is permitted to transmit MSDS's to consignees in advance of receipt of shipments by consignees, if authorized in writing by the Contracting Officer.

(2) For items shipped to consignees identified by mailing address as agency depots, distribution centers or customer supply centers, the Contractor shall provide one copy of the MSDS's in or on each shipping container. If affixed to the outside of each container, the MSDS's must be placed in a weather resistant envelope.

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(End of clause)

**E.45. DRUG FREE WORKPLACE (FAR 52.223-6) (MAY 2001)**

(a) Definitions. As used in this clause,

"Controlled substance" means a controlled substance in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812) and as further defined in regulation at 21 CFR 1308.11 1308.15.

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.

"Criminal drug statute" means a Federal or non Federal criminal statute involving the manufacture, distribution, dispensing, possession or use of any controlled substance.

"Drug free workplace" means the site(s) for the performance of work done by the Contractor in connection with a specific contract at which employees of the Contractor are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance.

"Employee" means an employee of a Contractor directly engaged in the performance of work under a Government contract. "Directly engaged" is defined to include all direct cost employees and any other Contractor employee who has other than a minimal impact or involvement in contract performance.

"Individual" means an offeror/contractor that has no more than one employee including the offeror/contractor.

(b) The Contractor, if other than an individual, shall within 30 calendar days after award (unless a longer period is agreed to in writing for contracts of 30 calendar days or more performance duration); or as soon as possible for contracts of less than 30 calendar days performance duration

(1) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

(2) Establish an ongoing drug free awareness program to inform such employees about

(i) The dangers of drug abuse in the workplace;

(ii) The Contractor's policy of maintaining a drug free workplace;

(iii) Any available drug counseling, rehabilitation, and employee assistance programs; and

(iv) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

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(3) Provide all employees engaged in performance of the contract with a copy of the statement required by subparagraph (b)(1) of this clause;

(4) Notify such employees in writing in the statement required by subparagraph (b)(1) of this clause that, as a condition of continued employment on this contract, the employee will

(i) Abide by the terms of the statement; and

(ii) Notify the employer in writing of the employee's conviction under a criminal drug statute for a violation occurring in the workplace no later than 5 calendar days after such conviction.

(5) Notify the Contracting Officer in writing within 10 calendar days after receiving notice under subdivision (b)(4)(ii) of this clause, from an employee or otherwise receiving actual notice of such conviction. The notice shall include the position title of the employee;

(6) Within 30 calendar days after receiving notice under subdivision (b)(4)(ii) of this clause of a conviction, take one of the following actions with respect to any employee who is convicted of a drug abuse violation occurring in the workplace:

(i) Taking appropriate personnel action against such employee, up to and including termination; or
(ii) Require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.

(7) Make a good faith effort to maintain a drug free workplace through implementation of paragraphs (b)(1) through (b)(6) of this clause.

(c) The Contractor, if an individual, agrees by award of the contract or acceptance of a purchase order, not to engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in the performance of this contract.

(d) In addition to other remedies available to the Government, the Contractor's failure to comply with the requirements of paragraphs (b) or (c) of this clause may, pursuant to FAR 23.506, render the Contractor subject to suspension of contract payments, termination of the contract for default, and suspension or debarment.

(End of clause)

**E.46. ESTIMATE OF PERCENTAGE OF RECOVERED MATERIAL CONTENT FOR EPA DESIGNATED PRODUCTS (FAR 52.223-9) (MAY 2008)**

(a) *Definitions*. As used in this clause-

"Postconsumer material" means a material or finished product that has served its intended use and has been discarded for disposal or recovery, having completed its life as a consumer item. Postconsumer material is a part of the broader category of "recovered material."

"Recovered material" means waste materials and by-products recovered or diverted from solid waste, but the term does not include those materials and by-products generated from, and

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commonly reused within, an original manufacturing process.

(b) The Contractor, on completion of this contract, shall-

(1) Estimate the percentage of the total recovered material content for EPA-designated item(s) delivered and/or used in contract performance, including, if applicable, the percentage of post-consumer material content; and

(2) Submit this estimate to William J Varis, Contracting Officer.

## E.47. BUY AMERICAN ACT CONTRUCTION MATERIAL UNDER TRADE AGREEMENTS (FAR 52.225-11) (JAN 2005)

a) Definitions . As used in this clause-
"Caribbean Basin country construction material" means a construction material that-
(1) Is wholly the growth, product, or manufacture of a Caribbean Basin country; or
(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a Caribbean Basin country into a new and different construction material distinct from the materials from which it was transformed.
"Component" means an article, material, or supply incorporated directly into a construction material.
"Construction material" means an article, material, or supply brought to the construction site by the Contractor or subcontractor for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site. Materials purchased directly by the Government are supplies, not construction material.
"Cost of components" means-
(1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the construction material (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or
(2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the construction material.
"Designated country" means any of the following countries:
(1) A World Trade Organization Government Procurement Agreement country (Aruba, Austria, Belgium, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, or United Kingdom);
(2) A Free Trade Agreement country (Australia, Canada, Chile, Mexico, Morocco, or Singapore);
(3) A least developed country (Afghanistan, Angola, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia, Cape Verde, Central African Republic, Chad, Comoros, Democratic Republic of Congo, Djibouti, East Timor, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Laos, Lesotho, Madagascar, Malawi, Maldives, Mali, Mauritania,

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Mozambique, Nepal, Niger, Rwanda, Samoa, Sao Tome and Principe, Senegal, Sierra Leone, Solomon Islands, Somalia, Tanzania, Togo, Tuvalu, Uganda, Vanuatu, Yemen, or Zambia); or
(4) A Caribbean Basin country (Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, British Virgin Islands, Costa Rica, Dominica, Dominican Republic, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Montserrat, Netherlands Antilles, Nicaragua, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, or Trinidad and Tobago).
"Designated country construction material" means a construction material that is a WTO GPA country construction material, an FTA country construction material, a least developed country construction material, or a Caribbean Basin country construction material.
"Domestic construction material" means-
(1) An unmanufactured construction material mined or produced in the United States; or
(2) A construction material manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic.
"Foreign construction material" means a construction material other than a domestic construction material.
"Free Trade Agreement country construction material" means a construction material that-
(1) Is wholly the growth, product, or manufacture of a Free Trade Agreement (FTA) country; or
(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a FTA country into a new and different construction material distinct from the materials from which it was transformed.
"Least developed country construction material" means a construction material that-
(1) Is wholly the growth, product, or manufacture of a least developed country; or
(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a least developed country into a new and different construction material distinct from the materials from which it was transformed.
"United States" means the 50 States, the District of Columbia, and outlying areas.
"WTO GPA country construction material" means a construction material that-
(1) Is wholly the growth, product, or manufacture of a WTO GPA country; or
(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a WTO GPA country into a new and different construction material distinct from the materials from which it was transformed.
(b) Construction materials.
(1) This clause implements the Buy American Act (41 U.S.C. 10a-10d) by providing a preference for domestic construction material. In addition, the Contracting Officer has determined that the WTO GPA and Free Trade Agreements (FTAs) apply to this acquisition. Therefore, the Buy American Act restrictions are waived for designated country construction materials.
(2) The Contractor shall use only domestic, designated country construction material in performing this contract, except as provided in paragraphs (b)(3) and (b)(4) of this clause.
(3) The requirement in paragraph (b)(2) of this clause does not apply to the construction materials or components listed by the Government as follows:
NONE
(4) The Contracting Officer may add other foreign construction material to the list in paragraph (b)(3) of this clause if the Government determines that-
(i) The cost of domestic construction material would be unreasonable. The cost of a particular domestic construction material subject to the restrictions of the Buy American Act is unreasonable when the cost of such material exceeds the cost of foreign material by more than 6 percent;
(ii) The application of the restriction of the Buy American Act to a particular construction material would be impracticable or inconsistent with the public interest; or

(iii) The construction material is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality.
(c) Request for determination of inapplicability of the Buy American Act .
(1)(i) Any Contractor request to use foreign construction material in accordance with paragraph (b)(4) of this clause shall include adequate information for Government evaluation of the request, including-
(A) A description of the foreign and domestic construction materials;
(B) Unit of measure;
(C) Quantity;
(D) Price;
(E) Time of delivery or availability;
(F) Location of the construction project;
(G) Name and address of the proposed supplier; and
(H) A detailed justification of the reason for use of foreign construction materials cited in accordance with paragraph (b)(3) of this clause.
(ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed price comparison table in the format in paragraph (d) of this clause.
(iii) The price of construction material shall include all delivery costs to the construction site and any applicable duty (whether or not a duty-free certificate may be issued).
(iv) Any Contractor request for a determination submitted after contract award shall explain why the Contractor could not reasonably foresee the need for such determination and could not have requested the determination before contract award. If the Contractor does not submit a satisfactory explanation, the Contracting Officer need not make a determination.
(2) If the Government determines after contract award that an exception to the Buy American Act applies and the Contracting Officer and the Contractor negotiate adequate consideration, the Contracting Officer will modify the contract to allow use of the foreign construction material. However, when the basis for the exception is the unreasonable price of a domestic construction material, adequate consideration is not less than the differential established in paragraph (b)(4)(i) of this clause.
(3) Unless the Government determines that an exception to the Buy American Act applies, use of foreign construction material is noncompliant with the Buy American Act.
(d) Data. To permit evaluation of requests under paragraph (c) of this clause based on unreasonable cost, the Contractor shall include the following information and any applicable supporting data based on the survey of suppliers:
Foreign and Domestic Construction Materials Price Comparison Construction

| Material Description | Unit of Measure | Quantity | Price(Dollars)* |
|---|---|---|---|
| Item 1: Foreign construction material | _____ | _____ | _____ |
| Domestic construction material | _____ | _____ | _____ |
| Item 2: Foreign construction material | _____ | _____ | _____ |
| Domestic construction material | _____ | _____ | _____ |

[List name, address, telephone number, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.]
[Include other applicable supporting information.]
[* Include all delivery costs to the construction site and any applicable duty (whether or not a duty-free entry certificate is issued).]

(End of clause)

**E.48. WARRANTY OF CONSTRUCTION (FAR 52.246-21) ALTERNATE I (APR 1984)**

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(a) In addition to any other warranties in this contract, the Contractor warrants, except as provided in paragraph (j) of this clause, that work performed under this contract conforms to the contract requirements and is free of any defect in equipment, material, or design furnished, or workmanship performed by the Contractor or any subcontractor or supplier at any tier.

(b) This warranty shall continue for a period of 1 year from the date of final acceptance of the work. If the Government takes possession of any part of the work before final acceptance, this warranty shall continue for a period of 1 year from the date the Government takes possession.

(c) The Contractor shall remedy at the Contractor's expense any failure to conform, or any defect. In addition, the Contractor shall remedy at the Contractor's expense any damage to Government owned or controlled real or personal property, when that damage is the result of

(1) The Contractor's failure to conform to contract requirements; or

(2) Any defect of equipment, material, workmanship, or design furnished.

(d) The Contractor shall restore any work damaged in fulfilling the terms and conditions of this clause. The Contractor's warranty with respect to work repaired or replaced will run for 1 year from the date of repair or replacement.

(e) The Contracting Officer shall notify the Contractor, in writing, within a reasonable time after the discovery of any failure, defect, or damage.

(f) If the Contractor fails to remedy any failure, defect, or damage within a reasonable time after receipt of notice, the Government shall have the right to replace, repair, or otherwise remedy the failure, defect, or damage at the Contractor's expense.

(g) With respect to all warranties, express or implied, from subcontractors, manufacturers, or suppliers for work performed and materials furnished under this contract, the Contractor shall

(1) Obtain all warranties that would be given in normal commercial practice;

(2) Require all warranties to be executed, in writing, for the benefit of the Government, if directed by the Contracting Officer; and
(3) Enforce all warranties for the benefit of the Government, if directed by the Contracting Officer.

(h) In the event the Contractor's warranty under paragraph (b) of this clause has expired, the government may bring suit at its expense to enforce a subcontractor's, manufacturer's, or supplier's warranty.

(i) Unless a defect is caused by the negligence of the Contractor or subcontractor or supplier at any tier, the Contractor shall not be liable for the repair of any defects of material or design furnished by the Government nor for the repair of any damage that results from any defect in Government furnished material or design.

(j) This warranty shall not limit the Government's rights under the Inspection and Acceptance clause of this contract with respect to latent defects, gross mistakes, or fraud.

(k) Defects in design or manufacture of equipment specified by the Government on a "brand

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name and model" basis, shall not be included in this warranty. In this event, the Contractor shall require any subcontractors, manufacturers, or suppliers thereof to execute their warranties, in writing, directly to the Government.

(End of clause)

## E.49. WARRANTY OF CONSTRUCTION SUPPLEMENT

In accordance with FAR clause 52.246-21 the Contractor shall provide a 1-year warranty from final acceptance of the work. NASA Glenn Research Center interprets this as 1-year from the date of final acceptance of the work. Subcontract's or Supply Purchase Orders shall include these provisions. The following clarifications are made to assure complete understanding of warranty provisions:

The prime Contractor shall operate and maintain all equipment and systems installed until the contract completion date. This includes maintenance service inspections, filter replacements, etc. as recommended by the manufacturer. Following completion, the Government will assume O&M responsibilities in accordance with manufacturer's recommendations.

The prime Contractor shall provide a written 1-year warranty from the contract completion date to the Government covering all materials, labor and workmanship. Warranty repairs may require the services of subcontractors or suppliers, but shall be managed and coordinated by the prime.

The prime Contractor shall provide a 1-year certificate of warranty from each supplier or provider for all purchased equipment or systems. Requests for warranty repairs shall be made directly to the manufacturer or supplier.

This provision is not affected by the Government's beneficial use or occupancy prior to the final completion. The warranty date may be adjusted throughout the course of this contract as required to include contract time extensions with an equitable adjustment to the contract. Should the contractor complete work ahead of schedule, the warranty provisions will be revised to reflect the actual completion.

(End of Clause)

## E.50. APPRENTICES TO JOURNEYMEN ALLOWABLE RATIO (52.222-9) SUPPLEMENT

For the purpose of this contract only, the allowed ration is one (1) apprentice to every three (3) journeymen. Thus, in this example, the allowable number of apprentices is illustrated by the following:

| JOURNEYMEN | ALLOWABLE APPRENTICES |
|---|---|
| 0-2 | 0 |
| 3-5 | 1 |
| 6-8 | 2 |
| 9-11 | 3 |

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NOTE: The ratios are applied in terms of whole number increments.

[End of Clause]

## E.51. MINIMUM INSURANCE COVERAGE (NASA 1852.228 -75)(OCT 1988)

The Contractor shall obtain and maintain insurance coverage as follows for the performance of this contract:

(a) Worker's compensation and employer's liability insurance as required by applicable Federal and state workers' compensation and occupational disease statutes. If occupational diseases are not compensable under those statutes, they shall be covered under the employer's liability section of the insurance policy, except when contract operations are so commingled with the Contractor's commercial operations that it would not be practical. The employer's liability coverage shall be at least $100,000, except in States with exclusive or monopolistic funds that do not permit workers' compensation to be written by private carriers.

(b) Comprehensive general (bodily injury) liability insurance of at least $500,000 per occurrence.

(c) Motor vehicle liability insurance written on the comprehensive form of policy which provides for bodily injury and property damage liability covering the operation of all motor vehicles used in connection with performing the contract. Policies covering motor vehicles operated in the United States shall provide coverage of at least $200,000 per person and $500,000 per occurrence for bodily injury liability and $20,000 per occurrence for property damage. The amount of liability coverage on other policies shall be commensurate with any legal requirements of the locality and sufficient to meet normal and customary claims.

(d) Comprehensive general and motor vehicle liability policies shall contain a provision worded as follows:

"The insurance company waives any right of subrogation against the United States of America which may arise by reason of any payment under the policy."

(e) When aircraft are used in connection with performing the contract, aircraft public and passenger liability insurance of at least $200,000 per person and $500,000 per occurrence for bodily injury, other than passenger liability, and $200,000 per occurrence for property damage. Coverage for passenger liability bodily injury shall be at least $200,000 multiplied by the number of seats or passengers, whichever is greater.

(End of clause)

## E.52. RIGHTS IN DATA - CONSTRUCTION

The data required as part of this contract is defined as "unlimited rights data" in accordance with the -Rights in Data-General Clause of this contract.

(End of Clause)

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## E.53. OMBUDSMAN (NFS 1852.215-84) (NOV 2011)

(a) An ombudsman has been appointed to hear and facilitate the resolution of concerns from offerors, potential offerors, and contractors during the preaward and postaward phases of this acquisition. When requested, the ombudsman will maintain strict confidentiality as to the source of the concern. The existence of the ombudsman is not to diminish the authority of the contracting officer, the Source Evaluation Board, or the selection official. Further, the ombudsman does not participate in the evaluation of proposals, the source selection process, or the adjudication of formal contract disputes. Therefore, before consulting with an ombudsman, interested parties must first address
their concerns, issues, disagreements, and/or recommendations to the contracting officer for resolution.

(b) If resolution cannot be made by the contracting officer, interested parties may contact the installation ombudsman, whose name, address, telephone number, facsimile number, and email address may be found at: http://prod.nais.nasa.gov/pub/pub_library/Omb.html Concerns, issues, disagreements, and recommendations which cannot be resolved at the installation may be referred to the Agency ombudsman identified at the above URL. Please do not contact the ombudsman to request copies of the solicitation, verify offer due date, or clarify technical requirements. Such inquiries shall be directed to the Contracting Officer or as specified elsewhere in this document.

(End of clause)

## E.54. CLAUSES INCORPORATED BY REFERENCE (FAR 52.252-2) (FEB 1998)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at these addresses: FAR clauses: http://farsite.hill.af.mil/vffara.htm

NASA FAR Supplement clauses: http://www.hq.nasa.gov/office/procurement/regs/nfstoc.htm

(End of clause)

PART III - REPRESENTATIONS AND INSTRUCTIONS

## E.55. 52.204-8 ANNUAL REPRESENTATIONS AND CERTIFICATIONS (DEC 2012)

Annual Representations and Certifications (Jul 2013)

(a)(1) The North American Industry Classification System (NAICS) code for this acquisition is **236210, Industrial Building Construction**.
(2) The small business size standard is **$33.5 M.**
(3) The small business size standard for a concern which submits an offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.

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(b)(1) If the provision at 52.204-7, System for Award Management, is included in this solicitation, paragraph (d) of this provision applies.
(2) If the provision at 52.204-7 is not included in this solicitation, and the offeror is currently registered in the System for Award Management (SAM), and has completed the Representations and Certifications section of SAM electronically, the offeror may choose to use paragraph (d) of this provision instead of completing the corresponding individual representations and certifications in the solicitation. The offeror shall indicate which option applies by checking one of the following boxes:
[ ] (i) Paragraph (d) applies.
[ ] (ii) Paragraph (d) does not apply and the offeror has completed the individual representations and certifications in the solicitation.
(c)(1) The following representations or certifications in SAM are applicable to this solicitation as indicated:
(i) 52.203-2, Certificate of Independent Price Determination. This provision applies to solicitations when a firm-fixed-price contract or fixed-price contract with economic price adjustment is contemplated, unless—
(A) The acquisition is to be made under the simplified acquisition procedures in Part 13;
(B) The solicitation is a request for technical proposals under two-step sealed bidding procedures; or
(C) The solicitation is for utility services for which rates are set by law or regulation.
(ii) 52.203-11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions. This provision applies to solicitations expected to exceed $150,000.
(iii) 52.204-3, Taxpayer Identification. This provision applies to solicitations that do not include the provision at 52.204-7, System for Award Management.
(iv) 52.204-5, Women-Owned Business (Other Than Small Business). This provision applies to solicitations that—
(A) Are not set aside for small business concerns;
(B) Exceed the simplified acquisition threshold; and
(C) Are for contracts that will be performed in the United States or its outlying areas.
(v) 52.209-2, Prohibition on Contracting with Inverted Domestic Corporations—Representation. This provision applies to solicitations using funds appropriated in fiscal years 2008, 2009, 2010, or 2012.
(vi) 52.209-5, Certification Regarding Responsibility Matters. This provision applies to solicitations where the contract value is expected to exceed the simplified acquisition threshold.
(vii) 52.214-14, Place of Performance—Sealed Bidding. This provision applies to invitations for bids except those in which the place of performance is specified by the Government.
(viii) 52.215-6, Place of Performance. This provision applies to solicitations unless the place of performance is specified by the Government.
(ix) 52.219-1, Small Business Program Representations (Basic & Alternate I). This provision applies to solicitations when the contract will be performed in the United States or its outlying areas.
(A) The basic provision applies when the solicitations are issued by other than DoD, NASA, and the Coast Guard.
(B) The provision with its Alternate I applies to solicitations issued by DoD, NASA, or the Coast Guard.
(x) 52.219-2, Equal Low Bids. This provision applies to solicitations when contracting by sealed bidding and the contract will be performed in the United States or its outlying areas.
(xi) 52.222-22, Previous Contracts and Compliance Reports. This provision applies to solicitations that include the clause at 52.222-26, Equal Opportunity.
(xii) 52.222-25, Affirmative Action Compliance. This provision applies to solicitations, other than those for construction, when the solicitation includes the clause at 52.222-26, Equal Opportunity.

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(xiii) 52.222-38, Compliance with Veterans' Employment Reporting Requirements. This provision applies to solicitations when it is anticipated the contract award will exceed the simplified acquisition threshold and the contract is not for acquisition of commercial items.
(xiv) 52.223-1, Biobased Product Certification. This provision applies to solicitations that require the delivery or specify the use of USDA–designated items; or include the clause at 52.223-2, Affirmative Procurement of Biobased Products Under Service and Construction Contracts.
(xv) 52.223-4, Recovered Material Certification. This provision applies to solicitations that are for, or specify the use of, EPA–designated items.
(xvi) 52.225-2, Buy American Act Certificate. This provision applies to solicitations containing the clause at 52.225-1.
(xvii) 52.225-4, Buy American Act—Free Trade Agreements—Israeli Trade Act Certificate. (Basic, Alternates I, II, and III.) This provision applies to solicitations containing the clause at 52.225-3.
(A) If the acquisition value is less than $25,000, the basic provision applies.
(B) If the acquisition value is $25,000 or more but is less than $50,000, the provision with its Alternate I applies.
(C) If the acquisition value is $50,000 or more but is less than $77,494, the provision with its Alternate II applies.
(D) If the acquisition value is $77,494 or more but is less than $100,000, the provision with its Alternate III applies.
(xviii) 52.225-6, Trade Agreements Certificate. This provision applies to solicitations containing the clause at 52.225-5.
(xix) 52.225-20, Prohibition on Conducting Restricted Business Operations in Sudan—Certification. This provision applies to all solicitations.
(xx) 52.225-25, Prohibition on Contracting with Entities Engaging in Certain Activities or Transactions Relating to Iran-Representation and Certifications. This provision applies to all solicitations.
(xxi) 52.226-2, Historically Black College or University and Minority Institution Representation. This provision applies to—
(A) Solicitations for research, studies, supplies, or services of the type normally acquired from higher educational institutions; and
(B) For DoD, NASA, and Coast Guard acquisitions, solicitations that contain the clause at 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns.
(2) The following certifications are applicable as indicated by the Contracting Officer: [Contracting Officer check as appropriate.]
__ (i) 52.219-22, Small Disadvantaged Business Status.
__ (A) Basic.
__ (B) Alternate I.
__ (ii) 52.222-18, Certification Regarding Knowledge of Child Labor for Listed End Products.
__ (iii) 52.222-48, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment Certification.
__ (iv) 52.222-52, Exemption from Application of the Service Contract Act to Contracts for Certain Services–Certification.
__ (v) 52.223-9, with its Alternate I, Estimate of Percentage of Recovered Material Content for EPA–Designated Products (Alternate I only).
__ (vi) 52.227-6, Royalty Information.
__ (A) Basic.
__(B) Alternate I.
__ (vii) 52.227-15, Representation of Limited Rights Data and Restricted Computer Software.
(d) The offeror has completed the annual representations and certifications electronically via the SAM website accessed through https://www.acquisition.gov. After reviewing the SAM database information, the offeror verifies by submission of the offer that the representations and

certifications currently posted electronically that apply to this solicitation as indicated in paragraph (c) of this provision have been entered or updated within the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard applicable to the NAICS code referenced for this solicitation), as of the date of this offer and are incorporated in this offer by reference (see FAR 4.1201); except for the changes identified below [offeror to insert changes, identifying change by clause number, title, date]. These amended representation(s) and/or certification(s) are also incorporated in this offer and are current, accurate, and complete as of the date of this offer.

| FAR Clause # | Title | Date | Change |
|---|---|---|---|
| _____ | _____ | _____ | _____ |

Any changes provided by the offeror are applicable to this solicitation only, and do not result in an update to the representations and certifications posted on SAM.

(End of provision)

**E.56. CERTIFICATION REGARDING RESPONSIBILITY MATTERS (FAR 52.209-5) (APR 2010)**

(a)(1) The Offeror certifies, to the best of its knowledge and belief, that—

(i) The Offeror and/or any of its Principals—

(A) Are o are not o presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

(B) Have o have not o, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) contract or subcontract; violation of Federal or State antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property (if offeror checks “have”, the offeror shall also see 52.209-7, if included in this solicitation);

(C) Are o are not o presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph (a)(1)(i)(B) of this provision;

(D) Have o, have not o, within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds $3,000 for which the liability remains unsatisfied.

(1) Federal taxes are considered delinquent if both of the following criteria apply:

(i) *The tax liability is finally determined*. The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge to the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.

(ii) *The taxpayer is delinquent in making payment*. A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.

(2) *Examples*.

(i) The taxpayer has received a statutory notice of deficiency, under I.R.C. § 6212, which entitles the taxpayer to seek Tax Court review of a proposed tax deficiency. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek Tax Court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

(ii) The IRS has filed a notice of Federal tax lien with respect to an assessed tax liability, and the taxpayer has been issued a notice under I.R.C. § 6320 entitling the taxpayer to request a hearing with the IRS Office of Appeals contesting the lien filing, and to further appeal to the Tax Court if the IRS determines to sustain the lien filing. In the course of the hearing, the taxpayer is entitled to contest the underlying tax liability because the taxpayer has had no prior opportunity to contest the liability. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek tax court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

(iii) The taxpayer has entered into an installment agreement pursuant to I.R.C. § 6159. The taxpayer is making timely payments and is in full compliance with the agreement terms. The taxpayer is not delinquent because the taxpayer is not currently required to make full payment.

(iv) The taxpayer has filed for bankruptcy protection. The taxpayer is not delinquent because enforced collection action is stayed under 11 U.S.C. 362 (the Bankruptcy Code).

(ii) The Offeror has o has not o, within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.

(2) “Principal,” for the purposes of this certification, means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity (*e.g.*, general manager; plant manager; head of a division or business segment; and similar positions).

This Certification Concerns a Matter Within the Jurisdiction of an Agency of the United States and the Making of a False, Fictitious, or Fraudulent Certification May Render the Maker Subject to Prosecution Under Section 1001, Title 18, United States Code.

(b) The Offeror shall provide immediate written notice to the Contracting Officer if, at any time prior to contract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(c) A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Offeror’s responsibility. Failure of the Offeror to furnish a certification or provide such additional information as requested by the Contracting Officer may render the Offeror non-responsible.

(d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

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(e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available to the Government, the Contracting Officer may terminate the contract resulting from this solicitation for default.

(End of provision)

**E.57. SMALL BUSINESS PROGRAM REPRESENTATIONS (52.219-1) (APR 2011)**

(a)(1) The North American Industry Classification System (NAICS) code for this acquisition is **NAICS code 238210.**

(2) The small business size standard is: **UP TO $14 million.**

(3) The small business size standard for a concern which submits an offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.

(b) Representations.
(1) The offeror represents as part of its offer that it [ ] is, [ ] is not a small business concern.

(2) [Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.] The offeror represents, for general statistical purposes, that it [ ] is, [ ] is not, a small disadvantaged business concern as defined in 13 CFR 124.1002.

(3) [Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.] The offeror represents as part of its offer that it [ ] is, [ ] is not a women-owned small business concern.

(4) [Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.] The offeror represents as part of its offer that it [ ] is, [ ] is not a veteran-owned small business concern.

(5) [Complete only if the offeror represented itself as a veteran-owned small business

concern in paragraph (b)(4) of this provision.] The offeror represents as part of its offer that it [ ] is, [ ] is not a service-disabled veteran-owned small business concern.

(6) [Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.] The offeror represents, as part of its offer, that-

(i) It [ ] is, [ ] is not a HUBZone small business concern listed, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration, and no material change in ownership and control, principal office, or HUBZone employee percentage has occurred since it was certified by the Small Business Administration in accordance with 13 CFR part 126; and

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(ii) It [ ] is, [ ] is not a joint venture that complies with the requirements of 13 CFR part 126, and the representation in paragraph (b)(6)(i) of this provision is accurate for the HUBZone small business concern or concerns that are participating in the joint venture. [The offeror shall enter the name or names of the HUBZone small business concern or concerns that are participating in the joint venture:_____.] Each HUBZone small business concern participating in the joint venture shall submit a separate signed copy of the HUBZone representation.

(c) Definitions. As used in this provision-

"Service-disabled veteran-owned small business concern"-

(1) Means a small business concern-

(i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and

(ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a service-disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

(2) Service-disabled veteran means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

"Small business concern" means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR part 121 and the size standard in paragraph (a) of this provision.

"Veteran-owned small business concern" means a small business concern-

(1) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and

(2) The management and daily business operations of which are controlled by one or more veterans.

"Women-owned small business concern" means a small business concern-

(1) That is at least 51 percent owned by one or more women; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

(2) Whose management and daily business operations are controlled by one or more women.

(d) Notice.

(1) If this solicitation is for supplies and has been set aside, in whole or in part, for small business concerns, then the clause in this solicitation providing notice of the set-aside contains restrictions on the source of the end items to be furnished.

(2) Under 15 U.S.C. 645(d), any person who misrepresents a firm's status as a small,

HUBZone small, small disadvantaged, or women-owned small business concern in order to obtain a contract to be awarded under the preference programs established pursuant to section 8(a), 8(d), 9, or 15 of the Small Business Act or any other provision of Federal law that specifically references section 8(d) for a definition of program eligibility, shall-

(i) Be punished by imposition of fine, imprisonment, or both;

(ii) Be subject to administrative remedies, including suspension and debarment; and

(iii) Be ineligible for participation in programs conducted under the authority of the Act.

**Alternate I (APR 2011):**

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(7) [Complete if offeror represented itself as disadvantaged in paragraph (b)(2) of this provision.] The offeror shall check the category in which its ownership falls:

_____ Black American.

_____ Hispanic American.

_____ Native American (American Indians, Eskimos, Aleuts, or Native Hawaiians).

_____ Asian-Pacific American (persons with origins from Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Japan, China, Taiwan, Laos, Cambodia (Kampuchea), Vietnam, Korea, The Philippines, U.S. Trust Territory of the Pacific Islands (Republic of Palau), Republic of the Marshall Islands, Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, Guam, Samoa, Macao, Hong Kong, Fiji, Tonga, Kiribati, Tuvalu, or Nauru).

_____ Subcontinent Asian (Asian-Indian) American (persons with origins from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, the Maldives Islands, or Nepal).

_____ Individual/concern, other than one of the preceding.

(End of provision)

**E.58. PREVIOUS CONTRACTS AND COMPLIANCE REPORTS (52.222-22) (Feb 1999)**

The offeror represents that--

(a) It [ ] has, [ ] has not participated in a previous contract or subcontract subject the Equal Opportunity clause of this solicitation;

(b) It [ ] has, [ ] has not filed all required compliance reports; and

(c) Representations indicating submission of required compliance reports, signed by Proposed subcontractors, will be obtained before subcontract awards.

(End of provision)

**E.59. RESTRICTION ON FUNDING ACTIVITY WITH CHINA – REPRESENTATION (1852.225-72)(FEB 2000)**

(a) Definition - “China” or “Chinese-owned” means the People’s Republic of China, any company owned by the People’s Republic of China or any company incorporated under the laws of the People’s Republic of China.

(b) Public Laws 112-10, Section 1340(a) and 112-55, Section 536, restrict NASA from contracting to participate, collaborate, or coordinate bilaterally in any way with China or a Chinese-owned company with funds appropriated on or after April 25, 2011. Contracts for commercial and non-developmental items are excepted from the prohibition as they constitute purchase of goods or services that would not involve participation, collaboration, or coordination between the parties.

(c) Representation. By submission of its offer, the offeror represents that the offeror is not China or a Chinese-owned company.

(End of Provision)

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## E.60. LISTING OF CLAUSES INCORPORATED BY REFERENCE

The following contract clause(s)/provisions are incorporated by reference, with the same force and effect as if they were given in full text. Clauses incorporated by reference which require a fill-in by the Government include the text of the affected paragraph(s) only. This does not limit the clause to the affected paragraph(s). The Contractor is responsible for understanding and complying with the entire clause. The full text of the clause is available at the addresses contained in clause 52.252-2, Clauses Incorporated by Reference, of this contract.

I. FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1)

| CLAUSE NUMBER | DATE | TITLE |
|---|---|---|
| **52.225-25** | **(Dec 2012)** | Prohibition on Contracting with Entities Engaging in Certain Activities or Transactions Relating to Iran—Representation and Certifications |
| **52.236-28** | **(Oct 1997)** | Preparation of Proposals—Construction |

## E.61. 52.214-6 EXPLANATION TO PROSPECTIVE BIDDERS. (APR 1984)

Any prospective bidder desiring an explanation or interpretation of the solicitation, drawings, specifications, etc., must request it in writing soon enough to allow a reply to reach all prospective bidders before the submission of their bids. Oral explanations or instructions given before the award of a contract will not be binding. Any information given a prospective bidder concerning a solicitation will be furnished promptly to all other prospective bidders as an amendment to the solicitation, if that information is necessary in submitting bids or if the lack of it would be prejudicial to other prospective bidders.

(End of clause)

## E.62. 52.214-34 SUBMISSION OF OFFERS IN THE ENGLISH LANGUAGE. (APR 1991)

Offers submitted in response to this solicitation shall be in the English language. Offers received in other than English shall be rejected.

(End of clause)

## E.63. 52.214-35 SUBMISSION OF OFFERS IN U.S. CURRENCY. (APR 1991)

Offers submitted in response to this solicitation shall be in terms of U.S. dollars. Offers received in other than U.S. dollars shall be rejected.

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(End of clause)

**E.64. 52.216-1 TYPE OF CONTRACT. (APR 1984)**

The Government contemplates award of a **FIRM-FIXED-PRICE** contract resulting from this solicitation.

(End of clause)

**E.65. 52.233-2 SERVICE OF PROTEST. (SEP 2006)**

(a) Protests, as defined in section 33.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the Government Accountability Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from

NASA-Glenn Research Center
Construction & Services Branch
Attn: William J Varis. / Contracting Officer
Mail Stop 60 – 01
21000 Brookpark Road
Cleveland, Ohio 44135

(b) The copy of any protest shall be received in the office designated above within one day of filing a protest with the GAO.

(End of provision)

**E.66. 1852.214-70 CAUTION TO OFFERORS FURNISHING DESCRIPTIVE LITERATURE. (DEC 1988)**

Bidders are cautioned against furnishing as a part of their bids descriptive literature that includes language reserving to the bidder the right to deviate from the requirements of the invitation for bids. Statements that Data are subject to change without notice, Prices subject to change without notice, or words having a similar effect are examples of such reservation. The Government will reject as non-responsive any bid that incorporates literature containing such language or any bid that must be evaluated by using literature containing such language. Bidders should clearly label any submissions of descriptive literature not intended to form a part of a bid as such in order to preclude any need for the Government to interpret the bidder's intent in submitting descriptive literature. (See FAR 14.202-5.)

(End of clause)

**E.67. 1852.223-73 SAFETY AND HEALTH PLAN**

As prescribed in 1823.7001(c), insert the following provision:

(a) The offeror shall submit a detailed safety and occupational health plan as part of its proposal
(see NPR 8715.3, NASA Safety Manual, Appendices). The plan shall include a detailed discussion of the policies, procedures, and techniques that will be used to ensure the safety and occupational health of Contractor employees and to ensure the safety of all working conditions

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throughout the performance of the contract.

(b) When applicable, the plan shall address the policies, procedures, and techniques that will be used to ensure the safety and occupational health of the public, astronauts and pilots, the NASA workforce (including Contractor employees working on NASA contracts), and high-value equipment and property.

(c) The plan shall similarly address subcontractor employee safety and occupational health for those proposed subcontracts that contain one or more of the following conditions:

(1) The work will be conducted completely or partly on premises owned or controlled by the government.

(2) The work includes construction, alteration, or repair of facilities in excess of the simplified acquisition threshold.

(3) The work, regardless of place of performance, involves hazards that could endanger the public, astronauts and pilots, the NASA workforce (including Contractor employees working on NASA contracts), or high value equipment or property, and the hazards are not adequately addressed by Occupational Safety and Health Administration (OSHA) or Department of Transportation (DOT) regulations (if applicable).

(4) When the assessed risk and consequences of a failure to properly manage and control the hazards warrants use of the clause.

(d) This plan, as approved by the Contracting Officer, will be included in any resulting contract.

**(End of provision)**

## E.68. 1852.233-70 PROTESTS TO NASA. (OCT 2002)

Potential bidders or offerors may submit a protest under 48 CFR Part 33 (FAR Part 33) directly to the Contracting Officer. As an alternative to the Contracting Officer's consideration of a protest, a potential bidder or offeror may submit the protest to the Assistant Administrator for Procurement, who will serve as or designate the official responsible for conducting an independent review. Protests requesting an independent review shall be addressed to Assistant Administrator for Procurement, NASA Code H, Washington, DC 20546-0001.

(End of clause)

## E.69. 1852.236-74 MAGNITUDE OF REQUIREMENT. (DEC 1988)

The Government estimated price range of this project is $500,000 to $1,000,000 over 24 months.

(End of clause)

## E.70. OHIO SALES AND USE TAX

The bidder shall not include in the bid price any amount representing Ohio Sales and Use Tax on purchases of building and construction materials to be incorporated into the structures or improvement covered by this solicitation. Contractors and subcontractors may now purchase such materials under claim of exemption as provided in Ohio Revised Code Section 5739.02.

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The Government upon the request of the Contractor shall, without further liability, furnish evidence appropriate to establish the exemption from such tax.

(End of clause)

## E.71. SUBMISSION OF QUESTIONS

Last date for question/clarifications concerning this solicitation is **July 18, 2014.** All questions/clarifications shall be in writing and addressed to (See Block Nine (09) of SF 1442).

The NASA Glenn Safety Manual which is incorporated by reference can be accessed from the following web site: http://smad-ext.grc.nasa.gov/shed/pub/gsm/gsm-manual.pdf

(End of provision)

## E.72. OHIO MECHANICS LIEN LAW

The Ohio Mechanics Lien Law, which went into effect January 1, 1992, **does not apply** to installations of a Federal Government Agency. If you will refer to Ohio Revised Code, Section 1311.25(B), you will see that the Federal Government is not covered by this Ohio Law, since we are not a public authority of the kind defined in said section of the New Ohio Mechanics Lien law.

Therefore, NASA **will not** be providing a recorded **Notice of Commencement**, since NASA is a Federal Government Agency and is not governed by said Ohio Mechanics Lien Law.

(End of clause)

## E.73. COMMUNICATION SKILLS / DISABILITIES

For the mutual safety of all NASA and Contractor employees, it is required that all personnel working on the site of the NASA Lewis Research Center under the Contractor's employ, as well as the employ of all subcontractors working on-site, must be able to communicate and understand written and oral instructions relating to NASA safety procedures and hazard signs. It is recognized and allowed that some employees may utilize devices and take other measures to accommodate otherwise disability conditions, and that American English may not be the native tongue for all employees working on site.

(End of clause)

## E.74. 52.246-6 DATA UNIVERSAL NUMBERING SYSTEM (DUNS) NUMBER (APR 2008)

(a) The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "DUNS" or "DUNS+4" followed by the DUNS number or "DUNS+4" that identifies the offeror's name and address exactly as stated in the offer. The DUNS number is a nine-digit number assigned by Dun and Bradstreet, Inc. The DUNS+4 is the DUNS number plus a 4-character suffix that may be assigned at the discretion of the offeror to establish additional CCR records for identifying alternative Electronic Funds Transfer (EFT) accounts (see Subpart 32.11)

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for the same concern.

(b) If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one.

(1) An offeror may obtain a DUNS number--

(i) Via the Internet at http://fedgov.dnb.com/webform or if the offeror does not have internet access, it may call Dun and Bradstreet at 1-866-705-5711 if located within the United States; or

(ii) If located outside the United States, by contacting the local Dun and Bradstreet office. The offeror should indicate that it is an offeror for a U.S. Government contract when contacting the local Dun and Bradstreet office.

(2) The offeror should be prepared to provide the following information:

(i) Company legal business name.

(ii) Tradestyle, doing business, or other name by which your entity is commonly recognized.

(iii) Company physical street address, city, state and Zip Code.

(iv) Company mailing address, city, state and Zip Code (if separate from physical).

(v) Company telephone number.

(vi) Date the company was started.

(vii) Number of employees at your location.

(viii) Chief executive officer/key manager.

(ix) Line of business (industry).

(x) Company Headquarters name and address (reporting relationship within your entity).

(End of provision)

**[END OF SECTION]**

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