SOLICITATION, OFFER AND AWARD

1. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700) ▶ RATING

PAGE 1 OF PAGES 97

2. CONTRACT NUMBER: NNG10AZ16B

3. SOLICITATION NUMBER: NNG10207304R 01

4. TYPE OF SOLICITATION: ☐ SEALED BID (IFB) ☒ NEGOTIATED (RFP)

5. DATE ISSUED: 11/03/2009

6. REQUISITION/PURCHASE NUMBER:

7. ISSUED BY — CODE GSFC

NASA/Goddard Space Flight Center
Procurement Operations Division
Code 210.I
Greenbelt MD 20771

8. ADDRESS OFFER TO (If other than Item 7)

NOTE: In sealed bid solicitations "offer" and "offeror" mean "bid" and "bidder".

SOLICITATION

9. Sealed offers in original and _____ copies for furnishing the supplies or services in the Schedule will be received at the place specified in item 8, or if hand carried, in the depository located in _____ until 1200 ES (Hour) local time 12/16/2009 (Date)

CAUTION: LATE Submissions, Modifications, and Withdrawals: See Section L, Provision No. 52.214-7 or 52.215-1. All offers are subject to all terms and conditions contained in this solicitation.

10. FOR INFORMATION CALL: ▶ A. NAME: Cynthia L. White

B. TELEPHONE (NO COLLECT CALLS): AREA CODE 301 — NUMBER 286-8772 — EXT.

C. E-MAIL ADDRESS: Cynthia.L.White@nasa.gov

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OFFER (Must be fully completed by offeror)

NOTE: Item 12 does not apply if the solicitation includes the provisions at 52.214-16, Minimum Bid Acceptance Period.

12. In compliance with the above, the undersigned agrees, if this offer is accepted within 180 calendar days (60 calendar days unless a different period is inserted by the offeror) from the date for receipt of offers specified above, to furnish any or all items upon which prices are offered at the price set opposite each item, delivered at the designated point(s), within the time specified in the schedule.

13. DISCOUNT FOR PROMPT PAYMENT (See Section I, Clause No. 52.232.8) ▶ 10 CALENDAR DAYS (%): 0% — 20 CALENDAR DAYS (%): 0% — 30 CALENDAR DAYS (%): 0% — CALENDAR DAYS (%): 0%

14. ACKNOWLEDGEMENT OF AMENDMENTS (The offeror acknowledges receipt of amendments to the SOLICITATION for offerors and related documents numbered and dated):

AMENDMENT NO.	DATE	AMENDMENT NO.	DATE
1	11/20/09	2	11/23/09

15A. NAME AND ADDRESS OF OFFEROR — CODE 11982 — FACILITY

Northrop Grumman Space & Mission Systems Corp.
Northrop Grumman Space Technology
One Space Park
Redondo Beach, CA 90278

15B. TELEPHONE NUMBER: AREA CODE 310 — NUMBER 812-5166 — EXT.

15C. ☐ CHECK IF REMITTANCE ADDRESS IS DIFFERENT FROM ABOVE - ENTER SUCH ADDRESS IN SCHEDULE.

16. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or print)

Daniel L. DiSanti
Director, Contracts
Space Systems Division

17. SIGNATURE

18. OFFER DATE: 12/16/09

AWARD (To be completed by government)

19. ACCEPTED AS TO ITEMS NUMBERED

20. AMOUNT

21. ACCOUNTING AND APPROPRIATION

22. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION:
☐ 10 U.S.C. 2304 (c) ( ) ☐ 41 U.S.C. 253 (c) ( )

23. SUBMIT INVOICES TO ADDRESS SHOWN IN (4 copies unless otherwise specified) ▶ ITEM

24. ADMINISTERED BY (If other than Item 7) — CODE

25. PAYMENT WILL BE MADE BY — CODE

26. NAME OF CONTRACTING OFFICER (Type or print)

Janet Osterman

27. UNITED STATES OF AMERICA

(Signature of Contracting Officer)

28. AWARD DATE: 3-31-2010

IMPORTANT - Award will be made on this Form, or on Standard Form 26, or by other authorized official written notice

AUTHORIZED FOR LOCAL REPRODUCTION
Previous edition is unusable

STANDARD FORM 33 (Rev. 9-97)
Prescribed by GSA - FAR (48 CFR) 53.214(c)

SECTION B - SUPPLIES OR SERVICES AND PRICES

B.1 SUPPLIES AND/OR SERVICES TO BE PROVIDED

The Contractor shall provide all resources (except as may be expressly stated in the contract as furnished by the Government) necessary to deliver and/or perform the items below in accordance with the Description/Specifications/Statement of Work incorporated in Section J as Attachment A and Rapid III Mission Assurance Requirements, Attachment E.

Contract Line Item Number	Description	Price
1	a) Eagle-0 Core Spacecraft including all associated hardware, software and documentation (TBP)	
2	a.1) Eagle-1 Option to Core Spacecraft1a in accordance with Section J, List of Attachments, Attachment C, Option Description(s) a.2) Eagle-2 Option to Core Spacecraft1a in accordance with Section J, List of Attachments, Attachment C, Option Description(s)	
3	Core Spacecraft Mission Specific Modifications as required by S.O.W 4.1.3 and Delivery Order (DO) requirements	PDO
4	Mission Specific Non-Standard Services as required by S.O.W 4.2.1 and the Delivery Order Requirements	PDO
5	Non-Mission Specific Non-Standard Services as required by S.O.W 4.2.2 and the Delivery Order requirements	PDO
6	Non-Mission Specific Hardware as required by S.O.W 4.2.3 and Delivery Order requirements	PDO
7	Flight Software, Source Code and Software Development and Maintenance System as required by S.O.W 4.3.6 and Delivery Order requirements	NSP
8	CDRL Documentation as required by Section J, List of Attachments, Attachment D	NSP
9	Spacecraft Interface Simulator as required by S.O.W 4.3.4.2 and Delivery Order requirements	NSP
10	Organizational Conflicts of Interest (OCI) Avoidance Plan as required by NSF 1852.237-72 (See Clause I.86)	NSP
11	Mission Assurance Implementation Plan (MAIP) Revisions per Mission Spacecraft Delivery Order requirements	NSP
12	Small Business Subcontracting Plan as required by FAR 52.219-9 for Mission Spacecraft Delivery Order requirements	NSP
13	Individual Subcontract Reports (ISRs) as required by GSFC 52.219-90 (See Clause H.9) and Delivery Order requirements	NSP
14	Summary Subcontract Reports (SSRs)as required by GSFC 52.219-90 (See Clause H.9) and Delivery Order requirements	NSP
15	Monthly Health & Safety Report (IRIS)as required by GSFC 52.223-91 (See Clause H.7)	NSP
16	Reports of Reportable Items as required by NFS 1852.227-70, NFS 1852.227-72, and FAR 52.227-11 and Delivery Order requirements	NSP
17	NASA Form 1018, NASA Property in the Custody of Contractors, as required by NFS 1852.245-73 (See Clause G.8) and Delivery Order requirements	NSP

NTE = Not to Exceed
TBP = To be Proposed
NSP = Not Separately Priced

PDO = Priced for Specific Delivery Order (Offerors shall not propose PDO prices for the Master Contract)

Note: Transportation Classification

The Transportation Class, in accordance with Clause D.1, PACKAGING, HANDLING, AND TRANSPORTATION, for deliverables under Items 1, 2, 3, 6, 7 and 9 shall be specified in each individual delivery order at the time of delivery order issuance. Deliverables under Items 4, 5, 8 and 10-17, unless specified, are considered Transportation Class IV and shall be shipped via the most advantageous commercial transportation means considered to be in the best interest of the Government.

(End of clause)

B.2 1852.216-78 FIRM FIXED PRICE (DEC 1988)

A total firm fixed price will be negotiated on each individual delivery order issued under this contract.

(End of clause)

B.3 1852.216-88 PERFORMANCE INCENTIVE (JAN 1997)

APPLIES ONLY AT THE DELIVERY ORDER LEVEL

NOTE: Will apply only to Delivery Orders when performance incentives will be used. Specific information will be provided in the DO.

(a) A performance incentive applies to the following hardware item(s) delivered under this contract: **(1) TBD**

The performance incentive will measure the performance of those items against the salient hardware performance requirement, called "unit(s) of measurement," e.g., months in service or amount of data transmitted, identified below. The performance incentive becomes effective as identified in the Delivery Order. It includes a standard performance level, a positive incentive and a negative incentive, which are described in this clause.

(b) **Standard performance level.** At the standard performance level, the Contractor has met the contract requirement for the unit of measurement. Neither positive nor negative incentives apply when this level is achieved but not exceeded. The standard performance level for **(1)** is established as follows: **(2) TBD**

(c) **Positive incentive.** The Contractor earns a separate positive incentive amount for each hardware item listed in paragraph (a) of this clause when the standard performance level for that item is exceeded. The amount earned for each item varies with the units of measurement achieved, up to a maximum positive performance incentive amount of $ **(3) TBD** per item. The units of measurement and the incentive amounts associated with achieving each unit are shown below: **(4) TBD**

(d) **Negative incentive.** The Contractor will pay to the Government a negative incentive amount for each hardware item that fails to achieve the standard performance level. The amount to be paid for each item varies with the units of measurement achieved, up to the maximum negative incentive amount of $ **(5) TBD**. The units of measurement and the incentive amounts associated with achieving each unit are shown below: **(6) TBD**

(e) The final calculation of positive or negative performance incentive amounts shall be done when performance (as defined by the unit of measurement) ceases or when the maximum positive incentive is reached.

(1) When the Contracting Officer determines that the performance level achieved fell below the standard performance level, the Contractor will either pay the amount due the Government or credit the next payment voucher for the amount due, as directed by the Contracting Officer.

(2) When the performance level exceeds the standard level, the Contractor may request payment of the incentive amount associated with a given level of performance, provided that such payments shall not be more frequent than monthly. When performance ceases or the maximum positive incentive is reached, the Government shall calculate the final performance incentive earned and unpaid and promptly remit it to the contractor.

(f) If performance cannot be demonstrated, through no fault of the Contractor, within **[TBD]** after the date of hardware acceptance by the Government, the Contractor will be paid **[TBD]** of the maximum performance incentive.

(g) The decisions made as to the amount(s) of positive or negative incentives are subject to the Disputes clause.

(1) TBD
(2) TBD
(3) TBD
(4) TBD
(5) TBD
(6) TBD

TBD = To Be Determined by the Government

(End of clause)

B.4 RESERVED

B.5 RATES FOR NON-STANDARD SERVICES

The Government may issue non-standard services orders which are related to the effort to be performed under this contract. Non-standard services include, but are not limited to, special studies, analyses, process improvements, and minor hardware and software development. The contractor shall use the rates as specified below for pricing all proposals in response to a non-standard service Request for Offer (RFO). Any delivery orders issued hereunder will be applied to the guaranteed minimum quantity and maximum as provided in Clause B.5

All orders issued for non-standard services and not combined with a delivery order for a mission spacecraft shall include performance-based payment events and completion events. The Government reserves the right to determine the event and specify the associated completion criteria for such order.

Labor Categories	Loaded CY_10_ Hr. Rate	Loaded CY_11_ Hr. Rate	Loaded CY_12_ Hr. Rate	Loaded CY_13_ Hr. Rate	Loaded CY_14_ Hr. Rate	Loaded CY_15_ Hr. Rate

The above fully burden labor rates include application of all indirect expenses and profit.

*CY= Calendar Year

(Offeror's shall propose all direct labor categories and levels within each category anticipated to perform all non-standard services order requirements.)

Non-standard services shall be ordered under this contract in accordance with the ordering procedures.

The Contractor shall provide all personnel, facilities, materials, and other necessary resources for the performance of non-standard services order requirements under this contract.

(End of text)

B.6 GSFC 52.216-92 MINIMUM/MAXIMUM AMOUNT OF SUPPLIES OR SERVICES (FIXED PRICE) (APR 2008)

(a) The Government guarantees to issue one or more orders for an amount not less than $10,000 under this contract. There will be no further obligation on the part of the Government to issue additional orders thereafter. The maximum quantity ordered under all contracts awarded for Rapid Spacecraft Acquisition III (Rapid III) shall not exceed $4 Billion, cumulatively.

(b) All orders placed under this contract will be applied to the minimum and maximum specified above.

(End of clause)

[END OF SECTION]

SECTION C - DESCRIPTION/SPECIFICATIONS/STATEMENT OF WORK

C.1 SPECIFICATION/STATEMENT OF WORK

The Contractor shall provide the items or services specified in Clause B.1 and in any issued delivery order in accordance with the Statement of Work, the contract terms, the requirements of the issued delivery order, and all Attachments incorporated in Section J to this contract.

The Contractor shall provide all personnel, materials, and facilities (except as may be expressly stated in the contract as furnished by the Government) necessary to perform the requirements set forth in the Statement of Work and Rapid III Mission Assurance Requirements incorporated in Section J as Attachments A and E.

(End of clause)

C.2 GSFC 52.227-90 LIMITED RIGHTS DATA OR RESTRICTED COMPUTER SOFTWARE (MAR 2008)

In accordance with the delivery requirements of this contract, all software data rights shall be delivered in accordance with the Rights in Data – General clause, specified elsewhere in this contract, except for the following:

(End of clause)

[END OF SECTION]

SECTION D - PACKAGING AND MARKING

D.1 1852.211-70 PACKAGING, HANDLING, AND TRANSPORTATION (SEP 2005)

(a) The Contractor shall comply with NASA Procedural Requirements (NPR) 6000.1, ``Requirements for Packaging, Handling, and Transportation for Aeronautical and Space Systems, Equipment, and Associated Components", as may be supplemented by the statement of work or specifications of this contract, for all items designated as Class I, II, or III.

(b) The Contractor's packaging, handling, and transportation procedures may be used, in whole or in part, subject to the written approval of the Contracting Officer, provided (1) the Contractor's procedures are not in conflict with any requirements of this contract, and (2) the requirements of this contract shall take precedence in the event of any conflict with the Contractor's procedures.

(c) The Contractor must place the requirements of this clause in all subcontracts for items that will become components of deliverable Class I, II, or III items.

(End of clause)

[END OF SECTION]

SECTION E - INSPECTION AND ACCEPTANCE

E.1 52.246-16 RESPONSIBILITY FOR SUPPLIES (APR 1984)

E.2 52.246-2 INSPECTION OF SUPPLIES - FIXED-PRICE (AUG 1996)

(a) *Definition.* Supplies, as used in this clause, includes but is not limited to raw materials, components, intermediate assemblies, end products, and lots of supplies.

(b) The Contractor shall provide and maintain an inspection system acceptable to the Government covering supplies under this contract and shall tender to the Government for acceptance only supplies that have been inspected in accordance with the inspection system and have been found by the Contractor to be in conformity with contract requirements. As part of the system, the Contractor shall prepare records evidencing all inspections made under the system and the outcome. These records shall be kept complete and made available to the Government during contract performance and for as long afterwards as the contract requires. The Government may perform reviews and evaluations as reasonably necessary to ascertain compliance with this paragraph. These reviews and evaluations shall be conducted in a manner that will not unduly delay the contract work. The right of review, whether exercised or not, does not relieve the Contractor of the obligations under the contract.

(c) The Government has the right to inspect and test all supplies called for by the contract, to the extent practicable, at all places and times, including the period of manufacture, and in any event before acceptance. The Government shall perform inspections and tests in a manner that will not unduly delay the work. The Government assumes no contractual obligation to perform any inspection and test for the benefit of the Contractor unless specifically set forth elsewhere in this contract.

(d) If the Government performs inspection or test on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in contract price, all reasonable facilities and assistance for the safe and convenient performance of these duties. Except as otherwise provided in the contract, the Government shall bear the expense of Government inspections or tests made at other than the Contractor's or subcontractor's premises; provided, that in case of rejection, the Government shall not be liable for any reduction in the value of inspection or test samples.

(e) (1) When supplies are not ready at the time specified by the Contractor for inspection or test, the Contracting Officer may charge to the Contractor the additional cost of inspection or test.

(2) The Contracting Officer may also charge the Contractor for any additional cost of inspection or test when prior rejection makes reinspection or retest necessary.

(f) The Government has the right either to reject or to require correction of nonconforming supplies. Supplies are nonconforming when they are defective in material or workmanship or are otherwise not in conformity with contract requirements. The Government may reject nonconforming supplies with or without disposition instructions.

(g) The Contractor shall remove supplies rejected or required to be corrected. However, the Contracting Officer may require or permit correction in place, promptly after notice, by and at the expense of the Contractor. The Contractor shall not tender for acceptance corrected or rejected supplies without disclosing the former rejection or requirement for correction, and, when required, shall disclose the corrective action taken.

(h) If the Contractor fails to promptly remove, replace, or correct rejected supplies that are required to be removed or to be replaced or corrected, the Government may either (1) by contract or otherwise, remove, replace, or correct the supplies and charge the cost to the Contractor or (2) terminate the contract for default. Unless the Contractor corrects or replaces the supplies within the delivery schedule, the Contracting Officer may require their delivery and make an equitable price reduction. Failure to agree to a price reduction shall be a dispute.

(i) (1) If this contract provides for the performance of Government quality assurance at source, and if requested by the Government, the Contractor shall furnish advance notification of the time-

(i) When Contractor inspection or tests will be performed in accordance with the terms and conditions of the contract; and

(ii) When the supplies will be ready for Government inspection.

(2) The Government's request shall specify the period and method of the advance notification and the Government representative to whom it shall be furnished. Requests shall not require more than 2 workdays of advance notification if the Government representative is in residence in the Contractor's plant, nor more than 7 workdays in other instances.

(j) The Government shall accept or reject supplies as promptly as practicable after delivery, unless otherwise provided in the contract. Government failure to inspect and accept or reject the supplies shall not relieve the Contractor from responsibility, nor impose liability on the Government, for nonconforming supplies.

(k) Inspections and tests by the Government do not relieve the Contractor of responsibility for defects or other failures to meet contract requirements discovered before acceptance. Acceptance shall be conclusive, except for latent defects, fraud, gross mistakes amounting to fraud, or as otherwise provided in the contract.

(l) If acceptance is not conclusive for any of the reasons in paragraph (k) hereof, the Government, in addition to any other rights and remedies provided by law, or under other provisions of this contract, shall have the right to require the Contractor (1) at no increase in contract price, to correct or replace the defective or nonconforming supplies at the original point of delivery or at the Contractor's plant at the Contracting Officer's election, and in accordance with a reasonable delivery schedule as may be agreed upon between the Contractor and the Contracting Officer; provided, that the Contracting Officer may require a reduction in contract price if the Contractor fails to meet such delivery schedule, or (2) within a reasonable time after receipt by the Contractor of notice of defects or nonconformance, to repay such portion of the contract as is equitable under the circumstances if the Contracting Officer elects not to require

correction or replacement. When supplies are returned to the Contractor, the Contractor shall bear the transportation cost from the original point of delivery to the Contractor's plant and return to the original point when that point is not the Contractor's plant. If the Contractor fails to perform or act as required in (1) or (2) above and does not cure such failure within a period of 10 days (or such longer period as the Contracting Officer may authorize in writing) after receipt of notice from the Contracting Officer specifying such failure, the Government shall have the right by contract or otherwise to replace or correct such supplies and charge to the Contractor the cost occasioned the Government thereby.

(End of clause)

E.3 52.246-11 HIGHER-LEVEL CONTRACT QUALITY REQUIREMENT (FEB 1999)

The Contractor shall comply with the higher-level quality standard selected below. (If more than one standard is listed, the offeror shall indicate its selection by checking the appropriate block.)

CHECK APPLICABLE BOX	TITLE	NUMBER	DATE
X	ANSI/ISO/ASQC Q9001	Q9001	2000
	SAE AS9100	AS9100	2008

(End of clause)

E.4 GSFC 52.246-93 ACCEPTANCE—LOCATION(S) (APR 2008)

APPLIES ONLY AT THE DELIVERY ORDER LEVEL

The Contracting Officer or authorized representative will accomplish acceptance at the following location(s):

Authorized Item	Location	Representative
TBD	TBD	TBD

The Contracting Officer reserves the right to designate other Government agents as authorized representatives. The Contractor will be notified by a written notice or by a copy of the delegation letter if other agents are authorized.

If this is a fixed price type contract, acceptance shall be deemed to have occurred constructively--for the sole purpose of computing an interest penalty that might be due the Contractor under the Prompt Payment Act--on the 30 day after the Contractor has delivered the supplies or services in accordance with the terms and conditions of the contract. In the event that actual acceptance occurs within the constructive acceptance period, the determination of an interest penalty shall be based on the date of the actual acceptance.

(End of clause)

E.5 GSFC 52.246-94 MATERIAL INSPECTION AND RECEIVING REPORT NOT REQUIRED (APR 1989)

NASA FAR Supplement clause 18-52.246-72 of this contract requires the furnishing of a Material Inspection and Receiving Report (MIRR) (DD Form 250 series) at the time of each delivery under this contract. However, a MIRR is not required for the following deliverable items:

Services Rendered and Reports/Documentation

(End of clause)

E.6 GSFC 52.246-102 INSPECTION SYSTEM RECORDS (OCT 1988)

The Contractor shall maintain records evidencing inspections in accordance with the Inspection clause of this contract for 3 years after delivery of all items and/or until completion of all work called for by the contract and the delivery order.

(End of clause)

E.7 TITLE TO MISSION SPACECRAFT

(a) Title to the mission spacecraft furnished under this contract shall pass to the Government upon final acceptance, in accordance with Clause H.16, regardless of when or where the Government takes physical possession, unless the contract or delivery order specifically provides for earlier passage of title.

(b) Unless the contract specifically provides otherwise, risk of loss or damage to mission spacecraft shall remain with the Contractor until, and shall pass to the Government, upon final acceptance by the Government.

(c) Under paragraph (b) above, the Contractor shall not be liable for loss of or damage to the spacecraft caused by the gross negligence or willful misconduct of officers, agents, or employees of the Government acting within the scope of their employment.

(End of text)

E.8 1852.246-72 MATERIAL INSPECTION AND RECEIVING REPORT (AUG 2003)

APPLIES ONLY AT THE DELIVERY ORDER LEVEL

(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 TBD copies, an original and TBD 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.

(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.9 CLAUSES INCORPORATED BY REFERENCE -- SECTION E

Clause(s) E.1 at the beginning of this Section is 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.

(End of clause)

[END OF SECTION]

SECTION F - DELIVERIES OR PERFORMANCE

F.1 52.242-15 STOP-WORK ORDER (AUG 1989)

F.2 52.242-17 GOVERNMENT DELAY OF WORK (APR 1984)

F.3 52.247-34 F.O.B. DESTINATION (NOV 1991)

F.4 EFFECTIVE ORDERING PERIOD

The effective ordering period of this contract shall be five years from the initial Rapid III contract effective date, **April 1, 2010.**

(End of clause)

F.5 DELIVERY SCHEDULE

The core system and associated options as described in Section B.1 shall be delivered within the time specified as follows:

Item	Description	No. of Months
1a	Eagle-0	28 months after receipt of order (ARO)

The Government reserves the right to order a specific core system identified in Clause B.1 with delivery of such core system as specified above.

Note: The above listed delivery schedules may be revised in response to delivery order requirements.

(End of clause)

F.6 GSFC 52.247-95 SHIPPING INSTRUCTIONS--NON-CENTRAL RECEIVING (OCT 1988)

APPLIES ONLY AT THE DELIVERY ORDER LEVEL

Shipment of the items required under this contract shall be to:

Item	Address	Marked For
TBD	TBD	TBD

Compliance with this clause is necessary to assure verification of delivery and acceptance and prompt payment.

If any of the above shipping addresses are to the Goddard Space Flight Center at Greenbelt, MD., delivery personnel must first stop at Receiving (Building 16W) to provide a copy of the receiving report (DD 250) to Receiving personnel before making delivery to the on-site location(s) specified above. If this is a fixed price type contract, failure to provide the DD 250 to Receiving (Building 16W) may result in reduction or non-payment by the Government of any interest penalty under the Prompt Payment Act.

(End of clause)

F.7 CLAUSES INCORPORATED BY REFERENCE -- SECTION F

Clause(s) F.1 through F.3 at the beginning of this Section 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.

(End of clause)

[END OF SECTION]

SECTION G - CONTRACT ADMINISTRATION DATA

G.1 INDIVIDUALS AUTHORIZED TO ISSUE ORDERS

The following personnel are authorized to issue delivery orders under this contract. All designated personnel are employed by the Federal Government unless otherwise indicated:

Only a Goddard Space Flight Center (GSFC) Contracting Officer is authorized to issue delivery orders under this contract, unless otherwise delegated, as evidenced by a letter of delegation signed by the GSFC Contracting Officer.

(End of clause)

G.2 ORDERING PROCEDURES

One or more Delivery Orders may be issued during the ordering period of this contract. Study Delivery Orders will be Firm Fixed Price.* Mission spacecraft** and component Delivery Orders will be either Firm Fixed Price or Fixed Price with Performance Incentives, as identified in the RFO. Waivers and deviations to the MAR may be considered at the DO level. The Contracting Officer's (CO) decision to issue a Delivery Order to a particular contract holder shall be based on the criteria stated below. In accordance with FAR Subpart 16.505(b)(1), the CO will give each Rapid III Contractor a "fair opportunity to be considered" for each order in excess of $3,000 unless one of the conditions in 16.505(b)(2) applies. Procedures and selection factors to be considered for each Delivery Order providing for a "fair opportunity to be considered" are set forth below.

The Government reserves the right to issue a RFO for the delivery of a mission spacecraft ready for payload-instrument integration. In such a case, the RFO will identify how the observatory*** integration, shipment, and launch and operations support would be reduced or tailored for that specific mission.

The following provision defines the process by which (a) Fair Opportunity to be considered will be afforded; (b) Delivery Orders will be competed; and (c) Delivery Orders will be awarded.

(a) Procedures for Providing for Fair Opportunity for Consideration:

The Government will provide all awardees a fair opportunity to be considered. This may be provided through the Government's examination of existing information and contract documents already in the Government's possession. The contractor capabilities information provided in the System Performance Specification and System Performance Verification Program Plan will be crucial information used by the CO and the Contracting Officer's Technical Representative to identify sources capable of providing the required service.

Although the Government may award delivery orders based on examination of existing information and contract documents, generally, the Government will compete delivery orders for missions in accordance with the procedures in paragraph (b) below.

(b) Delivery Order Competition Procedures:

RFO Contents: When Contractor submission of proposals is necessary, the Government will issue a Request for Offer (RFO). Each RFO will include the following information:

- Date of the RFO;
- Description, Delivery Order Statement of Work, and other documentation upon which the Delivery Order price is to be based;
- Delivery or performance date(s);
- Use of NASA facilities, if applicable;
- Whether or not performance incentives are applicable, and provide specific details, if applicable;
- Funding profile, if applicable; and
- Due date for submission of Offer.

In addition, all RFOs will contain the evaluation criteria that will be utilized for placement of the delivery order and specific instructions regarding the level of detail contractors shall include in its offer for the delivery order. Generally, offeror's responses to RFOs will be due within four weeks after the RFO issue date.

Delivery Order Evaluation/Selection Criteria: Upon receipt of the Contractor's offer, the Government will review the offer for completeness and acceptability. The determination of which Contractor is awarded the mission shall be based upon the following evaluation factors:

- Approach to meeting the mission specific requirements;
- Total proposed firm-fixed price for the delivery order, and
- Past Performance.

The specific details for each factor will be identified in the RFO and may be unique to each mission.

Response to RFOs: Contractors may "No Bid" any RFO. Contractors shall notify the Contracting Officer within 7 days of their intent to bid. When a Contractor responds to an RFO, it shall indicate that the offer submitted in response to the RFO is compliant with the contract terms, statement of work, and RFO.

Pricing for all RFOs shall be based upon the Contract Line Item prices in B.1, "SUPPLIES AND/OR SERVICES TO BE PROVIDED." The prices contained in Section B.1 are not-to-exceed prices which can be adjusted downward by the Contractor for the specific mission being proposed. Any Contractor-proposed reduction will be applicable to that proposal only and shall not be deemed as a permanent reduction of the prices contained in B.1. Any mission unique modifications to a core system or option which are not included in either the core system NTE price or an option NTE price must be identified and priced, and need not be limited by the contract NTE prices. The proposed mission price, including the core system, applicable options, and mission unique modifications shall be a firm-fixed price for all efforts required under the order for that mission. Bid and Proposal type costs associated with responding to an order, or with an RFO that may lead to an order, must be treated as an indirect cost.

All Delivery Order offers shall be submitted by the date and time specified in the RFO, or it will be treated as a late offer and will not be considered by the Government, unless the Contracting Officer determines that it is in the Government's best interest to do so.

(c) Award of Delivery Order:

Delivery Orders will be placed within the effective ordering period of this contract. Generally, Delivery Orders will be placed by original signed orders; however, orders may be placed by facsimile or electronically.

Each of the Contractors submitting offers will be notified of the Government's selection decision for the Delivery Order awarded.

Each Delivery Order will include the following information:

- Date of the Delivery Order, Contract number and Delivery Order number;
- Description, Statement of Work, and other documents upon which the Delivery Order price is based;
- Applicable change to the Master Contract terms and conditions;
- Delivery or performance date(s);
- Whether or not performance incentives are applicable, and provide specific details, if applicable;
- Accounting and appropriation data;
- Schedule of Government Furnished Property available; and
- Funding Profile, if necessary.

The Government reserves the right to amend a delivery order during its period of performance, to allow for increased quantity, with technical modifications.

***NOTE: For Non-Standard services described in section 4.2 of the SOW, we will use the Task Ordering Procedures described in Clause H.5.**

****NOTE: Mission Spacecraft = Core Spacecraft, including any Core Spacecraft Options, with mission specific modifications.**

*****NOTE: Observatory = Mission Spacecraft with integrated payload-instruments.**

(End of text)

G.3 ADDITIONAL ORDERING PROCEDURE REQUIREMENTS FOR SOLE-SOURCE ORDERS

When a contractor receives a sole-source order, it agrees to enter into good faith negotiations for purposes of establishing a firm-fixed price for the order. Should mutual agreement as to the orders firm-fixed price not be reached, the Contracting Officer reserves the right to unilaterally determine a reasonable firm-fixed price for the order. Such determination is subject to the Disputes Clause of this contract.

Delivery Orders placed on a sole-source basis may require submission of certified cost or pricing data for any effort not covered by the NTE prices contained in clause B.1. For the purposes of 52.215-11, Price Reduction for Defective cost or Pricing Data – Modifications (Oct 1997) and 52.215-13, Subcontractor Cost or Pricing Data – Modifications (Oct 1997), the word "modifications" shall include any effort described in an order that is not covered by an NTE price contained in clauses B.1.

(End of text)

G.4 ADDITIONAL ORDERING PROCEDURES FOR CONTINGENT ORDERS

(a) Orders Issued on a Contingent Basis

The Government may issue certain RFOs under G.2, "ORDERING PROCEDURES," to provide a core-system to implement a proposed scientific mission in response to a Government Announcement of Opportunity (AO) or similar competition. Funding may not be available for the effort until the mission is selected under the AO process. Consequently, delivery orders issued as a result of this type of RFO may be contingent upon funds becoming available through the mission's selection under the AO. The Contractor shall not be obligated to begin performance on any contingent delivery order until it has been notified in writing by the Contracting Officer that funds are available. Additionally, no legal liability on the part of the Government for any payment may arise until both of the following occur: 1) An AO selection is agreed and issued by the AO selection official, and 2) The Contracting Officer issues written notice to the Contractor that funding is available for the order.

(b) The Government may provide any data submitted with a restricted legend to a Principal Investigator in accordance with the Rights in Data clause of this contract. The granting of these limited rights by the Contractor is independent from any other rights in data set forth in this contract.

(c) Protection of Data

Any RFO issued to provide a core-system must describe the proposed mission requirements. Because such an RFO may be issued prior to selection under the AO, the description of need contained in such an RFO is deemed procurement sensitive. All Contractors competing for orders covered by this clause, therefore, agree to treat the requirements detailed in such an RFO, as well as their individual responses thereto, as bid and proposal information or source selection information in accordance with FAR Subpart 3.104. Additionally, all Contractors agree to further protect such information from release within the contractor's company as well as outside of the contractor's company in accordance with Clause I.89, "Access To Sensitive Information."

(End of text)

G.5 CORE SPACECRAFT AND CORE SPACECRAFT OPTION UPGRADES

The Contractor may offer technology upgrades to its proposed core spacecraft and core spacecraft options listed in Section B.1 by submission of upgrades. Examples of technology

upgrades include, but are not limited to, replacement of obsolete parts and advances in technology or production practices. Such upgrades may not be submitted more than once a year per core spacecraft and option.

The Government will consider offeror upgrades no sooner than one year after contract award and once a year from such update thereafter. Upgrades shall be submitted in a format consistent with the Core Spacecraft Performance Specification, CDRL 1; the System Performance Verification Plan, MA DID 9-1; and the Environmental Verification Plan, MA DID 9-2.

The Government will evaluate each upgrade in terms of the degree to which it is applicable to NASA's earth science, space science, and technology programs and the reasonableness of the proposed price. If the upgrades are accepted by the Government, the contract will be modified to include such upgrades.

The Government will not accept proposals for additional core spacecraft and options as a contract update. Contractors may submit proposals for additional core spacecraft and options in accordance with G.6, "Additional Core Spacecraft and Contract Awards."

(End of text)

G.6 ADDITIONAL CORE SPACECRAFT AND CONTRACT AWARDS

Periodically, the Contracting Officer will accept and evaluate proposals with the intention of adding additional contracts and/or modifying existing contracts to add additional core spacecraft and options. This will be via "on-ramps," which the contractors may request, and the Government may hold at any time during the contract effective ordering period. In addition, the Government may solicit proposals via additional on-ramps to accommodate specific mission needs.

Proposals shall be subject to the same proposal instructions and evaluation procedures as the Rapid III Request for Proposal NNG10207304R dated **November 3, 2009**. Proposal instructions and evaluation procedures may be obtained from the RSDO website, http://rsdo.gsfc.nasa.gov.

(End of text)

G.7 GSFC 52.232-95 INVOICES – SUBMISSION OF (AUG 2008)

Invoices shall be prepared in accordance with the Prompt Payment clause of this contract and submitted to the NASA Shared Services Center (NSSC), Financial Management Division (FMD) – Accounts Payable, Bldg 1111, C. Road, Stennis Space Center, MS 39529, Email: NSSC-AccountsPayable@nasa.gov. For purposes of the Prompt Payment Act, the above office is considered to be the "Designated Billing Office" and the "Designated Payment Office".

(End of clause)

G.8 1852.245-73 FINANCIAL REPORTING OF NASA PROPERTY IN THE CUSTODY OF CONTRACTORS (SEP 2007)

(a) The Contractor shall submit annually a NASA Form (NF) 1018, NASA Property in the Custody of Contractors, in accordance with the provisions of 1845.505-14, the instructions on the form, subpart 1845.71, and any supplemental instructions for the current reporting period issued by NASA.

(b)(1) Subcontractor use of NF 1018 is not required by this clause; however, the Contractor shall include data on property in the possession of subcontractors in the annual NF 1018.

(2) The Contractor shall mail the original signed NF 1018 directly to the Goddard Space Flight Center (GSFC), General Accounting Department, General Ledger Section, Code 157, Greenbelt, MD 20771, unless the Contractor uses the NF 1018 Electronic Submission System (NESS) for report preparation and submission.

(3) One copy shall be submitted (through the Department of Defense (DOD) Property Administrator if contract administration has been delegated to DOD) to the following address:

Goddard Space Flight Center, Supply and Equipment Management Branch, Code 273, Greenbelt, MD 20771-- unless the Contractor uses the NF 1018 Electronic Submission System (NESS) for report preparation and submission.

(c)(1) The annual reporting period shall be from October 1 of each year through September 30 of the following year. The report shall be submitted in time to be received by October 15. The information contained in these reports is entered into the NASA accounting system to reflect current asset values for agency financial statement purposes. Therefore, it is essential that required reports be received no later than October 15. Some activity may be estimated for the month of September, if necessary, to ensure the NF 1018 is received when due. However, contractors procedures must document the process for developing these estimates based on planned activity such as planned purchases or NASA Form 533 (NF 533 Contractor Financial Management Report) cost estimates. It should be supported and documented by historical experience or other corroborating evidence, and be retained in accordance with FAR Subpart 4.7, Contractor Records Retention. Contractors shall validate the reasonableness of the estimates and associated methodology by comparing them to the actual activity once that data is available, and adjust them accordingly. In addition, differences between the estimated cost and actual cost must be adjusted during the next reporting period. Contractors shall have formal policies and procedures, which address the validation of NF 1018 data, including data from subcontractors, and the identification and timely reporting of errors. The objective of this validation is to ensure that information reported is accurate and in compliance with the NASA FAR Supplement. If errors are discovered on NF 1018 after submission, the contractor shall contact the cognizant NASA Center Industrial Property Officer (IPO) within 30 days after discovery of the error to discuss corrective action.

(2) The Contracting Officer may, in NASA's interest, withhold payment until a reserve not exceeding $25,000 or 5 percent of the amount of the contract, whichever is less, has been set aside, if the Contractor fails to submit annual NF 1018 reports in accordance with 1845.505-14

and any supplemental instructions for the current reporting period issued by NASA. Such reserve shall be withheld until the Contracting Officer has determined that NASA has received the required reports. The withholding of any amount or the subsequent payment thereof shall not be construed as a waiver of any Government right.

(d) A final report shall be submitted within 30 days after disposition of all property subject to reporting when the contract performance period is complete in accordance with (b)(1) through (3) of this clause.

(End of clause)

G.9 1852.245-74 IDENTIFICATION AND MARKING OF GOVERNMENT EQUIPMENT (DEVIATION) (SEP 2007)

(a) The Contractor shall identify all equipment to be delivered to the Government using NASA Technical Handbook (NASA-HDBK) 6003, "Application of Data Matrix Identification Symbols to Aerospace Parts Using Direct Part Marking Methods/Techniques", and NASA Standard (NASA-STD) 6002, "Applying Data Matrix Identification Symbols on Aerospace Parts". This includes deliverable equipment listed in the schedule and other equipment when NASA directs physical transfer to NASA or a third party. The Contractor shall identify property in both machine and human readable form unless the use of a machine readable-only format is approved by the NASA Industrial Property Officer.

(b) Property shall be marked in a location that will be human readable, without disassembly or movement of the property, when the items are placed in service unless such placement would have a deleterious effect on safety or on the item's operation.

(c) Concurrent with equipment delivery or transfer, the Contractor shall provide the following data in an electronic spreadsheet format:

(1) Item Description.

(2) Unique Identification Number (License Tag).

(3) Unit Price.

(4) An explanation of the data used to make the unique identification number.

(d) For items physically transferred under paragraph (a) the following additional data is required:

(1) Date originally placed in service.

(2) Item condition.

(3) Date last serviced.

(e) The data required in paragraphs (c) and (d) shall be delivered to the NASA center receiving activity listed below:

Receiving Officer
Building 16W
Code 279
Goddard Space Flight Center
Greenbelt, Maryland 20771
(f) The contractor shall include the substance of this clause, including this paragraph (f), in all subcontracts that require delivery of equipment.

(End of clause)

G.10 1852.245-75 PROPERTY MANAGEMENT CHANGES (DEVIATION) (SEP 2007)

(a) The Contractor shall submit any changes to standards and practices used for management and control of Government property under this contract to the assigned property administrator and Industrial Property Officer (IPO), prior to making the change whenever the change -

(1) Employs a standard that allows increase in thresholds or changes the timing for reporting loss, damage, or destruction of property;

(2) Alters physical inventory timing or procedures;

(3) Alters recordkeeping practices;

(4) Alters practices for recording the transport or delivery of Government property; or

(5) Alters practices for disposition of Government property.

(b) The Contractor shall contact the IPO at:

Attn: Gary Morris/Code 273
NASA Goddard Space Flight Center
Greenbelt, MD 20771
301-286-5031
Gary.V.Morris@nasa.gov

(End of clause)

G.11 1852.245-76 LIST OF GOVERNMENT PROPERTY FURNISHED PURSUANT TO FAR 52.245-1 (DEVIATION) (SEP 2007)

APPLIES ONLY AT THE DELIVERY ORDER LEVEL
For performance of work under this contract, the Government will make available Government property identified below or identified in orders awarded under this contract, if applicable, on a no-charge-for-use basis pursuant to the clause at FAR 52.245-1, Government Property. The

Contractor shall use this property in the performance of this contract at the Contractor's facility and at other location(s) as may be approved by the Contracting Officer. Under FAR 52.245-1, the Contractor is accountable for the identified property.

Item Description	Acquisition Date	Acquisition Cost	Quantity	If equipment		
				Manufacturer	Model	Serial Number
TO BE	SPECIFIED	IN EACH	DELIVERY	ORDER, IF	APPLICABLE	

The Government will furnish spaceflight instruments and associated equipment for the Contractor to integrate into the mission spacecraft, unless otherwise specified in a delivery order. The Government provided spaceflight instrument will be specified in the delivery order.

(End of clause)

G.12 1852.245-78 PHYSICAL INVENTORY OF CAPITAL PERSONAL PROPERTY (DEVIATION) (SEP 2007)

(a) In addition to physical inventory requirements under the clause at FAR 52.245-1, Government Property, the Contractor shall conduct annual physical inventories for individual property items with an acquisition cost exceeding $100,000.

(1) The Contractor shall inventory -

(i) Items of property furnished by the Government;

(ii) Items acquired by the Contractor and titled to the Government under the clause at FAR 52.245-1;

(iii) Items constructed by the Contractor and not included in the deliverable, but titled to the Government under the clause at FAR 52.245-1; and

(iv) Complete but undelivered deliverables.

(2) The Contractor shall use the physical inventory results to validate the property record data, specifically location, condition and use status, and to prepare summary reports of inventory as described in paragraph (c) of this clause.

(b) Unless specifically authorized in writing by the NASA Industrial Property Officer (IPO), the inventory shall be performed and posted by individuals other than those assigned custody of the items, responsibility for maintenance, or responsibility for posting to the property record. The Contractor may request a waiver from this separation of duties requirement from the NASA IPO, when all of the conditions in either (1) or (2) below are met.

(1) The Contractor utilizes an electronic system for property identification, such as a laser bar-code reader or radio frequency identification reader, and

(i) The programs or software preclude manual data entry of inventory identification data by the individual performing the inventory; and

(ii) The inventory and property management systems contain sufficient management controls to prevent tampering and assure proper posting of collected inventory data.

(2) The Contractor has limited quantities of property, limited personnel, or limited property systems; and,

(i) The Contractor provides written confirmation that the Government property exists in the recorded condition and location; and

(ii) The items continue to be used exclusively for performance of the contract or as otherwise authorized by the Contracting Officer.

(3) The Contractor shall submit the request to the cognizant property administrator and obtain approval from the IPO prior to implementation of the practice.

(c) The Contractor shall report the results of the physical inventory to the property administrator and the NASA Industrial Property Officer within 10 calendar days of completion of the physical inventory. The report shall -

(1) Provide a summary showing number and value of items inventoried; and

(2) Include additional supporting reports of -

(i) Loss, damage or destruction, in accordance with the clause at 52.245-1, Government Property;

(ii) Idle property available for reuse or disposition; and

(iii) A summary of adjustments made to location, condition, status, or user as a result of the physical inventory reconciliation.

(d) The Contractor shall retain all physical inventory records, including records of all transactions associated with inventory reconciliation. All records shall be subject to Government review and/or audit.

(End of clause)

[END OF SECTION]

SECTION H - SPECIAL CONTRACT REQUIREMENTS

H.1 1852.223-75 MAJOR BREACH OF SAFETY OR SECURITY (FEB 2002)

H.2 1852.225-70 EXPORT LICENSES (FEB 2000)

H.3 1852.228-78 CROSS-WAIVER OF LIABILITY FOR NASA EXPENDABLE LAUNCH VEHICLE (ELV) LAUNCHES (SEP 1993)

H.4 1852.244-70 GEOGRAPHIC PARTICIPATION IN THE AEROSPACE PROGRAM (APR 1985)

H.5 1852.216-80 TASK ORDERING PROCEDURE. (OCT 1996) -- ALTERNATE I (OCT 1996)

APPLIES ONLY AT THE DELIVERY ORDER LEVEL

(a) Only the Contracting Officer may issue task orders to the Contractor, providing specific authorization or direction to perform work within the scope of the contract and as specified in the schedule. The Contractor may incur costs under this contract in performance of task orders and task order modifications issued in accordance with this clause. No other costs are authorized unless otherwise specified in the contract or expressly authorized by the Contracting Officer.

(b) Prior to issuing a task order, the Contracting Officer shall provide the Contractor with the following data:

(1) A functional description of the work identifying the objectives or results desired from the contemplated task order.

(2) Proposed performance standards to be used as criteria for determining whether the work requirements have been met.

(3) A request for a task plan from the Contractor to include the technical approach, period of performance, appropriate cost information, and any other information required to determine the reasonableness of the Contractor's proposal.

(c) Within 30 calendar days (unless otherwise identified in the Delivery Order), after receipt of the Contracting Officer's request, the Contractor shall submit a task plan conforming to the request.

(d) After review and any necessary discussions, the Contracting Officer may issue a task order to the Contractor containing, as a minimum, the following:

(1) Date of the order.

(2) Contract number and order number.

(3) Functional description of the work identifying the objectives or results desired from the task order, including special instructions or other information necessary for performance of the task.

(4) Performance standards, and where appropriate, quality assurance standards.

(5) Maximum dollar amount authorized (cost and fee or price). This includes allocation of award fee among award fee periods, if applicable.

(6) Any other resources (travel, materials, equipment, facilities, etc.) authorized.

(7) Delivery/performance schedule including start and end dates.

(8) If contract funding is by individual task order, accounting and appropriation data.

(e) The Contractor shall provide acknowledgment of receipt to the Contracting Officer within 3 calendar days after receipt of the task order.

(f) If time constraints do not permit issuance of a fully defined task order in accordance with the procedures described in paragraphs (a) through (d), a task order which includes a ceiling price may be issued.

(g) The Contracting Officer may amend tasks in the same manner in which they were issued.

(h) In the event of a conflict between the requirements of the task order and the Contractor's approved task plan, the task order shall prevail.

(i) Contractor shall submit monthly task order progress reports. As a minimum, the reports shall contain the following information:

(1) Contract number, task order number, and date of the order.

(2) Task ceiling price.

(3) Cost and hours incurred to date for each issued task.

(4) Costs and hours estimated to complete each issued task.

(5) Significant issues/problems associated with a task.

(6) Cost summary of the status of all tasks issued under the contract.

(End of clause)

H.6 1852.223-70 SAFETY AND HEALTH (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, 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.

(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 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 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), (c), 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)

H.7 GSFC 52.223-91 SAFETY AND HEALTH ADDITONAL REQUIRMENTS (NOV 2005)

(a) Other safety and health requirements. In addition to compliance with all Federal, state, and local laws as required by paragraph (d) of NFS clause 1852.223-70, the Contractor shall comply with the following:

Monthly health and safety report using NASA Incident Reporting Information System (IRIS). Specify incidents, disabling injuries, lost work days incident rate, days lost, property damage cost, man-hours worked/month, and total employees. Access form available at ftp://ftp.hq.nasa.gov/forms/pdf/nhq224.pdf. Until access is approved use template available at http://safety1st.gsfc.nasa.gov under Contractor Safety and e-mail to Lisa.L.Cutler@nasa.gov. On a annual basis provide to Code 350, Occupational Safety and Health (OSH) Division, a safety and health report which will include: 1) Self Assessment Survey of Safety and health Program; 2) Current LMR, RIR and TRIR rates provided directly from the insurance carrier.

(b) Reporting. The immediate notification and prompt reporting required by paragraph (d) of NFS clause 1852.223-70 shall be to the Goddard Space Flight Center Occupational Safety and Health Division, Code 350, Tel 301-286-6296 and to the Contracting Officer. This should be a verbal notification and confirmed by FAX or E-Mail. This notification is also required for any unsafe or environmentally hazardous condition associated with Government-owned property that is provided or made available for the performance of the contract.

(End of clause)

H.8 REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFEROR

The completed provision 52.204-8, Annual Representations and Certifications, including any amended representation(s) made at paragraph (b) of the provision; and other representations, certifications and other statements contained in Section K completed and submitted as part of the offer dated **December 16, 2009** are hereby incorporated by reference in this resulting contract.

(End of clause)

H.9 GSFC 52.219-90 SMALL BUSINESS SUBCONTRACTING PLAN REPORTS (JUL 2006)

APPLIES ONLY AT THE DELIVERY ORDER LEVEL

a. Subcontracting Plan (Contractor)

FAR clause 52.219-9, "Small Business Subcontracting Plan" is included in this contract. The agreed to Subcontracting Plan required by the clause is included as an attachment to the contract.

b. Subcontracting Plan (Subcontractors)

In accordance with FAR clause 52.219-9, the Contractor must require that certain subcontractors

adopt a plan similar to the Plan agreed to between the Contractor and the Government.

c. Individual Subcontract Reports (ISRs)

The Contractor shall prepare and submit their Individual Subcontract Reports (ISRs) (formerly known as the Standard Form 294), in accordance with the instructions listed in the Electronic Subcontract Reporting System (eSRS), available at http://esrs.gov.

ISRs must be submitted electronically in eSRS on a semi-annual basis. This report must be received no later than April 30 and October 30 each year for the reporting periods ending March 31 and September 30, respectively. Reports are required when due, regardless of whether there has been any subcontracting activity since the inception of the contract or since the last reporting period.

A final Individual Subcontract Report (ISR) must be submitted after contract completion. The final ISR submittal must be received no later than the due date for what would have been the next semi-annual report.

d. Summary Subcontract Reports (SSRs)

The Contractor shall prepare and submit Summary Subcontract Reports (SSRs)(formerly known as the Standard Form 295), in accordance with the instructions listed in the Electronic Subcontract Reporting System (eSRS), available at http://esrs.gov and in accordance with NASA FAR Supplement clause 1852.219-75, "Small Business Subcontracting Reporting" of this contract.

The SSRs must be submitted electronically in eSRS on a semi-annual basis no later than April 30 and October 30 each year for the reporting periods ending March 31 and September 30, respectively.

e. Subcontractor Reporting

FAR clause 52.219-9 and NASA FAR Supplement clause 1852.219-75 require that the Contractor ensure that ISR and SSR reports are submitted by those subcontractors that have been required to adopt a Subcontracting Plan under the terms of the clause. These subcontractor reports must be submitted as required by paragraphs (c) and (d) above. The reports may be submitted through the Contractor or submitted directly. Regardless, the Contractor is responsible for ensuring proper and timely submittal of the required reports.

(End of clause)

H.10 RIGHTS IN DATA

The default Data Rights clause under this contract is FAR 52.227-14 RIGHTS IN DATA-GENERAL as modified by NASA FAR Supplement 1852.227-14—Alternate II and Alternate III and GSFC 52.227-90, LIMITED RIGHTS DATA OR RESTRICTED COMPUTER SOFTWARE.

(End of clause)

H.11 1852.232-77 LIMITATION OF FUNDS (FIXED-PRICE CONTRACT) (MAR 1989)

Note: The Government contemplates incrementally funding delivery orders; therefore delivery orders may include this clause as applicable.

(a) Of the total price of items through _____, the sum of $ _____ is presently available for payment and allotted to this contract. It is anticipated that from time to time additional funds will be allocated to the contract in accordance with the following schedule, until the total price of said items is allotted:

SCHEDULE FOR ALLOTMENT OF FUNDS	
Date	Amounts

(b) The Contractor agrees to perform or have performed work on the items specified in paragraph (a) of this clause up to the point at which, if this contract is terminated pursuant to the Termination for Convenience of the Government clause of this contract, the total amount payable by the Government (including amounts payable for subcontracts and settlement costs) pursuant to paragraphs (f) and (g) of that clause would, in the exercise of reasonable judgment by the Contractor, approximate the total amount at the time allotted to the contract. The Contractor is not obligated to continue performance of the work beyond that point. The Government is not obligated in any event to pay or reimburse the Contractor more than the amount from time to time allotted to the contract, anything to the contrary in the Termination for Convenience of the Government clause notwithstanding.

(c) (1) It is contemplated that funds presently allotted to this contract will cover the work to be performed until **TBD**.

(2) If funds allotted are considered by the Contractor to be inadequate to cover the work to be performed until that date, or an agreed date substituted for it, the Contractor shall notify the Contracting Officer in writing when within the next 60 days the work will reach a point at which, if the contract is terminated pursuant to the Termination for Convenience of the Government clause of this contract, the total amount payable by the Government (including amounts payable for subcontracts and settlement costs) pursuant to paragraphs (f) and (g) of that clause will approximate 75 percent of the total amount then allotted to the contract.

(3) (i) The notice shall state the estimate when the point referred to in paragraph (c)(2) of this clause will be reached and the estimated amount of additional funds required to continue performance to the date specified in paragraph (c)(1) of this clause, or an agreed date substituted for it.

(ii) The Contractor shall, 60 days in advance of the date specified in paragraph (c)(1) of this clause, or an agreed date substituted for it, advise the Contracting Officer in writing as to the estimated amount of additional funds required for the timely performance of the contract for a further period as may be specified in the contract or otherwise agreed to by the parties.

(4) If, after the notification referred to in paragraph (c)(3)(ii) of this clause, additional funds are not allotted by the date specified in paragraph (c)(1) of this clause, or an agreed date substituted

for it, the Contracting Officer shall, upon the Contractor's written request, terminate this contract on that date or on the date set forth in the request, whichever is later, pursuant to the Termination for Convenience of the Government clause.

(d) When additional funds are allotted from time to time for continued performance of the work under this contract, the parties shall agree on the applicable period of contract performance to be covered by these funds. The provisions of paragraphs (b) and (c) of this clause shall apply to these additional allotted funds and the substituted date pertaining to them, and the contract shall be modified accordingly.

(e) If, solely by reason of the Government's failure to allot additional funds in amounts sufficient for the timely performance of this contract, the Contractor incurs additional costs or is delayed in the performance of the work under this contract, and if additional funds are allotted, an equitable adjustment shall be made in the price or prices (including appropriate target, billing, and ceiling prices where applicable) of the items to be delivered, or in the time of delivery, or both.

(f) The Government may at any time before termination, and, with the consent of the Contractor, after notice of termination, allot additional funds for this contract.

(g) The provisions of this clause with respect to termination shall in no way be deemed to limit the rights of the Government under the default clause of this contract. The provisions of this Limitation of Funds clause are limited to the work on and allotment of funds for the items set forth in paragraph (a) of this clause. This clause shall become inoperative upon the allotment of funds for the total price of said work except for rights and obligations then existing under this clause.

(h) Nothing in this clause shall affect the right of the Government to terminate this contract pursuant to the Termination for Convenience of the Government clause of this contract.

(End of clause)

H.12 LAUNCH DELAY

APPLIES ONLY AT THE DELIVERY ORDER LEVEL

NASA will make the final go or no-go decision for each launch under delivery orders. Launch delays after Contractor delivery of the Observatory to the Launch Site and at the convenience of the Government are covered by this clause.

In the event of a Government directed delay of the launch date, the Contracting Officer shall inform the Contractor, in writing, of the revised launch date, and allow the Contractor to submit a proposal for the effect of such delay on the price, delivery schedule, or other terms of the order. However, any failure to make progress by the Contractor or other fault of the Contractor, shall not be excused by such Government direction, and any contractor fault or failure to make progress shall be considered in determining an appropriate delivery order adjustment, if any. This may result in any of the following: an equitable adjustment to the price of the order, finance payment and completion criteria (if any), change in the delivery schedule, or change in the period of performance. Upon failure to agree to an adjustment, the Contracting Officer may

unilaterally adjust the order, or decline to adjust the order, which action may be the subject of a contractor claim under the Disputes clause. However, nothing in this clause shall excuse the Contractor from proceeding with the order as directed.

(End of text)

H.13 GSFC 52.219-92 SMALL DISADVANTAGED BUSINESS PARTICIPATION--CONTRACT TARGETS (APR 2009) (for offeror fill-in)

APPLIES ONLY AT THE DELIVERY ORDER LEVEL

(a) FAR 19.1202-4(a) requires that SDB subcontracting targets be incorporated in the contract. Targets for this contract are as follows:

*NAICS Industry Subsectors	Dollar Target	Percent of Delivery Order Value
TBP	TBP	TBP
Total		

*North American Industry Classification System (NAICS) Industry Subsectors as determined by the Department of Commerce (List Target dollars and percentages by individual NAICS Industry Subsectors).

(b) FAR 19.1202-4(b) requires that SDB concerns that are specifically identified by the offeror be listed in the contract when the extent of the identification of such subcontractors was part of the SDB evaluation subfactor. SDB concerns (subcontractors) specifically identified by the offeror are as follows:

Name of Concern(s)

TBP

The contractor shall notify the Contracting Officer of any substitutions of firms that are not SDB concerns.

(c) If the prime offeror is an SDB, the target for the work it intends to perform as a prime contractor is as follows:

Dollars	Percent of Delivery Order Value
TBP	TBP

(End of clause)

H.14 1852.227-72 DESIGNATION OF NEW TECHNOLOGY REPRESENTATIVE AND PATENT REPRESENTATIVE (JUL 1997)

(a) For purposes of administration of the clause of this contract entitled "New Technology" or "Patent Rights--Ownership by the Contractor," whichever is included, the following named representatives are hereby designated by the Contracting Officer to administer such clause:

Title	Office Code	Address (including zip code)
New Technology Representative	504	NASA/GSFC Technology Transfer Office , Code 504 8800 Greenbelt Road Greenbelt, MD 20771
Patent Representative	140.1	NASA/GSFC Office of Patent Counsel, Code 140.1 8800 Greenbelt Road Greenbelt, MD 20771

(b) Reports of reportable items, and disclosure of subject inventions, interim reports, final reports, utilization reports, and other reports required by the clause, as well as any correspondence with respect to such matters, should be directed to the New Technology Representative unless transmitted in response to correspondence or request from the Patent Representative. Inquires or requests regarding disposition of rights, election of rights, or related matters should be directed to the Patent Representative. This clause shall be included in any subcontract hereunder requiring a "New Technology" clause or "Patent Rights--Ownership by the Contractor " clause, unless otherwise authorized or directed by the Contracting Officer. The respective responsibilities and authorities of the above-named representatives are set forth in 1827.305-370 of the NASA FAR Supplement.

(End of clause)

H.15 PERFORMANCE-BASED PAYMENT EVENTS AND COMPLETION CRITERIA

In accordance with Clause I.85, "PERFORMANCE BASED PAYMENTS (52.232-32)", upon successful completion of an event, the contractor may request performance based payments. The performance based payments shall be based on the major events as listed below and the interim events identified in Section J, Attachment B, as applicable. **The percents are based on the total value of the order. The total percentage of payments proposed for all events, both interim and major, shall not exceed 90%.**

Payment Event No.	Milestone Payment Event	Percent	Month
1	S/C Requirements Review (SRR)		
2	S/C Preliminary Design Review (PDR)		
3	S/C Critical Design Review (CDR)		
4	Arrival of Core S/C Structure (ESPA Ring)		
5	Complete Propulsion Thruster Beam Fabrication and Assembly		

6	Complete Checkout of Final C&DH FSW		
7	Complete Mechanical Structure Fab and Assembly		
8	Instrument Integration Readiness Review (IIRR)		
9	Observatory Pre-Environmental Review (PER)		
10	Complete EV Testing		
11	Observatory Pre-Shipment Review (PSR)		

ARO = After Receipt of Order (Delivery Order signed by Contracting Officer)
S/C = Spacecraft

The above events may apply to each delivery order for a mission issued under this contract.

The milestones in this clause apply to delivery orders for an Observatory. Should a mission require alternate milestone payment events, such terms shall be included in the mission specific RFO and resulting delivery order.

The Contracting Officer shall unilaterally determine the Contractor's completion of each event. The Contracting Officer's determination of event completion will include, but is not limited to, the completion criteria described in Section 4.3.1.4.2 of the SOW and the associated CDRLs, and the applicable completion criteria listed in Section J, Attachment B. Generally, payment events shall be paid in succession. All preceding payment events shall be successfully completed before payment will be made for the next payment event, unless the prior written consent of the Contracting Officer is obtained.

(End of text)

H.16 ACCEPTANCE AND FINAL PAYMENT

APPLIES ONLY AT THE DELIVERY ORDER LEVEL

The acceptance and final payment terms in this clause apply to delivery orders requiring delivery of an Observatory. Mission spacecraft and components shall require alternate acceptance terms, which shall be included in the mission specific RFO and resulting delivery order.

The Contracting Officer or authorized representative will verify the completion of on-orbit check-out. At the successful completion of all on-orbit check-out activities and upon the Contractor meeting all requirements for acceptance, the Government will make final acceptance for each observatory on-orbit or as specified in the delivery order.

Upon delivery of the observatory to the point of delivery listed in the delivery order, the Contractor shall submit a DD Form 250 to the Contracting Officer. The Government will accept the observatory following completion of on-orbit check-out and verification that the observatory meets all of the performance and technical requirements of this contract and delivery order. Acceptance of each observatory shall be accomplished by the Contracting Officer's signature on the DD Form 250. The Government may reject the observatory if it fails to meet any of the performance and technical requirements of this contract and delivery order. Following final acceptance by the Government, the Contractor may submit a final invoice for the unliquidated price of the Observatory. The unliquidated price of the Observatory shall be the delivery order price less any payments made to the Contractor in accordance with H.15 "PERFORMANCE-

BASED PAYMENT EVENTS AND COMPLETION CRITERIA." The Contractor shall not be held liable for the degradation of the Observatory nor for the risk of loss of the Observatory due to failure of the Government provided launch vehicle, Government provided instrument(s), or Government provided ground operations.

Acceptance Criteria – The acceptance of the Observatory shall occur after the Contractor demonstrates that the Observatory meets all of the following:

(a) The Observatory, its subsystems, components, and materials meet all of their specifications, both individually and collectively as defined by the delivery order, and this compliance has been confirmed by Government approval after successful completion of the Observatory Pre-Shipment Review, as defined in CDRL 15F.

(b) The Observatory has successfully completed a 30-day (or a different period as defined in the delivery order) On-orbit Performance Verification Program as defined in the SOW.

(c) The Contractor has successfully completed the Observatory (Post Launch) Acceptance Review (OAR) as defined in the SOW.

(d) The Contractor shall have provided to the Government project an acceptable End Item Data Package in compliance with Rapid III MAR Section 16 and CDRL MA 16-1.

(e) All other requirements of the delivery order have been satisfied.

(End of text)

H.17 CONTRACTOR AND USER ASSISTANCE

Offerors are advised that specified employers and/or team members of Government and non-Government users (for example, Government employees, contractor employees, Government and non-Government Principal Investigators) and Government support contractors may assist the Government during the evaluation of proposals submitted in response to a Request for Offer (RFO), and during performance of a delivery order. If such support is required, the RFO and the resulting delivery order will identify the respective individual(s) and their employer, and any support contractor(s). The individual(s) and support contractor(s) may be authorized access to all data necessary to enable them to provide specific advice on specialized matters or on particular issues.

In order to provide the required assistance, the specified individual(s) and support contractor(s) will need periodic access to data, and will be required to attend regular progress reviews at which data may be disclosed which the Contractor may consider proprietary or privileged. Accordingly, the Contractor agrees to cooperate with such individual(s) by engaging in technical matters of the program.

Any involvement of support by such individual(s) and support contractor(s) will be subject then to the same requirements of the "Access to Sensitive Information" clause contained at I.89 of this contract.

The Contractor may negotiate its own non-disclosure agreement with such individual(s) and/or their employer(s), as well as with support contractor(s). However, the lack of an agreement

between the Contractor and supporting individual(s) and support contractor(s) shall not affect the ability of the Government to disclose data to those individual(s) and support contractor(s) under this clause.

(End of text)

H.18 CLAUSES INCORPORATED BY REFERENCE -- SECTION H

Clause(s) H.1 through H.4 at the beginning of this Section 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.

(End of clause)

[END OF SECTION]

SECTION I - CONTRACT CLAUSES

I.1 52.202-1 DEFINITIONS (JUL 2004)

I.2 52.203-3 GRATUITIES (APR 1984)

I.3 52.203-5 COVENANT AGAINST CONTINGENT FEES (APR 1984)

I.4 52.203-6 RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (SEP 2006)

I.5 52.203-7 ANTI-KICKBACK PROCEDURES (JUL 1995)

I.6 52.203-8 CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997)

I.7 52.203-10 PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997)

I.8 52.203-12 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (SEP 2007)

I.9 52.203-13 CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT (DEC 2008)

I.10 52.203-14 DISPLAY OF HOTLINE POSTER(S) (DEC 2007)
(b)(3) – Inspector General Hotline Posters may be obtained from NASA Office of Inspector General, Code W, Washington, DC 20546-001.

I.11 52.204-4 PRINTED OR COPIED DOUBLE-SIDED ON RECYCLED PAPER (AUG 2000)

I.12 52.204-7 CENTRAL CONTRACTOR REGISTRATION (APR 2008)

I.13 52.204-10 REPORTING SUBCONTRACT AWARDS (SEP 2007)

I.14 52.209-6 PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (SEP 2006)

I.15 52.211-5 MATERIAL REQUIREMENTS (AUG 2000)

I.16 52.215-2 AUDIT AND RECORDS – NEGOTIATION (MAR 2009)

I.17 52.215-8 ORDER OF PRECEDENCE - UNIFORM CONTRACT FORMAT (OCT 1997)

I.18 52.215-11 PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA – MODIFICATIONS (OCT 1997)

I.19 52.215-13 SUBCONTRACTOR COST OR PRICING DATA – MODIFICATIONS (OCT 1997)

I.20 52.215-14 INTEGRITY OF UNIT PRICES (OCT 1997)

I.21 RESERVED

I.22 52.215-21 REQUIREMENTS FOR COST OR PRICING DATA OR INFORMATION OTHER THAN COST OR PRICING DATA – MODIFICATIONS (OCT 1997)

I.23 52.219-4 NOTICE OF PRICE EVALUATION PREFERENCE FOR HUBZONE SMALL BUSINESS CONCERNS (JUL 2005)

[ ] Offeror elects to waive the evaluation preference.

I.24 52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS (MAY 2004)

I.25 52.219-9 SMALL BUSINESS SUBCONTRACTING PLAN (APR 2008) - ALTERNATE II (OCT 2001)

I.26 52.219-16 LIQUIDATED DAMAGES - SUBCONTRACTING PLAN (JAN 1999)

I.27 52.219-25 SMALL DISADVANTAGED BUSINESS PARTICIPATION PROGRAM-DISADVANTAGED STATUS AND REPORTING (APR 2008)

I.28 52.219-28 POST-AWARD SMALL BUSINESS PROGRAM REREPRESENTATION (APR 2009)

I.29 52.222-3 CONVICT LABOR (JUN 2003)

I.30 52.222-19 CHILD LABOR - COOPERATION WITH AUTHORITIES AND REMEDIES (Aug 2009)

I.31 52.222-20 WALSH-HEALEY PUBLIC CONTRACTS ACT (DEC 1996)

I.32 52.222-21 PROHIBITION OF SEGREGATED FACILITIES (FEB 1999)

I.33 52.222-26 EQUAL OPPORTUNITY (MAR 2007)

I.34 52.222-35 EQUAL OPPORTUNITY FOR SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS (SEP 2006)

I.35 52.222-36 AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES (JUN 1998)

I.36 52.222-37 EMPLOYMENT REPORTS ON SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS (SEP 2006)

I.37 52.222-50 COMBATING TRAFFICKING IN PERSONS (FEB 2009)

I.38 52.222-54 EMPLOYMENT ELIGIBILITY VERIFICATION (JAN 2009)

I.39 52.223-6 DRUG-FREE WORKPLACE (MAY 2001)

I.40 52.223-14 TOXIC CHEMICAL RELEASE REPORTING (AUG 2003)

I.41 52.225-1 BUY AMERICAN ACT – SUPPLIES (FEB 2009)

I.42 52.225-8 DUTY-FREE ENTRY (FEB 2000)

I.43 52.225-13 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (JUN 2008)

I.44 52.227-1 AUTHORIZATION AND CONSENT (DEC 2007)

I.45 52.227-2 NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (DEC 2007)

I.46 52.227-11 PATENT RIGHTS-OWNERSHIP BY THE CONTRACTOR (DEC 2007) -- as modified by NFS 1852.227-11

I.47 52.229-3 FEDERAL, STATE, AND LOCAL TAXES (APR 2003)

I.48 52.232-1 PAYMENTS (APR 1984)

I.49 52.232-8 DISCOUNTS FOR PROMPT PAYMENT (FEB 2002)

I.50 52.232-11 EXTRAS (APR 1984)

I.51 52.232-17 INTEREST (OCT 2008)

I.52 52.232-23 ASSIGNMENT OF CLAIMS (JAN 1986)

I.53 52.232-25 PROMPT PAYMENT (OCT 2008)

I.54 52.232-34 PAYMENT BY ELECTRONIC FUNDS TRANSFER - OTHER THAN CENTRAL CONTRACTOR REGISTRATION (MAY 1999)
Para (b)(1) - (hereafter: designated office) "NASA Shared Services Center (NSSC), Financial Management Division (FMD), Accounts Payable, Bldg. 1111, C Road, Stennis Space Center, MS 39529, FAX 866-209-5415," by no later 15 days prior to submission of the first request for payment.

I.55 52.233-1 DISPUTES (JUL 2002) - ALTERNATE I (DEC 1991)

I.56 52.233-3 PROTEST AFTER AWARD (AUG 1996)

I.57 52.233-4 APPLICABLE LAW FOR BREACH OF CONTRACT CLAIM (OCT 2004)
I.58 52.242-13 BANKRUPTCY (JUL 1995)

I.59 52.243-1 CHANGES - FIXED-PRICE (AUG 1987)

I.60 52.243-6 CHANGE ORDER ACCOUNTING (APR 1984)

I.61 52.243-7 NOTIFICATION OF CHANGES (APR 1984)
Para (b) - 7 Calendar days
Para (d) - 30 Calendar days

I.62 52.244-2 SUBCONTRACTS (JUN 2007)
Para (d) - To be identified in Delivery Order
Para (j) - To be identified in Delivery Order

I.63 52.244-6 SUBCONTRACTS FOR COMMERCIAL ITEMS (AUG 2009)

I.64 52.245-1 GOVERNMENT PROPERTY (JUN 2007)

I.65 52.245-9 USE AND CHARGES (JUN 2007)

I.66 52.246-24 LIMITATION OF LIABILITY - HIGH-VALUE ITEMS (FEB 1997)

I.67 52.247-63 PREFERENCE FOR U.S.-FLAG AIR CARRIERS (JUN 2003)

I.68 52.248-1 VALUE ENGINEERING (FEB 2000)

I.69 52.249-2 TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED-PRICE) (MAY 2004)

I.70 52.249-8 DEFAULT (FIXED-PRICE SUPPLY AND SERVICE) (APR 1984)

I.71 52.253-1 COMPUTER GENERATED FORMS (JAN 1991)

I.72 1852.203-70 DISPLAY OF INSPECTOR GENERAL HOTLINE POSTERS (JUN 2001)

I.73 1852.219-74 USE OF RURAL AREA SMALL BUSINESSES (SEP 1990)

I.74 1852.219-75 SMALL BUSINESS SUBCONTRACTING REPORTING (MAY 1999)

I.75 1852.219-76 NASA 8 PERCENT GOAL (JUL 1997)

I.76 1852.227-70 NEW TECHNOLOGY (MAY 2002)

I.77 1852.228-75 MINIMUM INSURANCE COVERAGE (OCT 1988)

I.78 1852.237-70 EMERGENCY EVACUATION PROCEDURES (DEC 1988)

I.79 1852.243-71 SHARED SAVINGS (MAR 1997)

I.80 52.204-1 APPROVAL OF CONTRACT (DEC 1989)

This contract is subject to the written approval of the Goddard Space Flight Center Procurement Officer and shall not be binding until so approved.

(End of clause)

I.81 52.216-18 ORDERING (OCT 1995)

(a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the Schedule. Such orders may be issued within the effective ordering period (See F.4).

(b) All delivery orders or task orders are subject to the terms and conditions of this contract. In the event of conflict between a delivery order or task order and this contract, the contract shall control.

(c) If mailed, a delivery order or task order is considered issued when the Government deposits the order in the mail. Orders may be issued orally, by facsimile, or by electronic commerce methods only if authorized in the Schedule.

(End of clause)

I.82 52.216-19 ORDER LIMITATIONS (OCT 1995)

(a) *Minimum order.* When the Government requires supplies or services covered by this contract in an amount of less than $1,000, the Government is not obligated to purchase, nor is the Contractor obligated to furnish, those supplies or services under the contract.

(b) *Maximum order.* The Contractor is not obligated to honor -

(1) Any order for a single item in excess of $250,000,000;

(2) Any order for a combination of items in excess of $500,000,000; or

(3) A series of orders from the same ordering office within 30 days that together call for quantities exceeding the limitation in subparagraph (b)(1) or (2) of this section.

(c) If this is a requirements contract (*i.e.*, includes the Requirements clause at subsection 52.216-21 of the Federal Acquisition Regulation (FAR)), the Government is not required to order a part of any one requirement from the Contractor if that requirement exceeds the maximum-order limitations in paragraph (b) of this section.

(d) Notwithstanding paragraphs (b) and (c) of this section, the Contractor shall honor any order

exceeding the maximum order limitations in paragraph (b), unless that order (or orders) is returned to the ordering office within 7 days after issuance, with written notice stating the Contractor's intent not to ship the item (or items) called for and the reasons. Upon receiving this notice, the Government may acquire the supplies or services from another source.

(End of clause)

I.83 52.216-22 INDEFINITE QUANTITY (OCT 1995)

(a) This is an indefinite-quantity contract for the supplies or services specified and effective for the period stated, in the Schedule. The quantities of supplies and services specified in the Schedule are estimates only and are not purchased by this contract.

(b) Delivery or performance shall be made only as authorized by orders issued in accordance with the Ordering clause. The Contractor shall furnish to the Government, when and if ordered, the supplies or services specified in the Schedule up to and including the quantity designated in the Schedule as the maximum. The Government shall order at least the quantity of supplies or services designated in the Schedule as the minimum.

(c) Except for any limitations on quantities in the Order Limitations clause or in the Schedule, there is no limit on the number of orders that may be issued. The Government may issue orders requiring delivery to multiple destinations or performance at multiple locations.

(d) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; *provided*, that the Contractor shall not be required to make any deliveries under this contract after the period of performance specified in any issued Delivery Orders.

(End of clause)

I.84 52.222-39 NOTIFICATION OF EMPLOYEE RIGHTS CONCERNING PAYMENT OF UNION DUES OR FEES (DEC 2004)

(a) Definition. As used in this clause--

United States means the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.
(b) Except as provided in paragraph (e) of this clause, during the term of this contract, the Contractor shall post a notice, in the form of a poster, informing employees of their rights concerning union membership and payment of union dues and fees, in conspicuous places in and about all its plants and offices, including all places where notices to employees are customarily posted. The notice shall include the following information (except that the information pertaining to National Labor Relations Board shall not be included in notices posted in the plants or offices of carriers subject to the Railway Labor Act, as amended (45 U.S.C. 151-188)).

Notice to Employees

Under Federal law, employees cannot be required to join a union or maintain membership in a union in order to retain their jobs.

Under certain conditions, the law permits a union and an employer to enter into a union-security agreement requiring employees to pay uniform periodic dues and initiation fees. However, employees who are not union members can object to the use of their payments for certain purposes and can only be required to pay their share of union costs relating to collective bargaining, contract administration, and grievance adjustment.

If you do not want to pay that portion of dues or fees used to support activities not related to collective bargaining, contract administration, or grievance adjustment, you are entitled to an appropriate reduction in your payment. If you believe that you have been required to pay dues or fees used in part to support activities not related to collective bargaining, contract administration, or grievance adjustment, you may be entitled to a refund and to an appropriate reduction in future payments.

For further information concerning your rights, you may wish to contact the National Labor Relations Board (NLRB) either at one of its Regional offices or at the following address or toll free number:

National Labor Relations Board
Division of Information
1099 14th Street, N.W.
Washington, DC 20570
1-866-667-6572
1-866-316-6572 (TTY)

To locate the nearest NLRB office, see NLRB's website at http://www.nlrb.gov.

(c) The Contractor shall comply with all provisions of Executive Order 13201 of February 17, 2001, and related implementing regulations at 29 CFR part 470, and orders of the Secretary of Labor.

(d) In the event that the Contractor does not comply with any of the requirements set forth in paragraphs (b), (c), or (g), the Secretary may direct that this contract be cancelled, terminated, or suspended in whole or in part, and declare the Contractor ineligible for further Government contracts in accordance with procedures at 29 CFR part 470, Subpart B--Compliance Evaluations, Complaint Investigations and Enforcement Procedures. Such other sanctions or remedies may be imposed as are provided by 29 CFR part 470, which implements Executive Order 13201, or as are otherwise provided by law.

(e) The requirement to post the employee notice in paragraph (b) does not apply to--

(1) Contractors and subcontractors that employ fewer than 15 persons;

(2) Contractor establishments or construction work sites where no union has been formally

recognized by the Contractor or certified as the exclusive bargaining representative of the Contractor's employees;

(3) Contractor establishments or construction work sites located in a jurisdiction named in the definition of the United States in which the law of that jurisdiction forbids enforcement of union-security agreements;

(4) Contractor facilities where upon the written request of the Contractor, the Department of Labor Deputy Assistant Secretary for Labor-Management Programs has waived the posting requirements with respect to any of the Contractor's facilities if the Deputy Assistant Secretary finds that the Contractor has demonstrated that--

(i) The facility is in all respects separate and distinct from activities of the Contractor related to the performance of a contract; and

(ii) Such a waiver will not interfere with or impede the effectuation of the Executive order; or

(5) Work outside the United States that does not involve the recruitment or employment of workers within the United States.

(f) The Department of Labor publishes the official employee notice in two variations; one for contractors covered by the Railway Labor Act and a second for all other contractors. The Contractor shall--

(1) Obtain the required employee notice poster from the Division of Interpretations and Standards, Office of Labor-Management Standards, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N-5605, Washington, DC 20210, or from any field office of the Department's Office of Labor-Management Standards or Office of Federal Contract Compliance Programs;

(2) Download a copy of the poster from the Office of Labor-Management Standards website at http://www.olms.dol.gov; or

(3) Reproduce and use exact duplicate copies of the Department of Labor's official poster.

(g) The Contractor shall include the substance of this clause in every subcontract or purchase order that exceeds the simplified acquisition threshold, entered into in connection with this contract, unless exempted by the Department of Labor Deputy Assistant Secretary for Labor-Management Programs on account of special circumstances in the national interest under authority of 29 CFR 470.3(c). For indefinite quantity subcontracts, the Contractor shall include the substance of this clause if the value of orders in any calendar year of the subcontract is expected to exceed the simplified acquisition threshold. Pursuant to 29 CFR part 470, Subpart B--Compliance Evaluations, Complaint Investigations and Enforcement Procedures, the Secretary of Labor may direct the Contractor to take such action in the enforcement of these regulations, including the imposition of sanctions for noncompliance with respect to any such subcontract or purchase order. If the Contractor becomes involved in litigation with a subcontractor or vendor,

or is threatened with such involvement, as a result of such direction, the Contractor may request the United States, through the Secretary of Labor, to enter into such litigation to protect the interests of the United States.

(End of clause)

I.85 52.232-32 PERFORMANCE-BASED PAYMENTS (JAN 2008)

APPLIES ONLY AT THE DELIVERY ORDER LEVEL

(a) *Amount of payments and limitations on payments.* Subject to such other limitations and conditions as are specified in this contract and this clause, the amount of payments and limitations on payments shall be specified in the contract's description of the basis for payment.

(b) *Contractor request for performance-based payment.* The Contractor may submit requests for payment of performance-based payments not more frequently than monthly, in a form and manner acceptable to the Contracting Officer. Unless otherwise authorized by the Contracting Officer, all performance-based payments in any period for which payment is being requested shall be included in a single request, appropriately itemized and totaled. The Contractor's request shall contain the information and certification detailed in paragraphs (l) and (m) of this clause.

(c) *Approval and payment of requests.* (1) The Contractor shall not be entitled to payment of a request for performance-based payment prior to successful accomplishment of the event or performance criterion for which payment is requested. The Contracting Officer shall determine whether the event or performance criterion for which payment is requested has been successfully accomplished in accordance with the terms of the contract. The Contracting Officer may, at any time, require the Contractor to substantiate the successful performance of any event or performance criterion which has been or is represented as being payable.

(2) A payment under this performance-based payment clause is a contract financing payment under the Prompt Payment clause of this contract and not subject to the interest penalty provisions of the Prompt Payment Act. The designated payment office will pay approved requests on the 30th day after receipt of the request for performance-based payment by the designated payment office. However, the designated payment office is not required to provide payment if the Contracting Officer requires substantiation as provided in paragraph (c)(1) of this clause, or inquires into the status of an event or performance criterion, or into any of the conditions listed in paragraph (e) of this clause, or into the Contractor certification. The payment period will not begin until the Contracting Officer approves the request.

(3) The approval by the Contracting Officer of a request for performance-based payment does not constitute an acceptance by the Government and does not excuse the Contractor from performance of obligations under this contract.

(d) *Liquidation of performance-based payments.* (1) Performance-based finance amounts paid prior to payment for delivery of an item shall be liquidated by deducting a percentage or a designated dollar amount from the delivery payment. If the performance-based finance payments are on a delivery item basis, the liquidation amount for each such line item shall be the percent of

that delivery item price that was previously paid under performance-based finance payments or the designated dollar amount. If the performance-based finance payments are on a whole contract basis, liquidation shall be by either predesignated liquidation amounts or a liquidation percentage.

(2) If at any time the amount of payments under this contract exceeds any limitation in this contract, the Contractor shall repay to the Government the excess. Unless otherwise determined by the Contracting Officer, such excess shall be credited as a reduction in the unliquidated performance-based payment balance(s), after adjustment of invoice payments and balances for any retroactive price adjustments.

(e) *Reduction or suspension of performance-based payments*. The Contracting Officer may reduce or suspend performance-based payments, liquidate performance-based payments by deduction from any payment under the contract, or take a combination of these actions after finding upon substantial evidence any of the following conditions:

(1) The Contractor failed to comply with any material requirement of this contract (which includes paragraphs (h) and (i) of this clause).

(2) Performance of this contract is endangered by the Contractor's -

(i) Failure to make progress; or

(ii) Unsatisfactory financial condition.

(3) The Contractor is delinquent in payment of any subcontractor or supplier under this contract in the ordinary course of business.

(f) *Title*. (1) Title to the property described in this paragraph (f) shall vest in the Government. Vestiture shall be immediately upon the date of the first performance-based payment under this contract, for property acquired or produced before that date. Otherwise, vestiture shall occur when the property is or should have been allocable or properly chargeable to this contract

(2) "Property," as used in this clause, includes all of the following described items acquired or produced by the Contractor that are or should be allocable or properly chargeable to this contract under sound and generally accepted accounting principles and practices:

(i) Parts, materials, inventories, and work in process;

(ii) Special tooling and special test equipment to which the Government is to acquire title under any other clause of this contract;

(iii) Nondurable (*i.e.*, noncapital) tools, jigs, dies, fixtures, molds, patterns, taps, gauges, test equipment and other similar manufacturing aids, title to which would not be obtained as special tooling under subparagraph (f)(2)(ii) of this clause; and

(iv) Drawings and technical data, to the extent the Contractor or subcontractors are required to deliver them to the Government by other clauses of this contract.

(3) Although title to property is in the Government under this clause, other applicable clauses of this contract (*e.g.*, the termination or special tooling clauses) shall determine the handling and disposition of the property.

(4) The Contractor may sell any scrap resulting from production under this contract, without requesting the Contracting Officer's approval, provided that any significant reduction in the value of the property to which the Government has title under this clause is reported in writing to the Contracting Officer.

(5) In order to acquire for its own use or dispose of property to which title is vested in the Government under this clause, the Contractor shall obtain the Contracting Officer's advance approval of the action and the terms. If approved, the basis for payment (the events or performance criteria) to which the property is related shall be deemed to be not in compliance with the terms of the contract and not payable (if the property is part of or needed for performance), and the Contractor shall refund the related performance-based payments in accordance with paragraph (d) of this clause.

(6) When the Contractor completes all of the obligations under this contract, including liquidation of all performance-based payments, title shall vest in the Contractor for all property (or the proceeds thereof) not -

(i) Delivered to, and accepted by, the Government under this contract; or
(ii) Incorporated in supplies delivered to, and accepted by, the Government under this contract and to which title is vested in the Government under this clause.

(7) The terms of this contract concerning liability for Government-furnished property shall not apply to property to which the Government acquired title solely under this clause.

(g) *Risk of loss*. Before delivery to and acceptance by the Government, the Contractor shall bear the risk of loss for property, the title to which vests in the Government under this clause, except to the extent the Government expressly assumes the risk. If any property is damaged, lost, stolen, or destroyed, the basis of payment (the events or performance criteria) to which the property is related shall be deemed to be not in compliance with the terms of the contract and not payable (if the property is part of or needed for performance), and the Contractor shall refund the related performance-based payments in accordance with paragraph (d) of this clause.

(h) *Records and controls*. The Contractor shall maintain records and controls adequate for administration of this clause. The Contractor shall have no entitlement to performance-based payments during any time the Contractor's records or controls are determined by the Contracting Officer to be inadequate for administration of this clause.

(i) *Reports and Government access*. The Contractor shall promptly furnish reports, certificates, financial statements, and other pertinent information requested by the Contracting Officer for the administration of this clause and to determine that an event or other criterion prompting a financing payment has been successfully accomplished. The Contractor shall give the Government reasonable opportunity to examine and verify the Contractor's records and to examine and verify the Contractor's performance of this contract for administration of this clause.

(j) *Special terms regarding default.* If this contract is terminated under the Default clause, (1) the Contractor shall, on demand, repay to the Government the amount of unliquidated performance-based payments, and (2) title shall vest in the Contractor, on full liquidation of all performance-based payments, for all property for which the Government elects not to require delivery under the Default clause of this contract. The Government shall be liable for no payment except as provided by the Default clause.

(k) *Reservation of rights.* (1) No payment or vesting of title under this clause shall -

(i) Excuse the Contractor from performance of obligations under this contract; or

(ii) Constitute a waiver of any of the rights or remedies of the parties under the contract.

(2) The Government's rights and remedies under this clause -

(i) Shall not be exclusive, but rather shall be in addition to any other rights and remedies provided by law or this contract; and

(ii) Shall not be affected by delayed, partial, or omitted exercise of any right, remedy, power, or privilege, nor shall such exercise or any single exercise preclude or impair any further exercise under this clause or the exercise of any other right, power, or privilege of the Government.
(l) *Content of Contractor's request for performance-based payment.* The Contractor's request for performance-based payment shall contain the following:

(1) The name and address of the Contractor;

(2) The date of the request for performance-based payment;

(3) The contract number and/or other identifier of the contract or order under which the request is made;

(4) Such information and documentation as is required by the contract's description of the basis for payment; and

(5) A certification by a Contractor official authorized to bind the Contractor, as specified in paragraph (m) of this clause.

(m) *Content of Contractor's certification.* As required in paragraph (l)(5) of this clause, the Contractor shall make the following certification in each request for performance-based payment:

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

(1) This request for performance-based payment is true and correct; this request (and attachments) has been prepared from the books and records of the Contractor, in accordance with the contract and the instructions of the Contracting Officer;

(2) (Except as reported in writing on _____), all payments to subcontractors and suppliers under this contract have been paid, or will be paid, currently, when due in the ordinary course of business;

(3) There are no encumbrances (except as reported in writing on _____) against the property acquired or produced for, and allocated or properly chargeable to, the contract which would affect or impair the Government's title;

(4) There has been no materially adverse change in the financial condition of the Contractor since the submission by the Contractor to the Government of the most recent written information dated _____; and

(5) After the making of this requested performance-based payment, the amount of all payments for each deliverable item for which performance-based payments have been requested will not exceed any limitation in the contract, and the amount of all payments under the contract will not exceed any limitation in the contract.

(End of clause)

I.86 PERFORMANCE-BASED PAYMENT EVENTS AND COMPLETION CRITERIA (MOVED TO H.15)

I.87 ACCEPTANCE AND FINAL PAYMENT (MOVED TO H.16)

I.88 1852.215-84 OMBUDSMAN (OCT 2003) -- ALTERNATE I (JUN 2000)

(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:

Judith N. Bruner
Goddard Space Flight Center
Mailstop 100
Greenbelt, MD 20771
Business Phone: 301 286-7679 Fax Number: 301 286-1714
E-mail address: Judith.N.Bruner@nasa.gov

Concerns, issues, disagreements, and recommendations which cannot be resolved at the

installation may be referred to the NASA ombudsman, the Director of the Contract Management Division, at 202-358-0445, facsimile 202-358-3083, e-mail james.a.balinskas@nasa.gov. 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.

(c) If this is a task or delivery order contract, the ombudsman shall review complaints from contractors and ensure they are afforded a fair opportunity to be considered, consistent with the procedures of the contract.

(End of clause)

I.89 1852.237-72 ACCESS TO SENSITIVE INFORMATION (JUN 2005)

(a) As used in this clause, "sensitive information" refers to information that a contractor has developed at private expense, or that the Government has generated that qualifies for an exception to the Freedom of Information Act, which is not currently in the public domain, and which may embody trade secrets or commercial or financial information, and which may be sensitive or privileged.

(b) To assist NASA in accomplishing management activities and administrative functions, the Contractor shall provide the services specified elsewhere in this contract.
(c) If performing this contract entails access to sensitive information, as defined above, the Contractor agrees to -

(1) Utilize any sensitive information coming into its possession only for the purposes of performing the services specified in this contract, and not to improve its own competitive position in another procurement.

(2) Safeguard sensitive information coming into its possession from unauthorized use and disclosure.
(3) Allow access to sensitive information only to those employees that need it to perform services under this contract.
(4) Preclude access and disclosure of sensitive information to persons and entities outside of the Contractor's organization.

(5) Train employees who may require access to sensitive information about their obligations to utilize it only to perform the services specified in this contract and to safeguard it from unauthorized use and disclosure.

(6) Obtain a written affirmation from each employee that he/she has received and will comply with training on the authorized uses and mandatory protections of sensitive information needed in performing this contract.

(7) Administer a monitoring process to ensure that employees comply with all reasonable security procedures, report any breaches to the Contracting Officer, and implement any necessary corrective actions.

(d) The Contractor will comply with all procedures and obligations specified in its Organizational Conflicts of Interest Avoidance Plan, which this contract incorporates as a compliance document.

(e) The nature of the work on this contract may subject the Contractor and its employees to a variety of laws and regulations relating to ethics, conflicts of interest, corruption, and other criminal or civil matters relating to the award and administration of government contracts. Recognizing that this contract establishes a high standard of accountability and trust, the Government will carefully review the Contractor's performance in relation to the mandates and restrictions found in these laws and regulations. Unauthorized uses or disclosures of sensitive information may result in termination of this contract for default, or in debarment of the Contractor for serious misconduct affecting present responsibility as a government contractor.

(f) The Contractor shall include the substance of this clause, including this paragraph (f), suitably modified to reflect the relationship of the parties, in all subcontracts that may involve access to sensitive information.

(End of clause)

I.90 1852.237-73 RELEASE OF SENSITIVE INFORMATION (JUN 2005)

(a) As used in this clause, "sensitive information" refers to information, not currently in the public domain, that the Contractor has developed at private expense, that may embody trade secrets or commercial or financial information, and that may be sensitive or privileged.

(b) In accomplishing management activities and administrative functions, NASA relies heavily on the support of various service providers. To support NASA activities and functions, these service providers, as well as their subcontractors and their individual employees, may need access to sensitive information submitted by the Contractor under this contract. By submitting this proposal or performing this contract, the Contractor agrees that NASA may release to its service providers, their subcontractors, and their individual employees, sensitive information submitted during the course of this procurement, subject to the enumerated protections mandated by the clause at 1852.237-72, Access to Sensitive Information.

(c)(1) The Contractor shall identify any sensitive information submitted in support of this proposal or in performing this contract.

For purposes of identifying sensitive information, the Contractor may, in addition to any other notice or legend otherwise required, use a notice similar to the following:
Mark the title page with the following legend:

This proposal or document includes sensitive information that NASA shall not disclose outside the Agency and its service providers that support management activities and administrative functions. To gain access to this sensitive information, a service provider's contract must contain the clause at NFS 1852.237-72, Access to Sensitive Information. Consistent with this clause, the service provider shall not duplicate, use, or disclose the information in whole or in part for any purpose other than to perform the services specified in its contract. This restriction does not limit the Government's right to use this information if it is obtained from another source

without restriction. The information subject to this restriction is contained in pages [insert page numbers or other identification of pages].

Mark each page of sensitive information the Contractor wishes to restrict with the following legend:

Use or disclosure of sensitive information contained on this page is subject to the restriction on the title page of this proposal or document.

(2) The Contracting Officer shall evaluate the facts supporting any claim that particular information is "sensitive." This evaluation shall consider the time and resources necessary to protect the information in accordance with the detailed safeguards mandated by the clause at 1852.237-72, Access to Sensitive Information. However, unless the Contracting Officer decides, with the advice of Center counsel, that reasonable grounds exist to challenge the Contractor's claim that particular information is sensitive, NASA and its service providers and their employees shall comply with all of the safeguards contained in paragraph (d) of this clause.

(d) To receive access to sensitive information needed to assist NASA in accomplishing management activities and administrative functions, the service provider must be operating under a contract that contains the clause at 1852.237-72, Access to Sensitive Information. This clause obligates the service provider to do the following:

(1) Comply with all specified procedures and obligations, including the Organizational Conflicts of Interest Avoidance Plan, which the contract has incorporated as a compliance document.

(2) Utilize any sensitive information coming into its possession only for the purpose of performing the services specified in its contract.
(3) Safeguard sensitive information coming into its possession from unauthorized use and disclosure.

(4) Allow access to sensitive information only to those employees that need it to perform services under its contract.

(5) Preclude access and disclosure of sensitive information to persons and entities outside of the service provider's organization.

(6) Train employees who may require access to sensitive information about their obligations to utilize it only to perform the services specified in its contract and to safeguard it from unauthorized use and disclosure.

(7) Obtain a written affirmation from each employee that he/she has received and will comply with training on the authorized uses and mandatory protections of sensitive information needed in performing this contract.

(8) Administer a monitoring process to ensure that employees comply with all reasonable security procedures, report any breaches to the Contracting Officer, and implement any necessary corrective actions.

(e) When the service provider will have primary responsibility for operating an information technology system for NASA that contains sensitive information, the service provider's contract shall include the clause at 1852.204-76, Security Requirements for Unclassified Information Technology Resources. The Security Requirements clause requires the service provider to implement an Information Technology Security Plan to protect information processed, stored, or transmitted from unauthorized access, alteration, disclosure, or use. Service provider personnel requiring privileged access or limited privileged access to these information technology systems are subject to screening using the standard National Agency Check (NAC) forms appropriate to the level of risk for adverse impact to NASA missions.

The Contracting Officer may allow the service provider to conduct its own screening, provided the service provider employs substantially equivalent screening procedures.

(f) This clause does not affect NASA's responsibilities under the Freedom of Information Act.

(g) The Contractor shall insert this clause, including this paragraph (g), suitably modified to reflect the relationship of the parties, in all subcontracts that may require the furnishing of sensitive information.

(End of clause)

I.91 CONTRACTOR AND USER ASSISTANCE (MOVED TO H.17)

I.92 52.223-3 HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA (JAN 1997) - ALTERNATE I (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 (If none, insert NONE)	Material Safety Data Sheet	Identification No. (National Stock No. or Special Item No.)
Anhydrous Ammonia	Submitted	7664417
Beryllia (BeO)	Submitted	1304-56-9
BeCu (Beryllium Copper)	Submitted	7440-41-7 and 7440-50-8
Hydrazine	Submitted	302-01-2
Isopropyl Alcohol	Submitted	67-63-0
Lithium	Submitted	7439-93-2
Nitrogen	Submitted	7727-37-9
Primer	Submitted	106065-34
Solder, S/N63 Pb38	Submitted	7439-92-1

(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 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 nonresponsible 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 paragraph (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.

(End of clause)

I.93 52.227-14 RIGHTS IN DATA--GENERAL. (DEC 2007) as modified by NASA FAR Supplement 1852.227-14 -- ALTERNATE II (DEC 2007) AND ALTERNATE III (DEC 2007)

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

"Computer database" or "database means" a collection of recorded information in a form capable of, and for the purpose of, being stored in, processed, and operated on by a computer. The term does not include computer software.

"Computer software"-

(1) Means

(i) Computer programs that comprise a series of instructions, rules, routines, or statements, regardless of the media in which recorded, that allow or cause a computer to perform a specific operation or series of operations; and

(ii) Recorded information comprising source code listings, design details, algorithms, processes, flow charts, formulas, and related material that would enable the computer program to be produced, created, or compiled.

(2) Does not include computer databases or computer software documentation.

"Computer software documentation" means owner's manuals, user's manuals, installation instructions, operating instructions, and other similar items, regardless of storage medium, that explain the capabilities of the computer software or provide instructions for using the software.

"Data" means recorded information, regardless of form or the media on which it may be recorded. The term includes technical data and computer software. The term does not include information incidental to contract administration, such as financial, administrative, cost or pricing, or management information.

"Form, fit, and function data" means data relating to items, components, or processes that are sufficient to enable physical and functional interchangeability, and data identifying source, size, configuration, mating and attachment characteristics, functional characteristics, and performance requirements. For computer software it means data identifying source, functional characteristics, and performance requirements but specifically excludes the source code, algorithms, processes, formulas, and flow charts of the software.

"Limited rights" means the rights of the Government in limited rights data as set forth in the Limited Rights Notice of paragraph (g)(3) if included in this clause.

"Limited rights data" means data, other than computer software, that embody trade secrets or are commercial or financial and confidential or privileged, to the extent that such data pertain to items, components, or processes developed at private expense, including minor modifications.

"Restricted computer software" means computer software developed at private expense and that is a trade secret, is commercial or financial and confidential or privileged, or is copyrighted computer software, including minor modifications of the computer software.

"Restricted rights," as used in this clause, means the rights of the Government in restricted computer software, as set forth in a Restricted Rights Notice of paragraph (g) if included in this clause, or as otherwise may be provided in a collateral agreement incorporated in and made part of this contract, including minor modifications of such computer software.

"Technical data" means recorded information (regardless of the form or method of the recording) of a scientific or technical nature (including computer databases and computer software documentation). This term does not include computer software or financial, administrative, cost or pricing, or management data or other information incidental to contract administration. The term includes recorded information of a scientific or technical nature that is included in computer databases (See 41 U.S.C. 403(8)).

"Unlimited rights" means the rights of the Government to use, disclose, reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, in any manner and for any purpose, and to have or permit others to do so.

(b) Allocation of rights.

(1) Except as provided in paragraph (c) of this clause, the Government shall have unlimited rights in-

(i) Data first produced in the performance of this contract;

(ii) Form, fit, and function data delivered under this contract;

(iii) Data delivered under this contract (except for restricted computer software) that constitute manuals or instructional and training material for installation, operation, or routine maintenance and repair of items, components, or processes delivered or furnished for use under this contract; and

(iv) All other data delivered under this contract unless provided otherwise for limited rights data or restricted computer software in accordance with paragraph (g) of this clause.

(2) The Contractor shall have the right to-

(i) Assert copyright in data first produced in the performance of this contract to the extent provided in paragraph (c)(1) of this clause;

(ii) Use, release to others, reproduce, distribute, or publish any data first produced or specifically used by the Contractor in the performance of this contract, unless provided otherwise in paragraph (d) of this clause;

(iii) Substantiate the use of, add, or correct limited rights, restricted rights, or copyright notices and to take other appropriate action, in accordance with paragraphs (e) and (f) of this clause; and

(iv) Protect from unauthorized disclosure and use those data that are limited rights data or restricted computer software to the extent provided in paragraph (g) of this clause.

(c) Copyright-

(1) Data first produced in the performance of this contract.

(i) Unless provided otherwise in paragraph (d) of this clause, the Contractor may, without prior approval of the Contracting Officer, assert copyright in scientific and technical articles based on or containing data first produced in the performance of this contract and published in academic, technical or professional journals, symposia proceedings, or similar works. The prior, express written permission of the Contracting Officer is required to assert copyright in all other data first produced in the performance of this contract.

(ii) When authorized to assert copyright to the data, the Contractor shall affix the applicable copyright notices of 17 U.S.C. 401 or 402, and an acknowledgment of Government sponsorship (including contract number).

(iii) For data other than computer software, the Contractor grants to the Government and others acting on its behalf, a paid-up, nonexclusive, irrevocable, worldwide license in such copyrighted data to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly by or on behalf of the Government. For computer software, the Contractor grants to the Government, and others acting on its behalf, a paid-up, nonexclusive, irrevocable, worldwide license in such copyrighted computer software to reproduce, prepare derivative works, and perform publicly and display publicly (but not to distribute copies to the public) by or on behalf of the Government.

(2) *Data not first produced in the performance of this contract.* The Contractor shall not, without the prior written permission of the Contracting Officer, incorporate in data delivered under this contract any data not first produced in the performance of this contract unless the Contractor-

(i) Identifies the data; and

(ii) Grants to the Government, or acquires on its behalf, a license of the same scope as set forth in paragraph (c)(1) of this clause or, if such data are restricted computer software, the Government shall acquire a copyright license as set forth in paragraph (g)(4) of this clause (if included in this contract) or as otherwise provided in a collateral agreement incorporated in or made part of this contract.

(3) *Removal of copyright notices.* The Government will not remove any authorized copyright notices placed on data pursuant to this paragraph (c), and will include such notices on all reproductions of the data.

(d) *Release, publication, and use of data.* The Contractor shall have the right to use, release to others, reproduce, distribute, or publish any data first produced or specifically used by the Contractor in the performance of this contract, except-

(1) As prohibited by Federal law or regulation (*e.g.*, export control or national security laws or regulations);

(2) As expressly set forth in this contract; or

(3) If the Contractor receives or is given access to data necessary for the performance of this contract that contain restrictive markings, the Contractor shall treat the data in accordance with such markings unless specifically authorized otherwise in writing by the Contracting Officer.

(i) The Contractor agrees not to establish claim to copyright, publish or release to others any computer software first produced in the performance of this contract without the Contracting Officer's prior written permission.

(ii) If the Government desires to obtain copyright in computer software first produced in the performance of this contract and permission has not been granted as set forth in paragraph (d)(3)(i) of this clause, the Contracting Officer may direct the contractor to assert, or authorize the assertion of, claim to copyright in such data and to assign, or obtain the assignment of, such copyright to the Government or its designated assignee.

(iii) Whenever the word "establish" is used in this clause, with reference to a claim to copyright, it shall be construed to mean "assert".

(e) Unauthorized marking of data.

(1) Notwithstanding any other provisions of this contract concerning inspection or acceptance, if any data delivered under this contract are marked with the notices specified in paragraph (g)(3) or (g) (4) if included in this clause, and use of the notices is not authorized by this clause, or if the data bears any other restrictive or limiting markings not authorized by this contract, the Contracting Officer may at any time either return the data to the Contractor, or cancel or ignore the markings. However, pursuant to 41 U.S.C. 253d, the following procedures shall apply prior to canceling or ignoring the markings.

(i) The Contracting Officer will make written inquiry to the Contractor affording the Contractor 60 days from receipt of the inquiry to provide written justification to substantiate the propriety of the markings;

(ii) If the Contractor fails to respond or fails to provide written justification to substantiate the propriety of the markings within the 60-day period (or a longer time approved in writing by the Contracting Officer for good cause shown), the Government shall have the right to cancel or ignore the markings at any time after said period and the data will no longer be made subject to any disclosure prohibitions.

(iii) If the Contractor provides written justification to substantiate the propriety of the markings within the period set in paragraph (e)(1)(i) of this clause, the Contracting Officer will consider such written justification and determine whether or not the markings are to be cancelled or ignored. If the Contracting Officer determines that the markings are authorized, the Contractor will be so notified in writing. If the Contracting Officer determines, with concurrence of the head of the contracting activity, that the markings are not authorized, the Contracting Officer will furnish the Contractor a written determination, which determination will become the final agency decision regarding the appropriateness of the markings unless the Contractor files suit in a court of competent jurisdiction within 90 days of receipt of the Contracting Officer's decision. The Government will continue to abide by the markings under this paragraph (e)(1)(iii) until final resolution of the matter either by the Contracting Officer's determination becoming final (in which instance the Government will thereafter have the right to cancel or ignore the markings at any time and the data will no longer be made subject to any disclosure prohibitions), or by final disposition of the matter by court decision if suit is filed.

2) The time limits in the procedures set forth in paragraph (e)(1) of this clause may be modified in accordance with agency regulations implementing the Freedom of Information Act (5 U.S.C. (552) if necessary to respond to a request thereunder.

(3) Except to the extent the Government's action occurs as the result of final disposition of the matter by a court of competent jurisdiction, the Contractor is not precluded by paragraph (e) of the clause from bringing a claim, in accordance with the Disputes clause of this contract, that may arise as the result of the Government removing or ignoring authorized markings on data delivered under this contract.

(f) Omitted or incorrect markings.

(1) Data delivered to the Government without any restrictive markings shall be deemed to have been furnished with unlimited rights. The Government is not liable for the disclosure, use, or reproduction of such data.

(2) If the unmarked data has not been disclosed without restriction outside the Government, the Contractor may request, within 6 months (or a longer time approved by the Contracting Officer in writing for good cause shown) after delivery of the data, permission to have authorized notices placed on the data at the Contractor's expense. The Contracting Officer may agree to do so if the Contractor-

(i) Identifies the data to which the omitted notice is to be applied;

(ii) Demonstrates that the omission of the notice was inadvertent;

(iii) Establishes that the proposed notice is authorized; and

(iv) Acknowledges that the Government has no liability for the disclosure, use, or reproduction of any data made prior to the addition of the notice or resulting from the omission of the notice.

(3) If data has been marked with an incorrect notice, the Contracting Officer may-

(i) Permit correction of the notice at the Contractor's expense if the Contractor identifies the data and demonstrates that the correct notice is authorized; or

(ii) Correct any incorrect notices.

(g) Protection of limited rights data and restricted computer software.

1) The Contractor may withhold from delivery qualifying limited rights data or restricted computer software that are not data identified in paragraphs (b)(1)(i), (ii), and (iii) of this clause.

As a condition to this withholding, the Contractor shall-

(i) Identify the data being withheld; and

(ii) Furnish form, fit, and function data instead.

(2) Limited rights data that are formatted as a computer database for delivery to the Government shall be treated as limited rights data and not restricted computer software.

(3) Notwithstanding paragraph (g)(1) of this clause, the contract may identify and specify the delivery of limited rights data, or the Contracting Officer may require by written request the delivery of limited rights data that has been withheld or would otherwise be entitled to be withheld. If delivery of that data is required, the Contractor shall affix the following "Limited Rights Notice" to the data and the Government will treat the data, subject to the provisions of paragraphs (e) and (f) of this clause, in accordance with the notice:

Limited Rights Notice (Dec 2007)

(a) These data are submitted with limited rights under Government Contract No. _____ (and subcontract _____, if appropriate). These data may be reproduced and used by the Government with the express limitation that they will not, without written permission of the Contractor, be used for purposes of manufacture nor disclosed outside the Government; except that the Government may disclose these data outside the Government for the following purposes, if any; provided that the Government makes such disclosure subject to prohibition against further use and disclosure

(i) Use (except for manufacture) by support service contractors.

(ii) Evaluation by nongovernment evaluators.

(iii) Use (except for manufacture) by other contractors participating in the Government's program of which the specific contract is a part.

(iv) Emergency repair or overhaul work.

(v) Release to a foreign government, or its instrumentalities, if required to serve the interests of the U.S. Government, for information or evaluation, or for emergency repair or overhaul work by the foreign government.

(vi) Or any other legitimate government use.

(b) This notice shall be marked on any reproduction of these data, in whole or in part.

(End of notice)

(4)(i) Notwithstanding paragraph (g)(1) of this clause, the contract may identify and specify the delivery of restricted computer software, or the Contracting Officer may require by written request the delivery of restricted computer software that has been withheld or would otherwise be entitled to be withheld. If delivery of that computer software is required, the Contractor shall affix the following "Restricted Rights Notice" to the computer software and the Government will treat the computer software, subject to paragraphs (e) and (f) of this clause, in accordance with the notice:

Restricted Rights Notice (Dec 2007)

(a) This computer software is submitted with restricted rights under Government Contract No. _____ (and subcontract _____, if appropriate). It may not be used, reproduced, or disclosed by the Government except as provided in paragraph (b) of this notice or as otherwise expressly stated in the contract.

(b) This computer software may be-

(1) Used or copied for use with the computer(s) for which it was acquired, including use at any Government installation to which the computer(s) may be transferred;

(2) Used or copied for use with a backup computer if any computer for which it was acquired is inoperative;

(3) Reproduced for safekeeping (archives) or backup purposes;

(4) Modified, adapted, or combined with other computer software, *provided* that the modified, adapted, or combined portions of the derivative software incorporating any of the delivered, restricted computer software shall be subject to the same restricted rights;

(5) Disclosed to and reproduced for use by support service Contractors or their subcontractors in accordance with paragraphs (b)(1) through (4) of this notice; and

(6) Used or copied for use with a replacement computer.

(c) Notwithstanding the foregoing, if this computer software is copyrighted computer software, it is licensed to the Government with the minimum rights set forth in paragraph (b) of this notice.

(d) Any other rights or limitations regarding the use, duplication, or disclosure of this computer software are to be expressly stated in, or incorporated in, the contract.

(e) This notice shall be marked on any reproduction of this computer software, in whole or in part.

(End of notice)

(ii) Where it is impractical to include the Restricted Rights Notice on restricted computer software, the following short-form notice may be used instead:

Restricted Rights Notice Short Form (Jun 1987)

Use, reproduction, or disclosure is subject to restrictions set forth in Contract No. _____ (and subcontract, if appropriate) with _____ (name of Contractor and subcontractor).

(End of notice)

(iii) If restricted computer software is delivered with the copyright notice of 17 U.S.C. 401, it will be presumed to be licensed to the Government without disclosure prohibitions, with the minimum rights set forth in paragraph (b) of this clause.

(h) *Subcontracting.* The Contractor shall obtain from its subcontractors all data and rights therein necessary to fulfill the Contractor's obligations to the Government under this contract. If a subcontractor refuses to accept terms affording the Government those rights, the Contractor shall promptly notify the Contracting Officer of the refusal and shall not proceed with the subcontract award without authorization in writing from the Contracting Officer.

(i) *Relationship to patents or other rights.* Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government.

(End of clause)

I.94 52.225-5 TRADE AGREEMENTS (AUG 2009)

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

"Caribbean Basin country end product"-

(1) Means an article that-

(i)(A) Is wholly the growth, product, or manufacture of a Caribbean Basin country; or
(B) In the case of an article 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 article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed; and

(ii) Is not excluded from duty-free treatment for Caribbean countries under 19 U.S.C. 2703(b).

(A) For this reason, the following articles are not Caribbean Basin country end products:

(1) Tuna, prepared or preserved in any manner in airtight containers;

(2) Petroleum, or any product derived from petroleum;

(3) Watches and watch parts (including cases, bracelets, and straps) of whatever type including, but not limited to, mechanical, quartz digital, or quartz analog, if such watches or watch parts contain any material that is the product of any country to which the Harmonized Tariff Schedule of the United States (HTSUS) column 2 rates of duty apply (*i.e.,* Afghanistan, Cuba, Laos, North Korea, and Vietnam); and

(4) Certain of the following: textiles and apparel articles; footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel; or handloomed, handmade, and folklore articles;

(B) Access to the HTSUS to determine duty-free status of articles of these types is available at http://www.usitc.gov/tata/hts/. In particular, see the following:

(1) General Note 3(c), Products Eligible for Special Tariff treatment.

(2) General Note 17, Products of Countries Designated as Beneficiary Countries under the United States-Caribbean Basin Trade Partnership Act of 2000.

(3) Section XXII, Chapter 98, Subchapter II, Articles Exported and Returned, Advanced or Improved Abroad, U.S. Note 7(b).

(4) Section XXII, Chapter 98, Subchapter XX, Goods Eligible for Special Tariff Benefits under the United States-Caribbean Basin Trade Partnership Act; and

(2) Refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the acquisition, includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

"Designated country" means any of the following countries:

(1) A World Trade Organization Government Procurement Agreement country (Aruba, Austria, Belgium, Bulgaria, 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, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Taiwan (known in the World Trade Organization as "the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei))", or United Kingdom);

(2) A Free Trade Agreement country (Australia, Bahrain, Canada, Chile, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Mexico, Morocco, Nicaragua, Oman, Peru, or Singapore);

(3) A least developed country (Afghanistan, Angola, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia, Central African Republic, Chad, Comoros, Democratic Republic of Congo, Djibouti, East Timor, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Laos, Lesotho, Liberia, Madagascar, Malawi, Maldives, Mali, Mauritania, 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, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Netherlands Antilles, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, or Trinidad and Tobago).
"Designated country end product" means a WTO GPA country end product, an FTA country end product, a least developed country end product, or a Caribbean Basin country end product.
"End product" means those articles, materials, and supplies to be acquired under the contract for public use.

"Free Trade Agreement country end product" means an article that-

(1) Is wholly the growth, product, or manufacture of a Free Trade Agreement (FTA) country; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in an FTA country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

"Least developed country end product" means an article that-

(1) Is wholly the growth, product, or manufacture of a least developed country; or

(2) In the case of an article 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 article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product, includes services (except transportation

services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

"United States" means the 50 States, the District of Columbia, and outlying areas.

"U.S.-made end product" means an article that is mined, produced, or manufactured in the United States or that is substantially transformed in the United States into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed.

"WTO GPA country end product" means an article that-

(1) Is wholly the growth, product, or manufacture of a WTO GPA country; or

(2) In the case of an article 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 article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services, (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

(b) *Delivery of end products.* The Contracting Officer has determined that the WTO GPA and FTAs apply to this acquisition. Unless otherwise specified, these trade agreements apply to all items in the Schedule. The Contractor shall deliver under this contract only U.S.-made or designated country end products except to the extent that, in its offer, it specified delivery of other end products in the provision entitled "Trade Agreements Certificate."

(End of clause)

I.95 52.252-2 CLAUSES INCORPORATED BY REFERENCE (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 this/these address(es):
Federal Acquisition Regulation (FAR) clauses:
http://www.acqnet.gov/far/

NASA FAR Supplement (NFS) clauses:

http://www.hq.nasa.gov/office/procurement/regs/nfstoc.htm

(End of clause)

I.96 52.252-6 AUTHORIZED DEVIATIONS IN CLAUSES (APR 1984)

(a) The use in this solicitation or contract of any Federal Acquisition Regulation (48 CFR

Chapter 1) clause with an authorized deviation is indicated by the addition of (DEVIATION) after the date of the clause.

(b) The use in this solicitation or contract of any NASA FAR Supplement (48 CFR 18) clause with an authorized deviation is indicated by the addition of (DEVIATION) after the name of the regulation.

(End of clause)

I.97 CLAUSES INCORPORATED BY REFERENCE -- SECTION I

Clause(s) I.1 through I.79 at the beginning of this Section 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.

(End of clause)

[END OF SECTION]

SECTION J - LIST OF DOCUMENTS, EXHIBITS, AND OTHER ATTACHMENTS

J.1 LIST OF ATTACHMENTS

The following documents are attached hereto and made a part of this contract:

Attachment	Description	Date	# of Pages
A	Statement of Work	11/02/09	20
B	1. Eagle-0 Core System (a) System Performance Specification (b) Systems Performance Verification Program Plan (c) Mission Assurance Implementation Plan (MAIP) (d) Performance Based Payment Schedule	12/02/09	
C	1. Eagle-1 Option Description for core system 1	12/02/09	8
	2. Eagle-2 Option Description for Core System 1	12/02/09	8
D	Rapid III Contract Data Requirements List	11/02/09	32
E	Rapid III Mission Assurance Requirements (MAR)	11/02/09	124
F	Small Business Subcontracting Plan	12/02/09	13
G	Organizational Conflicts of Interest (OCI) Avoidance Plan	* see note	TBP
H	Safety and Health Plan	12/02/09	35

TBP = To be Proposed
(The offeror must provide as part of their proposal in response to this solicitation)
* NOTE: To be submitted 30 days after award of contract.

(End of clause)

[END OF SECTION]