

**CUSTOMER CONTRACT REQUIREMENTS
(NSI POWER SYSTEM DESIGN - JIMO)
CUSTOMER CONTRACT JPL 1250529**

CUSTOMER CONTRACT REQUIREMENTS

If Form GP1 is applicable to this procurement, this Attachment constitutes the Government clauses contemplated by Article 29. If Form GP2 is applicable to this procurement, this Attachment constitutes the Government clauses contemplated by Article 28. If Form GP3 is applicable to this procurement, this Attachment constitutes the Government clauses contemplated by Article 41. If Form GP4 is applicable to this procurement, this Attachment constitutes the Government clauses contemplated by Article 31. If this contract is for the procurement of commercial items, as defined in FAR Part 2.101, see Section 3 below.

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

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

52.203-7 Anti-Kickback Procedures (excluding subparagraph (c)(1)) (JUL 1995). Buyer may withhold sums owed Seller the amount of any kickback paid by Seller or its subcontractors at any tier if (a) the Contracting Officer so directs, or (b) the Contracting Officer has offset the amount of such kickback against money owed Buyer under the prime contract. This clause applies only if this contract exceeds \$100,000.

52.203-10 Price or Fee Adjustment for Illegal or Improper Activity (JAN 1997). This clause applies only if this contract exceeds \$100,000. If the Government reduces Buyer's price or fee for violations of the Act by Seller or its subcontractors at any tier, Buyer may withhold from sums owed Seller the amount of the reduction.

52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (APR 1991). This clause applies only if this contract exceeds \$100,000.

52.203-12 Limitation on Payments to Influence Certain Federal Transactions (JUN 1997). This clause applies only if this Contract exceeds \$100,000. Paragraph (c)(4) is modified to read as follows: "(c)(4) Seller will promptly submit any disclosure required (with written notice to Boeing) directly to the PCO for the prime contract. Boeing will identify the cognizant Government PCO at Seller's request. Each subcontractor certification will be retained in the subcontract file of the awarding contractor.

52.204-2 Security Requirements (AUG 1996). "Changes clause" means the changes clause of this contract. This clause applies only if access to classified material is required.

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

52.211-15 Defense Priority and Allocation Requirements (SEP 1990). This clause is applicable if a priority rating is noted in this contract. DPAS code is DO-C9.

52.215-2 Audit and Records - Negotiation (JUN 1999). This clause applies only if this contract exceeds \$100,000 and (i) is cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable type or any combination of these types: (ii) Seller was required to provide cost or pricing data, or (iii) Seller is required to furnish reports as discussed in paragraph (e) of the referenced clause.

52.215-10 Price Reduction For Defective Cost or Pricing Data (OCT 1997). This clause applies only if this contract exceeds \$550,000 and is not otherwise exempt. In subparagraph (3) of paragraph (a), insert "of this contract" after "price or cost." In Paragraph (c), "Contracting Officer" shall mean "Contracting Officer or Buyer." In Paragraphs (c)(1), (c)(1)(ii), and (c)(2)(i), "Contracting Officer" shall mean "Contracting Officer or

Buyer." In Subparagraph (c)(2)(i)(A), delete "to the Contracting Officer." In Subparagraph (c)(2)(ii)(B), "Government" shall mean "Government or Buyer." In Paragraph (d), "United States" shall mean "United States or Buyer."

52.215-11 Price Reduction For Defective Cost or Pricing Data - Modifications (OCT 1997). This clause applies only if this contract exceeds \$550,000 and is not otherwise exempt. "Contracting Officer" shall mean "Contracting Officer or Buyer." In subparagraph (d)(2)(i)(A), delete "to the Contracting Officer." In subparagraph (d)(2)(ii)(B), "Government" means "Government" or "Buyer." In Paragraph (e), "United States" shall mean "United States or Buyer."

52.215-12 Subcontractor Cost or Pricing Data (OCT 1997). This clause applies only if this contract exceeds \$550,000 and is not otherwise exempt. The certificate required by paragraph (b) of the referenced clause shall be modified as follows: delete "to the Contracting Officer or the Contracting Officer's representative" and substitute in lieu thereof "The Boeing Company or any of its wholly owned subsidiaries."

52.215-13 Subcontractor Cost or Pricing Data – Modifications (OCT 1997). This clause applies only if this contract exceeds \$550,000 and is not otherwise exempt. The certificate required by paragraph (b) of the referenced clause shall be modified as follows: delete "to the Contracting Officer or the Contracting Officer's."

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

52.219-8 Utilization of Small Business Concerns (OCT 2000).

52.219-9 Small Business Subcontracting Plan (JAN 2002). In paragraph (c), "Contracting Officer" shall mean Buyer. This clause applies only if this contract exceeds \$500,000. and Seller is not a small business concern.

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

52.222-4 Contract Work Hours and Safety Standards Act — Overtime Compensation (SEP 2000). This clause applies only if this contract exceeds \$100,000. Buyer may withhold or recover from Seller the amount of any sums the Contracting Officer withholds or recovers from Buyer because of liabilities of Seller or its subcontractors under this clause.

52.222-21 Prohibition of Segregated Facilities (FEB 1999).

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

52.222-35 Equal Opportunity for Special Disabled, Veterans of the Vietnam Era, and Other Eligible Veterans (DEC 2001). This clause applies only if this contract exceeds \$25,000.

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

52.222-37 Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (DEC 2001). This clause applies only if this contract exceeds \$25,000.

52.223-14 Toxic Chemical Release Reporting (excluding subparagraph (e)) (OCT 2000). This clause applies only if this contract exceeds \$100,000 (including all options).

52.225-13 Restrictions on Certain Foreign Purchases (JUL 2000).

52.227-1 Authorization and Consent (JUL 1995).

52.227-1 Alternate I (APR 1984).

52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement (AUG 1996). A copy of each notice sent to the Government will be sent to Buyer. "Contracting Officer" shall mean "Buyer". This clause applies only if this contract exceeds \$100,000.

52.227-11 Patent Rights - Retention by the Contractor (Short Form) (JUN 1997). This clause only applies if this Contract is for experimental, developmental, or research work and Seller is a small business firm or nonprofit organization.

52.227-12 Patent Rights - Retention by the Contractor (Long Form) (JUN 1997). This clause only applies if this Contract is for experimental, developmental, or research work and Seller is other than a small business firm or nonprofit organization.

52.227-14 Rights in Data — General (JUN 1997). This clause applies only if data will be produced, furnished or acquired under this contract.

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

52.228-5 Insurance - Work on a Government Installation (JAN 1997). Seller shall provide and maintain insurance as set forth in this contract.

52.230-6 Administration of Cost Accounting Standards (NOV 1999). Add "Buyer and the" before "Contracting Officer in paragraph (f). This provision applies if Clause H002 is included in Buyer's contract.

52.244-6 Subcontracts for Commercial Items (MAY 2002)

52.245-2 Government Property (Fixed Price Contracts) (DEC 1989). This clause is not applicable if this contract incorporates Form GP4. "Government" shall mean Government throughout except the first time it appears in paragraph (f) when "Government" shall mean the Government or the Buyer.

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

2. NASA Contracts. If this contract is placed under a National Aeronautics and Space Administration contract, the following contract clauses are incorporated by reference from the National Aeronautics and Space Administration Federal Acquisition Regulation Supplement and apply to the extent indicated. In all of the following clauses, "Contractor" means Seller. Unless otherwise provided, the clauses are those in effect as of the date of this contract.

18-52.208-81 Restrictions on Printing and Duplicating (OCT 2001).

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

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

18-52.223-74 Drug- and Alcohol-Free Workforce (MAR 1996). This clause applies to Seller if work is performed by an employee in a sensitive position, except if this contract is for commercial items.

18-52.227-14 Rights in Data — General. This clause applies only if data will be produced, furnished or acquired under this contract except contracts for basic or applied research with universities or colleges.

18-52.227-70 New Technology (NOV 1998). This clause only applies if this Contract is for experimental, developmental, or research work and Seller is other than a small business firm or nonprofit organization.

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

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

18-52.228-76 Cross-Waiver of Liability for Space Station Operations (DEC 1994).

18-52.228-78 Cross-Waiver of Liability for NASA Expendable Launch Vehicle (ELV) Launches (SEP 1993).

18-52.244-70 Geographic Participation in the Aerospace Program (APR 1985). This clause applies only if this contract is for \$100,000 or more.

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

52.219-8 Utilization of Small Business Concerns (OCT 2000). Include in all subcontracts that offer further subcontracting opportunities. If a subcontract (except subcontracts to small business concerns) exceeds \$500,000 (\$1,000,000 for construction of any public facility), Seller and any lower tier subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

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

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

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

52.247-64 Preference for Privately Owned U.S.-Flag Commercial Vessels (APR 2003). This clause only applies if this contract is (i) a contract or agreement for ocean transportation services; or a construction contract; or (ii) the supplies being transported are (a) Items the Contractor is reselling or distributing to the Government without adding value (generally, the Contractor does not add value to the items when it subcontracts items for f.o.b. destination shipment); or (b) shipped in direct support of U.S. military (1) contingency operations; (2) exercises; or (3) forces deployed in connection with United Nations or North Atlantic Treaty Organization humanitarian or peacekeeping operations.

4. Cost Accounting Standards

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

- 2) (Applicable if this contract incorporates clause H002). The version of FAR 52.230-3, Disclosure and Consistency of Cost Accounting Practices, incorporated by clause H002 is the version dated [April 1998](#).

- 3) (Applicable if this contract incorporates clause H003). The version of FAR 52.230-4, Consistency in Cost Accounting Practices, incorporated by clause H003 is the version dated [August 1992](#)

- 4) (Applicable if this contract incorporates clause H004). The version of FAR 52.230-5, Cost Accounting Standards – Educational Institution, incorporated by clause H004 is the version dated [April 1998](#).

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

A. **PROHIBITION OF CONTRACTOR USE OF PRIVATELY OWNED AIRCRAFT IN CONTRACT PERFORMANCE.** Seller, its employees, agents and subcontractors, shall not use privately owned (noncommercial) aircraft in the performance of this order without the prior approval of JPL, obtained through Buyer. Any request for approval to use privately owned aircraft must include a certificate of insurance as evidence Seller has in effect Aircraft Liability Insurance coverage of not less than \$5 million for all deaths, injuries and property damage arising from one accident or occurrence. Seller shall be required as a condition of approval to submit an endorsement naming Buyer and JPL as additional insureds in each such aircraft liability insurance policy.

B. **RELEASE OF INFORMATION.** Buyer's customer requires that all materials directly relating to Seller's efforts on this order be reviewed by the customer before any public release of the materials in question. Before release, Seller shall send the materials to Buyer, stating Seller's deadlines. In the event the order is cost-type, review shall not constitute approval for reimbursement of expenditures made in connection with publicity or advertising releases; any such expenditures remain subject to applicable cost principles. Nothing in this clause shall be deemed to change existing requirements relating to the release of classified information.

C. **NOTIFICATION OF DEBARMENT/SUSPENSION STATUS**

Seller shall provide immediate notice to Buyer in the event of being suspended, debarred or declared ineligible by any Department or other Federal Agency, or upon receipt of a notice of proposed debarment from any DoD Agency, during the performance of this Contract.

D. **FOREIGN NATIONALS - FOREIGN SOURCES**

(1) For the purposes of this clause,

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

(B) Foreign representative is anyone, regardless of nationality or citizenship, acting as an agent, representative, official, or employee of a foreign government, a foreign-owned or influenced firm, corporation, or person; and

(C) Foreign sources are those sources (vendors, subcontractors, and suppliers) not owned and controlled by citizens or immigrant aliens of the United States.

(2) Nothing in this clause is intended to waive any requirement imposed by any other U.S. Government agency with respect to employment of foreign nationals or export-controlled data and information.

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

E. **EXPORT CONTROLLED DATA RESTRICTIONS**

(1) For the purpose of this clause,

(A) Foreign person is any person who is not a citizen of the U.S. or lawfully admitted to the U.S. for permanent residence under the Immigration and Nationality Act, and includes foreign corporations, foreign organizations, and foreign governments;

- (B) Foreign representative is anyone, regardless of nationality or citizenship, acting as an agent, representative, official, or employee of a foreign government, a foreign-owned or influenced firm, corporation, or person; and
- (C) Foreign sources are those sources (vendors, subcontractors, and suppliers) owned and controlled by a foreign person.
- (2) Seller shall place a clause in subcontracts containing appropriate export control restrictions, set forth in this clause.
- (3) Nothing in this clause waives any requirement imposed by any other U.S. Government agency with respect to employment of foreign nationals or export-controlled data and information.
- (4) Equipment and technical data generated or delivered in the performance of this contract are controlled by the International Traffic in Arms Regulation (ITAR), 22 CFR Sections 121 through 128. An export license is required before assigning any foreign source to perform work under this contract or before granting access to foreign persons to any equipment and technical data generated or delivered during performance (see 22 CFR Section 125). Seller shall notify Buyer and obtain the written approval of Buyer prior to assigning or granting access to any work, equipment, or technical data generated or delivered in the performance of this contract to foreign persons or their representatives. This notification shall include the name and country of origin of the foreign person or representative, the specific work, equipment, or data to which the person will have access, and whether the foreign person is cleared to have access to technical data (DoD 5220.22-M, National Industrial Security Program Operating Manual (NISPOM)).
- F. COMPLIANCE WITH AMERICANS WITH DISABILITIES ACT. Seller agrees to comply with the Americans with Disabilities Act.
- G. INDEMNIFICATION. Seller agrees that it will be responsible to Boeing and the Government for, and will indemnify and hold harmless Boeing and the Government, its trustees, officers and employees from any loss, cost, damage, expense or liability or suit therefore, by reason of actual or alleged property damage or personal injury of whatever kind or character, arising out of or in connection with performance of the requirements of this clause, however the same may be caused, excepting only such loss, cost, damage, expense or liability attributable to the sole or contributory active negligence of Boeing or the Government or its trustees, officers or employees.