

CUSTOMER CONTRACT REQUIREMENTS
ARES 1 Upper Stage Production
CUSTOMER CONTRACT NNM07181505R

CUSTOMER CONTRACT REQUIREMENTS

The following customer contract requirements apply to this contract to the extent indicated below. If this contract is for the procurement of commercial items under a Government prime contract, as defined in FAR Part 2.101, see Section 3 below.

1. FAR Clauses. 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 (Sep 2006).
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.

52.203-8 Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity (Jan 1997). This clause applies to this contract if the Seller, its employees, officers, directors or agents participated personally and substantially in any part of the preparation of a proposal for this contract. The Seller shall indemnify Buyer for any and all losses suffered by the Buyer due to violations of the Act (as set forth in this clause) by Seller or its subcontractors at any tier.

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 (Sep 2005). 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.

52.215-2 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 the threshold set forth in FAR 15.403-4 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." .

52.215-12 Subcontractor Cost or Pricing Data (Oct 1997). This clause applies only if this contract exceeds the threshold set forth in FAR 15.403-4 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." .

52.215-14 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.

52.215-15 Pension Adjustments and Asset Reversions (Oct 2004). This Clause applies to this contract if it meets the requirements of FAR 15.408(g).

52.215-18 Reversion or Adjustment of Plans for Postretirement Benefits Other Than Pensions (PRB) (Jul 2005). This Clause applies to this contract if it meets the requirements of FAR 15.408(j).

52.215-19 Notification of Ownership Changes (Oct 1997). This Clause applies to this contract if it meets the requirements of FAR 15.408(k).

52.215-21 Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data - Modifications (Oct 1997). This clause applies only if this contract exceeds the threshold set forth in FAR 15.403-4. The term "Contracting Officer" shall mean Buyer.

52.219-8 Utilization of Small Business Concerns (May 2004).

52.219-9 Small Business Subcontracting Plan (Sep 2006). In paragraph (c), "Contracting Officer" shall mean Buyer. This clause applies only if this contract exceeds \$550,000. and Seller is not a small business concern.

52.222-4 Contract Work Hours and Safety Standards Act - Overtime Compensation (Jul 2005). 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 (Sep 2006). 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 (Sep 2006). This clause applies only if this contract exceeds \$25,000.

52.222-39 Notification of Employee Rights Concerning Payment of Union Dues or Fees (Dec 2004). This clause applies only if this contract exceeds \$100,000.

52.223-14 Toxic Chemical Release Reporting (excluding subparagraph (e)) (Aug 2003). This clause applies only if this contract is not for commercial items as defined in FAR Part 2, was competitively awarded, and exceeds \$100,000 (including all options).

52.224-2 Privacy Act (Apr 1984). This clause applies only if Seller is required to design, develop, or operate a system of records contemplated by this clause.

52.225-13 Restrictions on Certain Foreign Purchases (Feb 2006).

52.227-1 Authorization and Consent (Jul 1995).

52.227-14 Rights in Data - General (Jun 1987). 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.

52.230-6 Administration of Cost Accounting Standards (Apr 2005). Add "Buyer and the" before "CFAO" in paragraph (m). This provision applies if Clause H001, H002 or H004 is included in Buyer's contract.

52.244-6 Subcontracts for Commercial Items (Sep 2006).

52.245-18 Special Test Equipment (Feb 1993). Change "30 days" to "45 days" in paragraph (b) and (c). The notice of intent to procure special test equipment required by this clause shall be forwarded to the Buyer.

52.247-63 Preference for U.S.-Flag Air Carriers (Jun 2003). This clause only applies if this contract involves international air transportation.

52.248-1 Value Engineering (excluding subparagraph (f)) (Feb 2000). The term "Contracting Officer" means Buyer. This clause applies only if this contract is for \$100,000 or more. If Value Engineering Change Proposal is accepted by the Government, Seller's share will be 50% of the instant, concurrent and future contract net acquisition savings and collateral savings that Buyer receives from the Government. Seller's negotiated share of the net acquisition savings and collateral savings shall not reduce the Government's share of concurrent or future savings or collateral savings. Buyer's payments to Seller under this clause are conditioned upon Buyer's receipt of authorization for such payments from the Government.

2. NASA FAR Supplement Clauses. NASA Contracts. 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.

18-52.204-76 Security Requirements for Unclassified Information Technology Resources (Jul 2001). This clause applies to all or any part of this contract that includes information technology resources or services in which Seller must have physical or electronic access to NASA's sensitive information contained in unclassified systems that directly support the mission of the Agency.

18-52.208-81 Restrictions on Printing and Duplicating (Nov 2004).

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.

18-52.219-76 NASA 8 Percent Goal (Jul 1997). This clause applies only if Seller is not a small business.

18-52.223-70 Safety and Health (Apr 2002). This clause applies only if this contract exceeds \$1,000,000 or construction, repairs or alteration in excess of \$100,000, or it involve the use of hazardous materials or operations.

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.

18-52.225-70 Export Licenses (Feb 2000) - Alternate I (Feb 2000).

18-52.227-11 Patents Rights -- Retention by the Contract (Short Form) 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.

18-52.227-14 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 (Dec 2006). 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.

18-52.227-72 Designation of New Technology Representative (Jul 1997). The new technology representative (if any) will be designated in this contract. This is applicable to this contract if it includes a "New Technology" clause or a " Patents Rights - Retention by the Contract (Short Form)" clause.

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.

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

18-52.237-72 Access to Sensitive Information (Jun 2005).

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.

18-52.246-73 Human Space Flight Item (Mar 1997).

3. Commercial Items. If goods or services being procured under this contract are 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 (May 2004).

This clause applies only if the supplies are of a type described in paragraph (b)(2) of this clause. In paragraph (d), "45 days" is changed to "60 days." In paragraph (g) "Government" means Buyer. If this contract is at or below \$100,000, paragraphs (f) and (g) are excluded.

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.

52.222-39 Notification of Employee Rights Concerning Payment of Union Dues or Fees (Dec 2004). This clause applies only if this contract exceeds \$100,000.

52.247-64 Preference for Privately-Owned U.S. Flag Commercial Vessels (Feb 2006). In paragraph (C)(2) "20" and "30" are changed to 10 and 20 respectively.

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 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. ASBESTOS MATERIAL (MSFC 52.223-90) (JUN 2002)

During performance of this contract, Contractor personnel performing work in MSFC buildings may come in contact with materials containing asbestos. MSFC Buildings 4200, 4201, 4202, 4663, and 4666 are of special concern since they are known to contain a sprayed on fire insulation on or above the ceiling, usually located on the metal or concrete structure of the buildings. These buildings and all other MSFC buildings may contain asbestos in floor tile, pipe and lagging insulation, exterior siding, roofing felt, and many other building materials. Prior to disturbing suspected asbestos material in any manner, the Contractor shall notify MSFC's Occupational Medicine and Environmental Health Services, for

guidance. Contractor shall be responsible for ensuring that all Contractor personnel working onsite are made aware of and comply with this clause.

**B. CONTRACTOR EMPLOYEE BADGING AND EMPLOYMENT
TERMINATION CLEARANCE (MSFC 52.204-90) (NOV 1999)**

(a) It is anticipated that performance of the requirements of this contract will require employee access to and picture badging by the MSFC. Contractor requests for badging of employees shall be by MSFC Form 1739, "MSFC Contractor Badge/Decal Application." Requests for badging shall be submitted to the appointed COTR for completion and approval prior to processing by the MSFC Protective Services Department.

(b) The Contractor shall establish procedures to ensure that each badged employee is properly cleared in accordance with MSFC Form 383-1, "Contractor Employee Clearance Document," prior to finalization of employment termination.

(c) Requests for copies of MSFC Forms 383-1, and 1739 shall be directed to the MSFC Protective Services Department, Marshall Space Flight Center, Alabama 35812 .

C. HAZARDOUS MATERIAL REPORTING (MSFC 52.223-91) (AUG 2005)

(a) If during the performance of this contract, the Contractor transports or accepts delivery of any hazardous materials (hazardous as defined under the latest version of Federal Standard No. 313, including revisions adopted during the term of the contract) on-site to MSFC, the hazardous material shall be processed through MSFC Central Receiving to be bar-coded for inventory. Chemical containers shall be managed in accordance with the provisions of MWI 8550.5, "Hazardous Material Management." The Contractor shall be responsible for ensuring that all Contractor/subcontractor personnel are made aware of and comply with this clause.

(b) 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; or with clauses regarding hazardous materials, which may be contained in the order.

D. SECURITY/BADGING REQUIREMENTS FOR FOREIGN NATIONAL VISITORS AND EMPLOYEES OF FOREIGN CONTRACTORS

(a) An employee of a domestic MSFC Contractor or its subcontractor who is not a citizen (foreign national) may not be admitted to the MSFC site for purposes of performing work without special arrangements. In addition, all employees or representatives of a foreign MSFC Contractor/subcontractor may not be admitted to the MSFC site without special arrangements. For employees as described above, advance notice must be given to the MSFC Protective Services Office at least 3 weeks prior to the scheduled need for access to the site so that instructions on obtaining access may be provided.

(b) All visit / badge requests for persons described in paragraph (a) above must be entered in the NASA Foreign National Management System (NFNMS) for acceptance, review, concurrence and approval purposes. When an authorized company official requests a MSFC badge for site access, he/she is certifying that steps have been taken to ensure that its Contractor or subcontractor employees, visitors, or representatives will not be given access to export-controlled or classified information for which they are not authorized. The authorized company officials shall serve as the Contractor's representative(s) in certifying that all visit/badge request forms are processed in accordance with MSFC security and export control procedures. No foreign national, representative, or resident alien Contractor/subcontractor employee shall be granted access into MSFC until a completed request has been approved and processed through the NFNMS. Unescorted access will not be granted unless the MSFC Protective Services Office has completed a favorable National Agency Check (NAC).

(c) The Contractor agrees that it will not employ for the performance of work onsite at the MSFC any individuals who are not legally authorized to work in the . If the MSFC Industrial Security Specialist or the CO has reason to believe that any employee of the Contractor may not be legally authorized to work in the United States and/or on the contract, the Contractor

may be required to furnish copies of federal Form I-9 (Employment Eligibility Verification), U.S. Department of Labor Application for Alien Employment Certification, and any other type of employment authorization document.

(d) The Contractor agrees to provide the information requested by the MSFC Protective Services Office in order to comply with NASA policy directives and guidelines related to foreign visits to NASA facilities so that (1) the visitor/employee/ representative may be allowed access to MSFC or other NASA Centers for performance of this contract, (2) required investigations can be conducted, and (3) required annual or revalidation reports can be submitted to NASA Headquarters. All requested information must be submitted in a timely manner in accordance with instructions provided by MSFC or any other Center to be visited.

E. SUBCONTRACTING WITH RUSSIAN ENTITIES FOR GOODS OR SERVICES

(a) Definitions: In this provision:

i) The term "Russian entities" includes the following:

(1) The Russian Federal Space Agency (Roscosmos),

(2) Any organization or entity under the jurisdiction

or control of Roscosmos, or

(3) Any other organization, entity, or element of the Government of the .

ii) The term “Organization or entity under the jurisdiction or control of Roscosmos” means an organization or entity that:

(1) Was made part of the Russian Federal Space Agency upon its establishment on February 25, 1992;

(2) Was transferred to the Russian Federal Space Agency by decree of the Russian Government on July 25, 1994, or May 12, 1998;

(3) Was or is transferred to the Russian Aviation and Space Agency or Russian Federal Space Agency by decree of the Russian Government at any other time before, on, or after March 14, 2000; or

(4) Is a joint stock company in which the Russian Aviation and Space Agency or Russian Federal Space Agency has at any time held controlling interest.

iii)
be rendered prior to that date necessary to meet United States obligations under the Agreement Concerning Cooperation on the Civil International Space Station, with annex, signed at Washington January 29, 1998, and entered into force March 27, 2001, or any protocol, agreement, memorandum of understanding, or contract related thereto.

(b) This clause implements the Iran and Syria Nonproliferation Act (the Iran Nonproliferation Act as amended by the Iran Nonproliferation Amendments Act of 2005) to allow extraordinary payments prior to January 1, 2012 to Russian entities in connection with the International Space Station. NASA has applied the restrictions in the Act to include funding of Russian entities via U.S. Contractors.

(c) (i) The Contractor shall not subcontract with Russian entities without first receiving written approval from the CO. In order to obtain this written approval to subcontract with any Russian entity as defined in paragraphs (a), the Contractor shall provide the CO with the following information related to each planned new subcontract and any change to an existing subcontract with entities that fit the description in paragraphs (a):

(1) A detailed description of the subcontracting entity, including its name, address, and a point of contact, as well as a detailed description of the proposed subcontract including the specific purpose of payments that will be made under the subcontract.

(2) The Contractor shall provide certification that the subcontracting entity is not on any of the denied parties, specially designated nationals and entities of concern lists found at:

<http://www.hq.nasa.gov/office/oer/nasaecp/Welcome.html>

Denied Parties, Specially Designated Nationals and Entities of Concern

BIS's Listing of Entities of Concern
BIS's List of Denied Parties

OFAC's List of Specially Designated Nationals (Adobe PDF format)
List of Unverified Persons in Foreign Countries

(ii) Unless relief is granted by the CO, the information necessary to obtain approval to subcontract shall be provided to the CO 30 business days prior to executing any planned subcontract with entities defined in paragraph (a).

(d) After receiving approval to subcontract, the Contractor shall provide the CO with a report every 6 months which documents the individual extraordinary payments made to an entity in paragraph a. The reports are due on July 15th and January 15th. The July 15th report should document all of the individual extraordinary payments made from the previous January through June. The January 15th report should document all of the individual extraordinary payments made from the previous July through December. The content of the report shall provide the following information for each time an extraordinary payment is made to an entity in paragraph a:

- (i) The name of the entity
- (ii) The subcontract number
- (iii) The amount of the payment

(iv) The date of the payment

(e) The CO may direct the Contractor to provide additional information for any other prospective or existing subcontract at any tier. The CO may direct the Contractor to terminate for the convenience of the government any subcontract at any tier with an entity described in paragraphs (a), subject to an equitable adjustment.

(f) Notwithstanding FAR 52.216-7, "Allowable Cost and Payments," on or after January 1, 2012 the Contractor shall be responsible to make payments to entities defined in paragraphs (a) of this provision. Any subcontract with entities defined in paragraph (a), therefore, should be completed in sufficient time to permit the U.S. Government to make extraordinary payments on subcontracts with Russian entities on or before December 31, 2011.

(g) The Contractor shall include the substance of this clause in all its subcontracts, and shall require such inclusion in all other subcontracts of any tier. The Contractor shall be responsible to obtain written approval from the CO to enter into any tier subcontract that involves entities defined in paragraph (a).