

**Additional JWST O&M Flowdown Clauses
Contract No. 80GFSC23CA021
NASA Goddard Space Flight Center
21 February 2023**

A. General Preamble

All clauses contained in this document shall, with respect to the rights, duties, and obligations of the Buyer and Seller thereunder, be interpreted and construed in such manner as to recognize and give effect to: (i) the contractual relationship between the Buyer and Seller under this Subcontract, (ii) the rights of any higher-tier subcontractor with respect thereto under the higher-tier subcontract, and (iii) the rights of the Government or other customer with respect thereto under the prime contract from which such clauses are derived.

Where rights, duties, and obligations are expressed herein as applying to the Government, they shall generally apply by reason of the flow-down to the Buyer; and where expressed herein as applying to the Contractor, they shall generally apply by reason of the flow-down to the Seller. As an exception to such generalization, some scoping provisions may particularize such definitions, which particularizations are to be accorded precedence.

All Seller contact with the prime contractor, and/or any higher-tier subcontractor relating to performance, of this Subcontract shall be through or coordinated with the Buyer, except as may be otherwise expressly provided for within this Subcontract.

B. Clauses Incorporated by Reference

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. If any of the following clauses do not apply to this Subcontract, such clauses are considered to be self-deleting. The full text of each clause may also be accessed electronically.

Date	Clause Number	Title
MAY 2014	52.203-5	Covenant Against Contingent Fees
MAY 2014	52.203-8	Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity
MAY 2014	52.203-10	Price or Fee Adjustment for Illegal or Improper Activity
MAR 2021	52.204-2	Security Requirements
MAY 2011	52.204-4	Printed or Copied Double-Sided on Postconsumer Fiber Content Paper
JUN 2020	52.204-10	Reporting Executive Compensation and First-Tier Subcontract Awards
OCT 2016	52.204-14	Service Contract Reporting Requirements
OCT 2018	52.209-9	Updates of Publicly Available Information Regarding Responsibility Matters
NOV 2015	52.209-10	Prohibition on Contracting With Inverted Domestic Corporations
AUG 2018	52.216-7	Allowable Cost and Payment
NOV 2016	52.219-9	Small Business Subcontracting Plan – Alternate II
SEP 2021	52.219-16	Liquidated Damages – Subcontracting Plan
JUN 2003	52.222-3	Convict Labor
APR 2015	52.222-21	Prohibition of Segregated Facilities
SEP 2016	52.222-26	Equal Opportunity
APR 2015	52.222-29	Notification of Visa Denial
JUN 2020	52.222-35	Equal Opportunity for Veterans
JUN 2020	52.222-36	Equal Opportunity for Workers with Disabilities
JUN 2020	52.222-37	Employment Reports on Veterans

DEC 2010	52.222-40	Notification of Employee Rights Under the National Labor Relations Act
MAY 2022	52.222-54	Employment Eligibility Verification
SEP 2013	52.223-2	Affirmative Procurement of Biobased Products Under Service and Construction Contracts
MAY 2011	52.223-5	Pollution Prevention and Right-to-Know Information including Alternates I and II
MAY 2001	52.223-6	Drug-Free Workplace
May 2011	52.223-10	Waste Reduction Program
OCT 2015	52.223-16	Acquisition of EPEAT(R)-Registered Personal Computer Products
JUN 2020	52.223-18	Encouraging Contractor Policies to Ban Text Messaging While Driving
MAY 2011	52.223-19	Compliance with Environmental Management Systems
NOV 2021	52.225-1	Buy American - Supplies
MAY 2014/ APR 2015	52.227-11 as modified by 1852.227-11	Patent Rights - Ownership by the Contractor (MAY 2014) as modified by 1852.227-11 (APR 2015)
FEB 2021	52.225-13	Restrictions on Certain Foreign Purchases
DEC 2007	52.227-14	Rights in Data – General - Alternates II, III, and IV
JUN 1987	52.227-16	Additional Data Requirements
DEC 2007	52.227-17	Rights in Data – Special Works
MAR 1996	52.228-7	Insurance – Liability to Third Persons
MAY 2014	52.232-23	Assignment of Claims
FEB 2021	52.232-39	Unenforceability of Unauthorized Obligations
JUN 2015	52.233-3	Protest After Award – Alternate I
OCT 2004	52.233-4	Applicable Law for Breach of Contract Claim
JAN 1991	52.237-3	Continuity of Services
AUG 1996	52.239-1	Privacy or Security Safeguards
APR 1984	52.242-1	Notice of Intent to Disallow Costs
SEP 2021	52.242-3	Penalties for Unallowable Costs
JAN 1997	52.242-4	Certification of Final Indirect Costs
AUG 1989	52.242-15	Stop-Work Order – Alternate I
JAN 2017	52.243-7	Notification of Changes
JUN 2020	52.244-2	Subcontracts
APR 2012	52.245-2	Government Property Installation Operation Services
APR 2012	52.245-9	Use and Charges
APR 1984	52.246-5	Inspection of Services – Cost-Reimbursement
DEC 2014	52.246-11	Higher-Level Contract Quality Requirement
FEB 1997	52.246-25	Limitation of Liability - Services
FEB 2006	52.247-1	Commercial Bill of Lading Notations
FEB 2006	52.247-67	Submission of Transportation Documents for Audit
MAY 2004	52.249-6	Termination (Cost-Reimbursement)
APR 2012	52.251-1	Government Supply Sources
FEB 1998	52.252-2	Clauses Incorporated by Reference
JAN 1991	52.253-1	Computer Generated Forms
AUG 2016	1852.216-89	Assignment and Release Forms
APR 2015	1852.227-70	New Technology-Other than a Small Business Firm or Nonprofit Organization
APR 2015	1852.227-72	Designation of New Technology Representative and Patent Representative

JAN 2017	1852.245-73	Financial Reporting of NASA Property in the Custody of Contractors
JAN 2011	1852.245-76	List of Government Property Furnished Pursuant to FAR 52.245-1

C. Clauses Incorporated by Full Text

Date	Clause Number	Title
NOV 2018	G12 GSFC 52.227-99	Rights in Data
MAR 2008	H7 GSFC 52.227-93	Applicability of Rights in Data – Special Works
JUN 2019	H8 GSFC 52.245-99	Supplemental Financial Reporting of NASA Property in the Custody of Contractors – required for subcontracts with property accountable to the contract
FEB 2012	I12 1852.225-71	Restriction on Funding Activity with China (Deviation)
JUN 2005	I13 1852.237-72	Access to Sensitive Information
JUN 2005	I14 1852.237-73	Release of Sensitive Information

G.12 GSFC 52.245-99 SUPPLEMENTAL FINANCIAL REPORTING OF NASA PROPERTY IN THE CUSTODY OF CONTRACTORS (JUN 2019)

(a) In addition to the annual 1018 reporting required under clause NFS 1852.245-73 of this contract, the Contractor shall submit monthly property financial reports as described below if, at either award or any time during contract performance, the cumulative amount of NASA property is \$10 million or more.

(1) Monthly property financial reports shall be submitted including item-level supporting data for all items acquired/fabricated/modified where the total acquisition cost of the item is \$500,000 or more, in the contractor's or its subcontractors' possession. This data shall be submitted for all items in the property classifications of real property, equipment, special test equipment, special tooling, and agency peculiar property.

(2) Monthly data shall also be submitted for items of any acquisition cost in the classifications of materials and contract work-in-process (WIP). Specifically, itemized monthly data is required for materials and WIP line items when the estimated total acquisition cost of any item at completion will be \$500,000 or more.

(b) The monthly reports shall be electronically submitted using the Contractor-Held Asset Tracking System (CHATS) at <https://chats.nasa.gov> using the format described in the CHATS user's manual.

(c) Acquisition costs shall be developed using actual costs to the greatest extent possible, especially costs directly related to fabrication such as labor and materials. Supporting documentation shall be maintained and available for all amounts reported, including any amounts developed using estimating techniques.

(d) All adjustments shall be thoroughly explained and directly related to a specific Government Fiscal Year (GFY). If the GFY cannot be determined, the default shall be the previous GFY.

(e) Work Breakdown Structures (WBS) shall be provided for all Contractor acquired property (CAP), WIP, and any new materials acquired. The format shall be a five digit numerical level. (i.e., 803-10). If the WBS is not identifiable, contact the NASA GSFC Property Office for further guidance, as provided in paragraph (f)(4) below.

(f)(1) The data required for the monthly submission is due the 21st day after the close of the month.

e.g., August 21 for the month ending July 31
September 21 for the month ending August 31
October 21 for the month ending September 30

(2) The monthly property financial reports required by this clause are separate from, and in addition to the annual NF 1018 reports.

(3) Both the NF 1018 report data and the September monthly report data are as of September 30. Corrections in monthly report data shall be handled as adjustments in the next monthly report after discovery of the error. (e.g., Errors in the September monthly report shall be reported as adjustments in the October monthly report. The NF 1018 shall reflect the corrected numbers and the contractor shall provide a note regarding the corrected monthly report error under Comments in the NF 1018.) Errors in the NF1018 found after the November 30 submission shall be reported as adjustments in the NF 1018 for the next reporting year, unless immediate correction and resubmission are directed by NASA.

(4) Questions may be directed to the following individuals of the NASA GSFC Property Office:

Angela King, (301) 286-3543, email angela.c.king@nasa.gov
Timothy Kelly (301) 286-8819, email: timothy.e.kelly@nasa.gov

(End of clause)

H.7 GSFC 52.227-93 APPLICABILITY OF RIGHTS IN DATA – SPECIAL WORKS (MAR 2008)

The "Rights in Data - Special Works" clause of this contract applies to the following aspects (or items):

Any data requested by the Government for any legitimate government use.

(End of clause)

H.8 GSFC 52.227-99 RIGHTS IN DATA (NOV 2018)

The default Data Rights clause under this contract is FAR 52.227-14 RIGHTS IN DATA GENERAL—Alternate II and Alternate III as modified by NASA FAR Supplement 1852.227-14 and GSFC 52.227-90. Any exceptions to this clause will be covered by FAR 52.227-17 RIGHTS IN DATA--SPECIAL WORKS, if applicable, and GSFC 52.227-93.

(End of clause)

I.12 1852.225-71 RESTRICTION ON FUNDING ACTIVITY WITH CHINA. (DEVIATION) (FEB 2012)

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

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

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

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

(End of clause)

1.13 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)

1.14 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)