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SECTION H Special Contract Requirements

H-1 ORGANIZATIONAL CONFLICT OF INTEREST

"Organizational conflict of interest" means that because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to the government, or the person's objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage.

An organizational conflict of interest may result when factors create an actual or potential conflict of interest on an instant contract, or when the nature of the work to be performed on the instant contract creates an actual or potential conflict of interest on a future acquisition. In the latter case, some restrictions on future activities of the contractor may be required.

(a) Purpose: The primary purpose of this clause is to aid in ensuring that:

1. The contractor's objectivity and judgment are not biased because of its present or planned interest, which relate to work under this contract;
2. The contractor does not obtain unfair competitive advantage by virtue of its access to non-public information regarding the government's program plans and actual or anticipated resources; and
3. The contractor does not obtain unfair competitive advantage by virtue of its access to proprietary information belonging to others.

(b) Scope: Organizational Conflict of Interest (OCI) rules, procedures and responsibilities as described in Federal Acquisition Regulation (FAR) 9.5 shall be applicable to this contract and any resulting subcontracts. This clause, as negotiated, will be incorporated into the resultant contract.

1. The general rules in FAR 9.505-1 through 9.505-4, and the restrictions described herein, shall apply to performance or participation by the contractor and any of its affiliates or their successors-in-interest (hereafter collectively referred to as "contractor") in the activities covered by this contract as prime contractor, subcontractor, co-sponsor, joint venture, consultant, or in any similar capacity.

A. FAR 9.505-1, Providing Systems Engineering And Technical Direction

There is potential organizational conflict of interest if the contractor has corporate affiliation of any kind with any of the launch contractors on Cape Canaveral Air Force Station (CCAFS), to include both government contractors and commercial space contractors. The potential for significant organizational conflict of interest exists if the Consolidated Safety Support Contract (CSSC) contractor, or any part thereof, is required to provide safety technical direction to any organization wherein affiliation exists. (One example would be that the contractor might be tasked to oversee a hazardous, safety critical or launch countdown operation where safety oversight and technical direction and judgment are required. If the contractor has any affiliation with the organization being overseen, the contractor may be more inclined to show favoritism and exhibit safety judgment decisions that are not in the best interest of the government and the general public).

(i) Restrictions are needed to ensure that the above or similar conflict of interests shall be avoided. Conflict of Interest means that conditions or circumstances exists wherein a person or company is unable, or is

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potentially unable, to render impartial assistance or advice to the government because of other activities or relationships with other persons or firms. The critical element in this definition is the existence of a relationship, or potential relationship, that might cause a contractor to make recommendations or interpretations that, at the expense of the government, favor the interests of the contractor directly, or those of persons or entities present or potentially able to confer a benefit on the contractor. Such conditions or circumstances exist when the relationships like those described in the preceding paragraph are present.

(ii) For purposes of this contract, the above relationships or similar relationships shall not be permissible for the life of this contract, except when affiliation is less than notable, substantial, or significant. As such, the contractor shall provide a mitigation and disclosure plan to ensure that proper safeguards are in place to ensure objectivity and protection of the government's interest when providing service for, evaluating and assessing other contractors, or advising the government concerning its own products or services. This restriction shall remain in effect until contract completion or termination.

B. FAR 9.505-3, Providing Evaluation Services

There is potential organizational conflict of interest if the contractor has corporate affiliation (i.e., subsidiary) of any kind with any of the launch contractors on CCAFS, to include both government contractors and commercial space contractors. (One example would be that the contractor might be tasked to investigate a launch mishap of one of the launch contractors. If the contractor is a *subsidiary* of the launch contractor, the contractor may be more inclined to show favoritism to the launch contractor.) A conflict may also exist if the contractor has a notable, substantial or significant financial affiliation with the same contractors. (One example would be that the contractor might be tasked to investigate a launch mishap of one of the launch contractors. If the contractor is a *major subcontractor* of the launch contractor, the contractor may be more inclined to show favoritism to the launch contractor.)

2. If after award the contractor discovers an OCI or potential OCI with respect to this contract, the contractor agrees that a prompt and full disclosure shall be made in writing to the contracting officer, which shall include a description of the contractor actions proposed to avoid or mitigate such conflict(s). If the proposed contractor actions are acceptable to the contracting officer, the contractor shall modify, if necessary, their OCI plan to incorporate the actions.

(c) **Access to and Use of Government Information:** If the contractor, in performance of this contract, obtains access to government information such as plans, policies, reports, studies, financial plans, or data which has not been released or otherwise made available to the public, the contractor agrees that without prior written approval of the contracting officer, it shall not:

1. Use such information for any private purpose;
2. Submit an unsolicited proposal to the government based on such information.
3. Release such information.

(d) **Access to and Protection of Proprietary Information:** The contractor agrees to treat proprietary data in accordance with the provisions of FAR 9.505-4. The contractor shall enter into a written agreement with all companies whose proprietary data it shall have access to and exercise due diligent effort to protect such proprietary data from unauthorized use or disclosure so long as it remains proprietary. A copy of any or all agreements entered into shall be furnished to the contracting officer.

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(e) Contractor's OCI Plan: The contractor's OCI plan, which has been submitted and negotiated as part of the contractor's proposal, shall be incorporated into this contract as section J, attachment 3.

(f) Subcontracts: The contractor shall include this clause in consulting agreements and subcontracts of any tier. The terms "contract", "contractor", and "contracting officer" shall be appropriately modified to preserve the government's rights.

(g) Remedies and Waiver: For breach of any of the above restrictions or for nondisclosure or misrepresentation of any relevant facts required to be disclosed concerning this contract, the government may terminate this contract for default, disqualify the contractor for subsequent related contractual efforts, and pursue such other remedies as may be permitted by law or this contract. If, however, in compliance with this clause, the contractor discovers and promptly reports an OCI (or potential thereof) subsequent to contract award, the contracting officer may permit continued performance under the contractor's proposed plan of mitigation or terminate this contract for convenience if such termination is deemed to be in the best interest of the government.

(h) Government Indemnity: The contractor shall hold the government harmless and indemnify the government as to any cost or loss resulting from the unauthorized use or disclosure of third party information data or software by the contractor, its employees, subcontractors or agents.

II-2 ASSOCIATE CONTRACTOR AGREEMENTS

(a) During performance of this contract, the contractor shall execute a written associate contractor agreement with other government contractors, identified in paragraph (d) below, performing work on Patrick AFB, CCAFS, and other operating locations. The agreements, as a minimum, shall define the procedures necessary to facilitate the exchange of day-to-day working-level technical and/or administrative information required between the contractors to ensure effective and timely contract performance and an integrated operation. The protection of proprietary data, if any, is the total responsibility of the contractor and associate contractor(s). Liability for the improper disclosure of any proprietary data contained in or referenced by any agreement shall rest with the contracting parties and not with the government.

(b) Associate contractor agreements shall be tailored to the requirements of the CSSC. As a general rule, such agreements should contain the following information:

1. Identification of the parties and their relationship;
2. Identification of the project involved and the relevant government contracts of the parties, if known;
3. Establishment of the range of contractor interfaces by general subject matter;
4. Commencement and expiration dates/events for the effectivity of the agreement;
5. A statement that the United States is not a party to the agreement;
6. A statement that if there is a conflict between the relevant government contract and the agreement, the contract governs; and
7. An agreement to protect proprietary data.

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(c) The contracting officer shall review and verify each agreement in order to determine if all requirements of this clause have been met and if any existing contracts should be modified to include appropriate clauses to address organizational conflicts of interest which may exist because of the government-directed contractor interface.

(d) The following are designated as associate contracts: The Joint Base Operations and Support Contract (JBOSC), Range Technical Services Contract (RTSC), and Launch Operations and Support Contract (LO&SC). Additional associate contractor agreements may be required to be executed with all payload, range, and launch vehicle and support contractors.

H-3 WORK REQUESTS

(a) The following procedure shall be used to order additional work of the type covered by CLINs X003 of the contract. Such work shall be called for by the issuance of work requests. It is agreed that work requests may be issued at the sole option of the contracting officer during the term of the contract, and that the government has no obligation to issue any such work request. Prior to the issuance of a work request, the contractor shall propose, in writing, a firm price or a not-to-exceed amount and delivery schedule for the work contemplated. The contractor shall not proceed with the work until the price is negotiated and the contracting officer has provided written authorization to proceed. However, whenever the contracting officer determines that it is in the best interest of the government not to delay performance of the work, the contracting officer may specify in the work request that the contractor is authorized to proceed, subject to the not-to-exceed amount. Within thirty (30) days after receipt of such a work request, the parties shall negotiate a firm price and delivery schedule for the work ordered, and the contract shall be amended accordingly by supplemental agreement.

(b) Work requests issued under paragraph (a) above shall:

1. Be issued on Standard Form 30;
2. Bear the number of the contract;
3. Be serially numbered, dated, and signed by the contracting officer;
4. Refer to the contract line item under which the work request was issued;
5. Describe the work to be performed; and
6. Set forth the price and delivery schedule. Travel will be included at cost only (no fee).

(c) Immediately after contract award, it is the government's intent to negotiate a forward pricing rate agreement (HPRA) for fully burdened labor rates to be used in proposals for work requests under this contract.

(d) The terms and conditions of the contract shall be applicable to work requests issued under this clause. Failure to agree upon a reasonable price shall be considered a "dispute concerning a question of fact" within the meaning of the "Disputes" clause, FAR 52.233-1. Modifications to work requests may be issued subject to the same conditions as the original work request. The term "work" includes both supplies and services covered by the referenced CLIN(s).

H-4 GOVERNMENT FURNISHED PROPERTY (GFP)

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Pursuant to the "Government Property" clauses herein, FAR 52.245-2, 52.245-5 and 52.245-19, the government will furnish the item(s) of property listed as section J, attachment 5 hereto for use in performance of this contract. The contractor utilizes any or all of the available GFP on an "as is" basis.

H-5 IDENTIFICATION BADGES

The contractor shall furnish contractor and subcontractor personnel authorized to work at 45 SW facilities with contractor-furnished, contractor identification badges. Contractor and subcontractor personnel shall conspicuously display the badge that identifies such personnel as employees of the contractor, in addition to the installation identification badge.

H-6 KEY PERSONNEL

Certain skilled, experienced professional and/or technical personnel are essential for successful accomplishment of the work to be performed under this contract. These are defined as key personnel and are those persons whose resumes are submitted for evaluation in the initial proposal. The contractor agrees that such personnel shall not be removed from the contract work or replaced without compliance with the following:

1. The contractor shall immediately provide written notification to the contracting officer if (a) one or more key personnel becomes (or is expected to become) unavailable for work under this contract for a continuous period exceeding 20 workdays, or (b) one or more key personnel is expected to devote substantially less effort to the contract.
2. The contractor will submit a plan, which provides replacement or recruitment options. The plan will also include the resume(s) and/or background of the potential candidates and will identify the anticipated date the new employee(s) will commence work. Upon selection of the new employee, the contractor will provide written notification to the government.

H-7 BASE SUPPORT

(a) Purpose: It is not the government's intent to provide services and support to the 45th Space Wing (45 SW) government contractors that are otherwise commercially available. However, services and support that are: related to 45 SW infrastructure (backbone) and configuration; government-required by public law, regulation or policy; not commercially available; mandatory 45 SW requirements; and the best value to the 45 SW, will be provided to 45 SW government contractors. Therefore, the services and support that will be available for the CSSC are identified in paragraph (b) below.

(b) Government Provided Resources and Services:

1. Communications: The government shall provide backbone (includes: "class A" telephone service, local and long distance telephone service (DSN and FTS 2000)); contractor provides end instruments. Must meet 45 SW configuration controls, standards and interface requirements. This is applicable to administration telephones, transistorized operational phone system (TOPS), operational intercom system (OIS) or ESI digital communication panels/system, digital voice systems, point-to-point "Green" phones, closed circuit television (CCTV) and Wide Band-Narrow Band (A2A) and/or fiber optics.

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2. Destruction Services: The government shall provide destruction facilities for bulk destruction of classified material. These services may also be used for destruction of bulk privacy act material.

3. Government Facilities and Maintenance:

a. The government will provide at CCAFS: approximately 4,500 square feet of net office space currently located at Space Launch Complex 13 (SLC-13), 500 square feet of space to support evaluation of prototype systems (i.e., RDMS), and 900 square feet of net office space in Hangar I for the "Pressure Systems Certification/Recertification, Process Safety Information, and Mechanical Integrity Program". The government will provide at PAFB: approximately 500 square feet in Building 423 (five offices). Government reserves the right to provide same size accommodations at another location at government's discretion. Any unused space will be returned to the Air Force Space Allocation Officer for reassignment.

b. Real Property/Real Property Installed Equipment/facilities maintenance, refurbishment, repair, alteration, plant engineering services, minor construction, refurbishment of post-launch damage, and facilities corrosion prevention/control will be provided on government furnished facilities. Furnishings will not be provided, other than those specified in the GFP "as is" list.

c. The government shall provide water, electricity and sewage treatment.

d. The government shall provide refuse collection and dumpsters.

e. The government shall provide mail services consisting of a single pickup and delivery point on CCAFS and PAFB.

f. The government shall provide fire fighting services, code enforcement, and inspection of facilities. The contractor will maintain/replace existing fire extinguishers in dedicated contractor facilities.

g. The government shall provide general janitorial services and trash removal from non-industrial facilities.

h. The government shall provide insect and vermin eradication on a periodic and on-call basis.

i. The government shall provide roads, parking lot and grounds maintenance.

j. The government shall provide locksmith services for government owned facilities and equipment.

k. The government shall provide real property administration services for contractor assigned facilities.

l. The government shall provide Defense Reutilization and Marketing Office (DRMO) disposal, use of which is mandatory for disposal of government furnished equipment (GFE). The government shall provide pickup and transportation of excessed government property.

4. Medical Services: The government shall provide emergency medical and first aid support to all personnel employed under the prime contract in the performance of their duties at KSC, CCAFS and PAFB. The government will provide occupational medical examinations, as the Air Force deems appropriate for working conditions under this contract.

5. Meteorological Services: The government shall provide weather forecasting, tracking, observation, consultant, and weather warning reporting (hurricanes, lightning, and other severe local weather conditions).

6. Personnel Protective Equipment: The government shall provide the following protective equipment: flame retardant coveralls, self-contained atmospheric protective ensemble (SCAPE) suits, Scott air packs, and expendable life support apparatus (ELSA) units. The government shall provide decontamination, cleaning, maintenance, inspection, and storage of protective clothing and backpacks. The government shall provide fabric fabrication and repair capability. Any OSHA-required fit tests are the responsibility of the contractor.

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7. Radio Equipment: The government shall provide backbone, which includes base stations, remote stations and repeaters. The government shall provide radio frequency assignment, control and monitoring services. Contractor shall provide end instruments and related accessories for new UHF system currently projected to be on-line in Dec 2001. Any radios still on inventory at time of contract award can be used until old system (VHIF) is no longer in use. Must meet 4.5 SW configuration controls, standards and interface requirements.

8. Safety Services: The government shall provide hazardous area safety familiarization and badges for exchange purposes.

9. Security Services: The government shall provide security support in accordance with Air Force regulations, directives, and local procedures for all personnel employed under the contract. Security services include: CCAFS resource protection, CCAFS installation badging, policy guidance, auditing of contractors' Industrial Security Program, convoy services, and maintenance/monitoring of the electronic security system, where provided.

10. Transportation: The government shall provide and maintain, via J-BOSC, military unique/special purpose vehicles that are required for the movement of equipment and materials by the contractor. General-purpose vehicles are considered contractor furnished property. However, the government will authorize the contractor to lease vehicles through GSA, provided a cost analysis is performed in which the contractor demonstrates that a more cost effective manner to furnish the vehicles does not exist.