



National Aeronautics and  
Space Administration  
Washington, DC 20546

# Procurement Class Deviation

PCD 26-02

JANUARY 16, 2026

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## CLASS DEVIATION FROM FEDERAL ACQUISITION REGULATION (FAR) PART 27 AND NASA FAR SUPPLEMENT (NFS) 1827 TO IMPLEMENT THE REVOLUTIONARY FAR OVERHAUL (NASA Case 2025-N041)

**PURPOSE:** To provide a Class Deviation from the FAR to implement the FAR Council's model deviation text to FAR Part 27, Patents, Data, and Copyrights as deviated originally by PCD 21-02, as well as deviation to NFS 1827.

**BACKGROUND:** On April 15, 2025, the Executive Order (E.O.) 14275," was signed. Section 2 of the E.O. establishes the policy that the FAR "should only contain provisions required by statute or essential to sound procurement, and any FAR provisions that do not advance these objectives should be removed." To implement E.O. 14275, the Office of Federal Procurement Policy (OFPP) is leading the **Revolutionary FAR Overhaul (RFO)** initiative. This effort is supported by the Federal Acquisition Regulatory Council (the Council) member agencies—General Services Administration, Department of War, NASA, along with other agencies. In line with the E.O., the initiative aims to eliminate unnecessary regulations and policies across all levels of the federal government.

The Office of Management and Budget (OMB) memorandum, M-25-26 issued on May 2, 2025, titled, Overhauling the Federal Acquisition Regulation, provided additional guidance to federal agencies regarding the FAR overhaul.

**FAR Streamlining.** As part of the RFO, the FAR will be streamlined to include only statutory requirements, while non-statutory content will move to new buying guides, collectively forming the Strategic Acquisition Guidance (SAG). The Council will first issue model deviation guidance by FAR part, followed by formal rulemaking through the notice-and-comment process. Agencies will have 30 days to issue class deviations based on the model text once it is released.

**Streamlining Agency Acquisition Supplements.** Agencies shall streamline their FAR supplements by removing regulations not based on statute or executive orders and aligning with the FAR Council’s deviation guidance. Supporting policies shall also be updated to reflect these changes. This approach ensures the NASA FAR Supplement (NFS) remains consistent with the streamlined FAR.

**FAR Buying Guides and NFS Companion Guide (CG) (coming soon).** As the FAR and the NFS are streamlined, helpful non-regulatory content will be moved to new FAR Buying Guides and NFS CG. These guides are intended to offer practical instructions and best practices for implementing effective contracting methods.

**RFO Part 27, Patents, Data, and Copyrights,** is one of the model deviations released by the FAR Council. RFO Part 27 establishes the basic framework for the contractual handling of issues with patents, data, and copyrights. RFO Part 27 has been streamlined to focus on statutory requirements. Burdensome, duplicative, or outdated language and language not required by statute have been removed from FAR Part 27. This plain language version of FAR Part 27 shall be adhered to.

To align with the RFO FAR Part 27, the NFS 1827, Patents, Data, and Copyrights, is revised to remove non-statutory and outdated language. This deviation implements the revised RFO Part 27 and NFS Part 1827.

In addition, PCD 26-02 incorporates the following requirements from NASA PCD 21- 02, entitled, “Federal Acquisition Regulation (FAR) Class Deviation – Protection of Data Under the Small Business Innovative Research/Small Technology Transfer Research (SBIR/STTR) Program (NASA Case 2021-N009), dated September 14, 2021,” to FAR 52.227-20:

- (1) Extends the period of time which the Government must protect SBIR/STTR data against unauthorized use and disclosure. The Small Business Administration’s Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) Program Policy Directive published in the Federal Register on April 2, 2019 (84 FR 12794) and effective on May 2, 2019, extends this protection period from contract award and ends 20 years after contract award rather than the previous 4 years after award.
- (2) Administratively revises FAR 52.227-20, Rights in Data-SBIR Program (MAY 2014) (DEVIATION 21-02), subparagraph (d)(1) and the NFS prescription at 1827.409(h).
- (3) Clarifies that FAR 52.227-20 applies to both SBIR and STTR contracts.

PCD 21- 02, “Federal Acquisition Regulation (FAR) Class Deviation – Protection of Data Under the Small Business Innovative Research/Small Technology Transfer Research (SBIR/STTR) Program (NASA Case 2021-N009), dated September 14, 2021,” is cancelled and superseded by this PCD.

**GUIDANCE:**

(1) Contracting officers shall follow the RFO Part 27 deviated text, as further deviated by this PCD. The FAR Council's RFO text is available at <https://www.acquisition.gov/far-overhaul/far-part-deviation-guide/far-overhaul-part-27>.

(2) COs shall also follow the FAR 52.227-20 deviated text, as well as NFS Parts 1827 and 1852 deviated text, all enclosed within this deviation.

**ACTION REQUIRED BY CONTRACTING OFFICERS:** Effective immediately, ensure that new contract actions issued on or after the effective date complies with the policy in the PCD.

**EFFECTIVE DATE:** This PCD is effective as dated and shall remain in effect until implemented in the FAR and NFS or otherwise rescinded.

**PROVISION AND CLAUSE CHANGES:** This deviation renders obsolete the following clauses:

- FAR 52.227-20 Rights in Data-SBIR Program (MAY 2014) (DEVIATION 21-02)
- NFS 1852.227-19, Commercial Computer Software--Restricted Rights (JUL 1997)
- NFS 1852.227-86, Commercial Computer Software License (APR 2015)

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Acting Assistant Administrator for Procurement  
**Enclosure**

Changes in the FAR Overhaul and NFS Deviation text below are identified as follows:  
 Deletions shown as ~~strike throughs~~; and additions shown as **[bold, in brackets]**.

**PART 1827  
 PATENTS, DATA, AND COPYRIGHTS**

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**PART 1827  
PATENTS, DATA, AND COPYRIGHTS**

**Subpart 1827.1—General**

**1827.000[101] Scope of part [Applicability]**

(a) This part prescribes NASA policies, procedures, and contract clauses pertaining to patents, data, and copyrights. The provisions of FAR Part 27 apply to NASA acquisitions unless specifically excepted in this part.

**Subpart 1827.3 - Patent Rights under Government Contracts**

**1827.301 Definitions.**

~~"Administrator" means the Administrator of NASA or a duly authorized representative [~~

**["Reportable item" means any invention, discovery, improvement, or innovation of the contractor, whether or not patentable or otherwise protectable under Title 35 of the United States Code, made in the performance of any work under any NASA contract or in the performance of any work that is reimbursable under any clause in any NASA contract providing for reimbursement of costs incurred before the effective date of the contract. Reportable items include, but are not limited to, new processes, machines, manufactures, and compositions of matter, and improvements to, or new applications of, existing processes, machines, manufactures, and compositions of matter. Reportable items also include new computer programs, and improvements to, or new applications of, existing computer programs, whether or not copyrightable or otherwise protectable under Title 17 of the United States Code.]**

"Subject invention," in lieu of the definition in FAR 27.301, means any reportable item that is or may be patentable or otherwise protectable under Title 35 of the United States Code, or any novel variety of plant that is or may be protectable under the Plant Variety Protection Act

~~"Reportable item" means any invention, discovery, improvement, or innovation of the contractor, whether or not patentable or otherwise protectable under Title 35 of the United States Code, made in the performance of any work under any NASA contract or in the performance of any work that is reimbursable under any clause in any NASA contract providing for reimbursement of costs incurred before the effective date of the contract. Reportable items include, but are not limited to, new processes, machines, manufactures, and compositions of matter, and improvements to, or new applications of, existing processes, machines, manufactures, and compositions of matter. Reportable items also include new computer programs, and improvements to, or new applications of, existing computer programs, whether or not copyrightable or otherwise protectable under Title 17 of the United States Code.~~

**1827.302 Policy.**

(a) ~~Introduction.~~ NASA policy with respect to any invention, discovery, improvement, or innovation made in the performance of work under any NASA contract or subcontract with other than a small business firm or a nonprofit organization and the allocation of related property rights is based upon Section 20135 of the National Aeronautics and Space Act (51 U.S.C. 20135) (the Act); and, to the extent consistent with this statute, the Presidential Memorandum on Government Patent Policy to the Heads of Executive Departments and Agencies, dated February 18, 1983, and Section 1(b)(4) of

Executive Order 12591. NASA contractors subject to Section 20135 of the National Aeronautics and Space Act (51 U.S.C. 20135) shall ensure the prompt reporting of reportable items in order to protect the Government's interest and to provide the widest practicable and appropriate dissemination, early utilization, expeditious development, and continued availability for the benefit of the scientific, industrial, and commercial communities and the general public.

*(b) Contractor right to elect title.*

(1) For NASA contracts, the contractor right to elect title under the FAR only applies to contracts with small businesses and nonprofit organizations. For other business entities, see paragraph (2)(v) of this section.

(2)(v) Under any NASA contract with other than a small business or nonprofit organization (i.e., contracts subject to Section 20135(b) of the Act), title to subject inventions vests in NASA when the determinations of Section 20135(b)(1)(A) or (b)(1)(B) have been made. The Administrator may grant the contractor a waiver of title in accordance with 14 CFR Part 1245.

(3) *Contractor petitions for waiver of title.* The Administrator may waive all or any part of the rights of the United States with respect to any invention or class of inventions made or which may be made in the performance of NASA contracts with other than a small business firm or a nonprofit organization if the Administrator determines that the interests of the United States will be served. The procedures and instructions for contractors to submit petitions for waiver of rights in subject inventions are provided in the NASA Patent Waiver Regulations, 14 CFR Part 1245, Subpart 1, <http://www.gpo.gov/fdsys/pkg/CFR-2012-title14-vol5/pdf/CFR-2012-title14-vol5-part1245.pdf>. Waiver may be requested in advance of contract award for any subject invention or class of subject inventions or during contract performance for individually identified subject inventions reported under the contract. For individual identified subject inventions, the petition shall identify each invention with particularity (e.g., by NASA's assigned number to the Disclosure of Invention and New Technology report or by title and inventorship). For advance waivers, the petition shall identify the invention or class of inventions that the Contractor believes will be made under the contract and for which waiver is being requested. To meet the statutory standard of "any invention or class of inventions," the petition shall be directed to a single invention or to inventions directed to a particular process, machine, manufacture, or composition of matter, or to a narrowly drawn, focused area of technology. When a waiver of title is granted, the contractor's right to title, the rights reserved by the Government, and other conditions and obligations of the waiver, such as requirements for reporting and filing patent applications on waived inventions, are provided in the NASA Patent Waiver Regulations, 14 CFR Part 1245, Subpart 1, and the Instrument of Waiver executed under those Regulations.

*(e) Government license.* For each subject invention made in the performance of work under a NASA contract with other than a small business firm or nonprofit organization and for which waiver of title has been granted, the Administrator shall reserve an irrevocable, nonexclusive, nontransferable, royalty free license for the practice of such invention throughout the world by or on behalf of the United States or any foreign Government in accordance with any treaty or agreement of the United States.

*(e) Utilization reports.* For each subject invention made in the performance of work under a NASA contract with other than a small business firm or a nonprofit organization and for which waiver of title has been granted, the requirements for utilization reports shall be as set forth in the NASA Patent Waiver Regulations, 14 CFR Part 1245, Subpart 1, and the Instrument of Waiver executed under those Regulations.

*(f) March-in rights.* For each subject invention made in the performance of work under a NASA contract with other than a small business firm or a nonprofit organization and for which waiver of title has been granted, march-in rights shall be as set forth in the NASA Patent Waiver Regulations, 14 CFR Part 1245, Subpart 1, and the Instrument of Waiver executed under those Regulations.

~~(g) *Preference for United States industry.* For each subject invention made in the performance of work under a NASA contract with other than a small business firm or a nonprofit organization and for which waiver of title has been granted, waiver of the requirement for substantial manufacture in the United States shall be in accordance with Title 35 of the United States Code, Section 204.~~

~~(i) *Minimum rights to contractor.*~~

~~(1) For NASA contracts with other than a small business firm or a nonprofit organization, where title to any subject inventions vests in NASA, the contractor is normally granted, in accordance with the NASA Patent Waiver Regulations, 14 CFR 1245.108, a revocable, nonexclusive, royalty free license in each patent application filed in any country and in any resulting patent. The license extends to any of the contractor's domestic subsidiaries and affiliates within the corporate structure, and includes the right to grant sublicenses of the same scope to the extent the contractor was legally obligated to do so at the time the contract was awarded. The license and right are transferable only with the approval of the Administrator, except when transferred to the successor of that part of the contractor's business to which the invention pertains.~~

~~(2) The procedures for revoking or modifying the license to a contractor that is other than a small business firm or a nonprofit organization are described in 14 CFR 1245.108.~~

~~(k) *Awards.* It is the policy of NASA to consider for a monetary award, when referred to the NASA Inventions and Contributions Board in accordance with 14 CFR Part 1240, Subpart 1, any subject invention reported to NASA in accordance with this subpart, and for which an application for patent has been filed.~~

### **1827.303 Solicitation provisions and contract clauses.**

(a)(1) The contracting officer shall insert the provision at [1852.227-84](#), Patent Rights Clauses, in solicitations for experimental, developmental, or research work to be performed in the United States when the eventual awardee may be a small business or a nonprofit organization.

(b)(1) When the clause at FAR 52.227-11 is included in a solicitation or contract, it shall be modified as set forth at [1852.227-11](#). **[For each contract containing the clause at 52.227-11, Patent Rights—Ownership by the Contractor, or the clause at [1852.227-70](#), New Technology—Other than a Small Business Firm or Nonprofit Organization:]**

(ii) To qualify for the clause at FAR 52.227-11, a prospective contractor shall be required to represent itself as either a small business firm or a nonprofit organization. If the contracting officer has reason to question the size or nonprofit status of the prospective contractor, the contracting officer will follow the procedures at FAR 27.304-1(a).

(vi) The contracting officer shall complete paragraph (j) of the clause at FAR 52.227-11 with the following: **[“]Communications and information submissions required by this clause will be made to the individuals identified in the clause at [1852.227-72](#), Designation of New Technology Representative and Patent Representative.[“]**

(vii) See also paragraph (d)(3) of this section.

**[(2) The contracting officer shall furnish, or require the contractor to furnish, directly to the New Technology Representative and the Patent Representative, a copy of each contract (and modifications thereto), and copies of the final technical report, interim technical progress reports, and other pertinent material provided under the contract, unless the New Technology Representative or Patent Representative indicates otherwise. The Patent Representative shall review each reportable item to ascertain whether it is to be considered a subject invention, obtain any determinations required by paragraph (b) of the clause at [1852.227-70](#), New Technology—Other than a Small Business Firm or Nonprofit Organization, and notify the contractor.]**

~~[(v) Either the New Technology Representative or the Patent Representative, in consultation with each other, may prepare opinions, make determinations, and otherwise advise the contracting officer with respect to any withholding of payment under paragraph (g) of the clause at [1852.227-70](#), New Technology—Other than a Small Business Firm or Nonprofit Organization. Either the New Technology Representative or the Patent Representative may represent the contracting officer for the purpose of examining the contractor's books, records, and other documents in accordance with paragraph (f) of the clause and take corrective action as appropriate. However, no action may be taken by either the New Technology Representative or the Patent Representative that would constitute a final decision under the Disputes clause, involve any change or increase in the work required to be performed under the contract that is inconsistent with any right of appeal provided in FAR 27.304-4 or 14 CFR 1245, subpart 1, or otherwise be outside the scope of the contract.]~~

(6) Alternate IV to 52.227-11 is not used in NASA contracts. See instead 1827.303(b)(1).

~~(7) The contracting officer shall consult with the center patent or intellectual property counsel regarding the use of Alternate V in contracts for the performance of services at a NASA installation when a contractor is directed to fulfill the Government's obligations under a Cooperative Research and Development Agreement (CRADA) authorized by 15 U.S.C. 3710a. Alternate V may be included in, or added to, the contract when it is contemplated that a Contractor will be directed to fulfill NASA's obligations under a CRADA, but should be added prior to the contractor performing work under the CRADA.~~

(d)(1) The contracting officer shall insert the clause at [1852.227-70](#), New Technology- Other than a Small Business Firm or Nonprofit Organization, in all NASA solicitations and contracts with other than a small business firm or a nonprofit organization (i.e., those subject to section 21035(b) of the Act), if the contract is to be performed in the United States, and has as a purpose the performance of experimental, developmental, research, design, or engineering work. Contracts for any of the following purposes may be considered to involve the performance of work of the type described above (these examples are illustrative and not all inclusive):

- (i) Conduct of basic or applied research.
- (ii) Development, design, or manufacture for the first time of any machine, article of manufacture, or composition of matter to satisfy NASA's specifications or special requirements.
- (iii) Development of any process or technique for attaining a NASA objective not readily attainable through the practice of a previously developed process or technique.
- (iv) Testing of, evaluation of, or experimentation with a machine, process, concept, or technique to determine whether it is suitable or could be made suitable for a NASA objective.
- (v) Construction work or architect-engineer services having as a purpose the performance of experimental, developmental, or research work or test and evaluation studies involving such work.
- (vi) The operation of facilities or the coordination and direction of the work of others, if these activities involve performing work of any of the types described in paragraphs (i) through (v) of this section.

(2) The contracting officer shall insert the provision at [1852.227-71](#), Requests for Waiver of Rights to Inventions, in all solicitations that include the clause at [1852.227-70](#), New Technology-Other than a Small Business Firm or Nonprofit Organization (see paragraph (d)(1) of this section).

(3) The contracting officer shall insert the clause at [1852.227-72](#), Designation of New Technology Representative and Patent Representative, in all solicitations and contracts containing either of the clauses at FAR 52.227-11, Patent Rights—Ownership by the Contractor, or [1852.227-70](#), New Technology-Other than a Small Business Firm or Nonprofit Organization (see paragraph (d)(1) of this section). It may also be inserted, upon consultation with the center patent or intellectual property counsel, in solicitations and contracts using another patent rights clause. The center New Technology and Patent Representatives are identified at [https://prod.nais.nasa.gov/pub/pub\\_library/techrep.html](https://prod.nais.nasa.gov/pub/pub_library/techrep.html)

[http://prod.nais.nasa.gov/portals/pl/new\\_tech\\_pocs.html](http://prod.nais.nasa.gov/portals/pl/new_tech_pocs.html).

**[(e)(1) Under any NASA contract with other than a small business or nonprofit organization (i.e., contracts subject to Section 20135(b) of the Act), title to subject inventions vests in NASA when the determinations of Section 20135(b)(1)(A) or (b)(1)(B) have been made.]**

**[(i)]** When work is to be performed outside the United States by contractors that are not domestic firms, the clause at [1852.227-85](#), Invention Reporting and Rights—Foreign, shall be used unless the contracting officer determines, with concurrence of the center patent or intellectual property counsel, that the objectives of the contract would be better served by use of the clause at FAR 52.227-13, Patent Rights—Ownership by the Government. For this purpose, the contracting officer may presume that a contractor is not a domestic firm unless it is known that the firm is not foreign owned, controlled, or influenced. (See FAR 27.304-3 regarding subcontracts with U.S. firms.)]

**[(e)(1)(ii) Contractor petitions for waiver of title. {The procedures and instructions for contractors to submit petitions for waiver of rights in subject inventions are provided in the NASA Patent Waiver Regulations, 14 CFR Part 1245, Subpart 1, <http://www.gpo.gov/fdsys/pkg/CFR-2012-title14-vol5/pdf/CFR-2012-title14-vol5-part1245.pdf>. When a waiver of title is granted, the contractor's right to title, the rights reserved by the Government, and other conditions and obligations of the waiver, such as requirements for reporting and filing patent applications on waived inventions, are provided in the NASA Patent Waiver Regulations, 14 CFR Part 1245, Subpart 1, and the Instrument of Waiver executed under those Regulations.}]**

**[(e)(2) For NASA contracts, the contractor right to elect title under the FAR only applies to contracts with small businesses and nonprofit organizations. For other business entities, see subparagraph (b) of this section.]**

~~(e)(2)(ii) When one of the conditions in FAR 27.303(e)(1)(i) through (iv) is met, the contracting officer shall consult with the center patent or intellectual property counsel to determine the appropriate clause.~~

**[(e)(3)(iv) Utilization reports. For each subject invention made in the performance of work under a NASA contract with other than a small business firm or a nonprofit organization and for which waiver of title has been granted, the requirements for utilization reports shall be as set forth in the NASA Patent Waiver Regulations, 14 CFR Part 1245, Subpart 1, and the Instrument of Waiver executed under those Regulations.]**

## **1827.304 Procedures.**

### **1827.304-1 General.**

(b)(1) *Exceptions.* In any contract with other than a small business firm or nonprofit organization, the NASA Patent Waiver Regulations, 14 CFR Part 1245, Subpart 1, shall apply.

(c) *Greater rights determinations.* In any contract with other than a small business firm or a nonprofit organization and with respect to which advance waiver of rights has not been granted (see 1827.302(b)(3)), the contractor (or an employee-inventor of the contractor after consultation with the contractor) may request waiver of title to an individual identified subject invention pursuant to the NASA Patent Waiver Regulations, 14 CFR Part 1245, Subpart 1.

**[(c)(3) Preference for United States industry. For each subject invention made in the performance of work under a NASA contract with other than a small business firm or a nonprofit organization and for which waiver of title has been granted, waiver of the requirement for substantial manufacture in the United States shall be in accordance with Title 35 of the United States Code, Section 204.]**

(d) *Retention of rights by inventor.* [The NASA Patent Waiver Regulations, 14 CFR Part 1245,

**Subpart 1, apply for any invention made in the performance of work under any contract with other than a small business firm or a nonprofit organization.]**

~~(f) *Revocation or modification of contractor's minimum rights.* The procedures for revoking or modifying the license to a contractor that is other than a small business firm or a nonprofit organization are described in 14 CFR 1245.108.~~

~~(f) For contracts with other than a small business firm or a nonprofit organization, revocation or modification of the contractor's license rights in subject inventions made and reported under the contract shall be in accordance with 14 CFR 1245.108~~

(g) *Exercise of march-in rights.* For contracts with other than a small business firm or a nonprofit organization, the procedures for the exercise of march-in rights shall be as set forth in the NASA Patent Waiver Regulations, 14 CFR Part 1245, Subpart 1.

~~(h) *Licenses and assignments under contracts with nonprofit organizations.* The Headquarters Agency Counsel for Intellectual Property (ACIP) is the approval authority for assignments. Contractor requests [for assignments] should be made to the Patent Representative designated in the clause at [1852.227-72](#) and forwarded, with recommendation of the Patent Representative, to the ACIP for approval.~~

(i) **[*New technology reporting plan -- In contracts with an estimated cost in excess of \$2,500,000 (or less when appropriate) that contain the clause at [1852.227-70](#), New Technology—Other than a Small Business Firm or Nonprofit Organization, the contracting officer may require the contractor to submit, for post-award Government approval, a detailed plan for new technology reporting that demonstrates an adequate understanding of and commitment to the reporting requirements of the clause.]***

(j) **[*Securing invention rights acquired by the Government -- When the Government acquires the entire right to, title to, and interest in an invention under the clause at [1852.227-70](#), New Technology—Other than a Small Business Firm or Nonprofit Organization, a determination of title is to be made in accordance with Section 20135(b) of the Act (51 U.S.C. 20135(b)), and reflected in appropriate instruments executed by NASA and forwarded to the contractor by the contracting officer.]***

**[(k) *Awards.* It is the policy of NASA to consider for a monetary award, when referred to the NASA Inventions and Contributions Board in accordance with 14 CFR Part 1240, Subpart 1, any subject invention reported to NASA in accordance with this subpart, and for which an application for patent has been filed.**

~~(i) *Minimum rights to contractor.*~~

~~(l) For NASA contracts with other than a small business firm or a nonprofit organization, where title to any subject inventions vests in NASA, the contractor is normally granted, in accordance with the NASA Patent Waiver Regulations, 14 CFR 1245.108, a revocable, nonexclusive, royalty free license in each patent application filed in any country and in any resulting patent. The license extends to any of the contractor's domestic subsidiaries and affiliates within the corporate structure, and includes the right to grant sublicenses of the same scope to the extent the contractor was legally obligated to do so at the time the contract was awarded. The license and right are transferable only with the approval of the Administrator, except when transferred to the successor of that part of the contractor's business to which the invention pertains.~~

**[(l) *Requirement for contractor prompt reporting of reportable items.* NASA contractors subject to Section 20135 of the National Aeronautics and Space Act (51 U.S.C. 20135) shall ensure the**

**prompt reporting of reportable items in order to protect the Government's interest and to provide the widest practicable and appropriate dissemination, early utilization, expeditious development, and continued availability for the benefit of the scientific, industrial, and commercial communities and the general public.]**

#### **1827.304-2 Contracts placed by or for other Government agencies.**

(a)(3)(i) This subsection applies only to contracts placed by or for other agencies and not to task or delivery orders placed by or for other agencies against NASA Government-wide Acquisition Contracts (GWACs) or Multiple Agency Contracts (MACs).

(ii) When a contract is placed for another agency with a small business or nonprofit organization and the agency does not request the use of a specific patent rights clause, the contracting officer shall use the clause at FAR 52.227-11, Patent Rights--Ownership by the Contractor as modified by [1852.227-11](#) (see 1827.303(b)(1)).

(iii) When a contract is placed for another agency with other than a small business or nonprofit organization, the contracting officer, in accordance with Section 20135 of the Act, shall use the clause at [1852.227-70](#), New Technology-Other than a Small Business Firm or Nonprofit Organization (see 1827.303(d)(~~4~~)).

(iv) When work is to be performed outside the United States by contractors that are not domestic firms, the contracting officer shall use one of the clauses described in 1827.303(e)(1).

#### **1827.304-3 Subcontracts.**

(a) Unless otherwise authorized or directed by the contracting officer, contractors awarding subcontracts at any tier shall select and include in the subcontracts one of the clauses identified in subparagraphs (a)(1) or (a)(2) of this section. At all tiers, the applicable clause identified below shall be modified to identify the parties as follows: references to the Government are not changed, and in all references to the Contractor the subcontractor is substituted for the Contractor so that the subcontractor has all rights and obligations of the Contractor in the clause.

(1) The clause at [1852.227-70](#), New Technology-Other than a Small Business Firm or Nonprofit Organization, shall be used in any subcontract with other than a small business firm or a nonprofit organization if a purpose of the subcontract is the performance of experimental, developmental, research, design, or engineering work of any of the types described in 1827.303(d)(~~4~~).

(2) The clause at FAR 52.227-11, Patent Rights--Ownership by the Contractor, modified by [1852.227-11](#) (see 1827.303(b)(1)), shall be used in any subcontract with a small business firm or a nonprofit organization if a purpose of the subcontract is the performance of experimental, developmental, or research work.

#### **1827.304-4 Appeals.**

FAR 27.304-4 shall apply unless otherwise provided in the NASA Patent Waiver Regulations, 14 CFR Part 1245, subpart 1.

#### **~~1827.305 Administration of the patent rights clauses. Reserved.~~**

~~(a) For each contract containing the clause at 52.227-11, Patent Rights—Ownership by the Contractor, or the clause at [1852.227-70](#), New Technology-Other than a Small Business Firm or Nonprofit Organization, the contracting officer shall take the following actions:~~

~~(1) Furnish, or require the contractor to furnish, directly to the New Technology Representative and the Patent Representative, a copy of each contract (and modifications thereto), and copies of the final~~

technical report, interim technical progress reports, and other pertinent material provided under the contract, unless the New Technology Representative or Patent Representative indicates otherwise.

(2) Notify the New Technology Representative as to which center organization has technical cognizance of the contract.

(b) The New Technology Representative shall take the following actions:

(1) In consultation with the Contracting Officer's Representative (COR), review the technical progress of work performed under the contract to ascertain whether the contractor and its subcontractors are complying with the reporting and recordkeeping requirements of the New Technology—Other than a Small Business Firm or Nonprofit Organization clause or the Patent Rights—Ownership by the Contractor clause.

(2) Forward to the Patent Representative copies of all contractor and subcontractor disclosures of reportable items and of subject inventions, interim new technology summary reports, final new technology summary reports, and utilization reports, as well as a copy of any written statement or correspondence with respect to such matters submitted therewith.

(3) Consult with the Patent Representative whenever a question arises as to whether a given reportable item is to be considered a subject invention and whether it was made in the performance of work under the contract.

(4) Forward to the Patent Representative all correspondence relating to invention waivers under the New Technology—Other than a Small Business Firm or Nonprofit Organization clause or election of title under the Patent Rights—Ownership by the Contractor clause.

(5) Upon receipt of the final new technology summary report required by the clause, and upon determination that the contract work is complete, consult with the COR to determine whether the contractor has complied with the clause's invention reporting requirements. If so, the New Technology Representative shall certify compliance, obtain the Patent Representative's concurrence, and forward the certification to the contracting officer.

(c) The Patent Representative shall review each reportable item to ascertain whether it is to be considered a subject invention, obtain any determinations required by paragraph (b) of the clause at [1852.227-70](#), New Technology—Other than a Small Business Firm or Nonprofit Organization, and notify the contractor. As to any subject invention, the Patent Representative shall—

(1) Ensure that the contractor has provided sufficient information to protect the Government's rights and interests in it and, if applicable, to permit the preparation, filing, and prosecution of patent applications;

(2) Determine inventorship;

(3) Ensure the preparation of instruments establishing the Government's rights; and

(4) Conduct selected reviews to ensure that subject inventions are identified, adequately documented, and timely reported or disclosed.

(d) Either the New Technology Representative or the Patent Representative, in consultation with the other, may prepare opinions, make determinations, and otherwise advise the contracting officer with respect to any withholding of payment under paragraph (g) of the clause at [1852.227-70](#), New Technology—Other than a Small Business Firm or Nonprofit Organization. Either the New Technology Representative or the Patent Representative may represent the contracting officer for the purpose of examining the contractor's books, records, and other documents in accordance with paragraph (f) of the clause and take corrective action as appropriate. However, no action may be taken by either the New Technology Representative or the Patent Representative that would constitute a final decision under the Disputes clause, involve any change or increase in the work required to be performed under the contract that is inconsistent with any right of appeal provided in FAR 27.304-4 or 14 CFR 1245, subpart 1, or otherwise be outside the scope of the contract.

~~(e) The contracting officer shall not approve release of final payment under the contract and, if applicable, any reserve set aside under the withholding provisions of the clause for deficiencies and delinquent reporting not corrected as of the time of the submission of the final report by the contractor until receipt of the New Technology Representative's certification of compliance, and the Patent Representative's concurrence.]~~

#### ~~1827.305-270 Reserved.~~

#### ~~1827.305-271 New technology reporting plan.~~

~~In contracts with an estimated cost in excess of \$2,500,000 (or less when appropriate) that contain the clause at [1852.227-70](#), New Technology—Other than a Small Business Firm or Nonprofit Organization, the contracting officer may require the contractor to submit, for post-award Government approval, a detailed plan for new technology reporting that demonstrates an adequate understanding of and commitment to the reporting requirements of the clause.~~

#### ~~1827.305-3 Securing invention rights acquired by the Government.~~

~~When the Government acquires the entire right to, title to, and interest in an invention under the clause at [1852.227-70](#), New Technology—Other than a Small Business Firm or Nonprofit Organization, a determination of title is to be made in accordance with Section 20135(b) of the Act (51 U.S.C. 20135(b)), and reflected in appropriate instruments executed by NASA and forwarded to the contractor by the contracting officer.~~

### **Subpart 1827.4—Rights in Data and Copyrights**

#### **1827.404 Basic rights in data clause.**

#### ~~1827.404-2 Limited rights data and restricted computer software.~~

~~(c) *Protection of limited rights data specified for delivery.* The contracting officer shall consult with the center patent or intellectual property counsel regarding any questions concerning the delivery of limited rights data and/or the use of Alternate II that may arise from an offeror's response to the provision at FAR 52.227-15, Representation of Limited Rights Data and Restricted Computer Software, or during negotiations.~~

~~(d) *Protection of restricted computer software specified for delivery.* The contracting officer shall consult with the center patent or intellectual property counsel regarding any questions concerning the delivery of restricted computer software and/or the use of Alternate III that may arise from an offeror's response to the provision at FAR 52.227-15 Representation of Limited Rights Data and Restricted Computer Software, or during negotiations.~~

#### ~~1827.404-3 Data Rights in Basic and Applied Research.~~

~~(a)(3) Contracting Officers shall consult with the Center Patent or Intellectual Property counsel to determine the applicable rights in data clauses for basic or applied research contracts performed solely by a college or university to include determining whether the use of 52.227-14 Alternate IV in lieu of 52.227-14 paragraph (c)(1) is appropriate.~~

#### ~~1827.404-3 [Copyrighted works.]~~

**[(a)(4) For each subject invention made in the performance of work under a NASA contract with other than a small business firm or nonprofit organization and for which waiver of title has been granted, the Administrator shall reserve an irrevocable, nonexclusive, nontransferable, royalty-free license for the practice of such invention throughout the world by or on behalf of the United States or any foreign Government in accordance with any treaty or agreement of the United States.]**

*{PN 22-15}*

#### **1827.404-4 Contractor's release, publication, and use of data.**

**[(a)-(b)(1)-(b)(1)(4) NASA's intent is to ensure the most expeditious dissemination of computer software developed by it or its contractor. Accordingly, when the clause at FAR 52.227-14, Rights in Data- General, is modified by [1852.227-14](#) (see 1827.409(b)(1)), the contractor shall not assert claim to copyright, publish, or release to others computer software first produced in the performance of a contract without the contracting officer's prior written permission. The prohibition on "release to others" does not prohibit release to another Federal Agency for its use or its contractors' use, as long as any such release is consistent with any restrictive markings on the software. Any restrictive markings on the software shall take precedence over the aforementioned release. Any such release to a Federal Agency in accordance with this paragraph shall limit use to the Federal Agency or its contractors for Government purposes only.]**

**(b)(2)[(1) The contracting officer may, in consultation with the center patent or intellectual property counsel, grant the contractor permission to assert claim to copyright, publish, or release to others computer software first produced in the performance of a contract if—**

**(i) The contractor has identified an existing commercial computer software product line or proposes a new one and states a positive intention of incorporating identified computer software first produced under the contract into that line, either directly itself or through a licensee;**

**(ii) The contractor has identified an existing open source software project or proposes a new one and states a positive intention of incorporating identified computer software first produced under the contract into that project, or has been instructed by the Agency to incorporate software first produced under the contract into an open source software project or otherwise release the software as open source software;**

**(iii) The contractor has made, or will be required to make, substantial contributions to the development of the computer software by co-funding or by cost-sharing, or by contributing resources (including but not limited to agreement to provide continuing maintenance and update of the software at no cost for Governmental use); or**

**(iv) The concurrence of the Agency Counsel for Intellectual Property, or designee, is obtained.**

**(c)(1)The contractor's request for permission in accordance with 1827.404-4(b) may be made either before contract award or during contract performance.]**

**~~(2) If the basis for permitting the assertion under 1827.404-4(b)(1) is subparagraph (i), then the permission shall be granted by a contract modification prepared by the contracting officer in consultation with the Center patent or intellectual property counsel that contains appropriate assurances that the computer software will be incorporated into an existing or proposed new commercial computer software product line within a specified reasonable time, with contingencies enabling the Government to obtain the right to distribute the software for commercial use, including the right to obtain assignment of copyright where applicable, in order to prevent the computer software from being suppressed or abandoned by the contractor.~~**

**~~(ii) If the basis for permitting the assertion under 1827.404-4(b)(1) is subparagraph (ii), then the permission shall be granted by a contract modification prepared by the contracting officer in~~**

consultation with the Center patent or intellectual property counsel that contains appropriate assurances that the computer software will be incorporated into an existing or proposed new open source project within a specified reasonable time, with contingencies enabling the Government to obtain the right to distribute the software for open source development, including the right to obtain assignment of copyright where applicable, in order to prevent the computer software from being suppressed or abandoned by the contractor.

(iii) If the basis for permitting the assertion under 1827.404-4(b)(1) is subparagraph (iii), then the permission shall be granted by a contract modification that contains appropriate assurances that the agreed contributions to the Government are fulfilled, with contingencies enabling the Government to obtain assignment of copyright if such contributions do not occur in order to prevent the computer software from being suppressed or abandoned by the contractor.

(iv) If the basis for permitting the assertion under 1827.404-4(b)(1) is subparagraph (iv), then the permission shall be granted by a contract modification prepared by the contracting officer in consultation with the Center patent or intellectual property counsel that contains appropriate assurances as required by the Agency Counsel for Intellectual Property, or designee, including at the very least the right to obtain assignment of copyright in order to prevent the computer software from being suppressed or abandoned by the contractor.

(3) When any permission to copyright is granted, any copyright license retained by the Government shall be of the same scope as set forth in subparagraph (c)(1) of the clause at FAR 52.227-14 and without any obligation of confidentiality on the part of the Government unless, in accordance with 1827.404-4(b)(2)(iii), the contributions of the Contractor are considered "substantial" for the purposes of FAR 27.408 (i.e., approximately 50 percent), in which case rights consistent with FAR 27.408 may be negotiated for the computer software in question.

(d) If the contractor has not been granted permission to assert claim to copyright, subparagraph (d)(4)(ii) of the clause at FAR 52.227-14, Rights in Data--General (as modified by [1852.227-14](#)) enables NASA to direct the contractor to assert claim to copyright in computer software first produced under the contract and to assign, or obtain the assignment of, such copyright to the Government or its designated assignee. The contracting officer may, in consultation with the center patent or intellectual property counsel, so direct the contractor in situations where copyright protection is considered necessary in furtherance of Agency mission objectives, needed to support specific Agency programs, or necessary to meet statutory requirements.

#### **1827.404-5 Unauthorized, omitted, or incorrect markings.**

(a) *Unauthorized marking of data.* The contracting officer shall consult with the center patent or intellectual property counsel before taking any action regarding unauthorized markings of data under paragraph (e) of the clause at FAR 52.227-14, Rights in Data--General.

(b) *Omitted or incorrect notices.* The contracting officer shall consult with the center patent or intellectual property counsel before agreeing to add or correct any markings on data under paragraph (f) of the clause at FAR 52.227-14, Rights in Data--General.

#### **1827.405 Other data rights provisions**

##### **1827.405-3 Commercial computer software.**

When contracting for commercial computer software, follow FAR part 12 procedures. (See FAR subparts 12.212 and 12.216.)

##### **1827.405-4 Other existing data.**

(e) ——— See 1827.409(m) for use of the clause at [1852.227-88](#), Government furnished computer software and related technical data.

## **1827.406 Acquisition of data**

### **1827.406-1 General.**

(b) Requirements for delivering technical data relating to standard commercial products and commercial services, components, or processes should be kept to the absolute minimum consistent with the purpose for which they are being procured. Normally, a vendor's manuals for installation, operation, or maintenance and repair and/or form, fit, and function data are adequate.

### **1827.408409(b)(1)(vii) Co-sponsored research and development activities.**

The contracting officer shall consult with the center patent or intellectual property counsel before limiting the acquisition of or acquiring less than unlimited rights to any data developed under contracts involving co-sponsored research and development activities.

## **1827.409 Solicitation provisions and contract clauses.**

See [PCD 21-02](#) for further guidance related to FAR 27.409(h).

(b)(1) When the clause at FAR 52.227-14, Rights in Data—General, is included in a solicitation or contract, it shall be modified as set forth at 1852.227-14. ~~In contracts for basic or applied research to be performed solely by universities and colleges, the contracting officer shall consult with the center patent or intellectual property counsel regarding the addition of subparagraph (4) as set forth at 1852.227-14 to paragraph (d) of the clause at FAR 52.227-14 and they will consider the guidance provided at FAR 27.404-4.~~

~~(2) The contracting officer, with the concurrence of the center patent or intellectual property counsel, is the approval authority for use of Alternate I of the clause at FAR 52.227-14. An example of its use is where the principal purpose of the contract (such as a contract for basic or applied research) does not involve the development, use, or delivery of items, components, or processes that are intended to be acquired for use by or for the Government (either under the contract in question or under any anticipated follow-on contracts relating to the same subject matter).~~

~~(3) The contracting officer shall review the disclosure purposes listed in FAR 27.404-2(e)(1)(i)-(v) and, in consultation with the center patent or intellectual property counsel, determine which disclosure purposes apply based on the nature of the acquisition, and add them to paragraph (g)(3) of Alternate II of the clause at FAR 52.227-14, Rights in Data—General. If none apply, the CO shall insert “none.” Additions to those specific purposes listed may be made only with the approval of the procurement officer and concurrence of the center patent or intellectual property counsel.~~

~~(4) The contracting officer shall consult with the center patent or intellectual property counsel regarding the acquisition of restricted computer software with greater or lesser rights than those set forth in Alternate III of the clause at FAR 52.227-14, Rights in Data—General. Where it is impractical to actually modify the notice of Alternate III, such greater or lesser rights may be indicated by express reference in a separate clause in the contract or by a collateral agreement that addresses the change in the restricted rights.~~

~~(5) The contracting officer, with the concurrence of the center patent or intellectual property counsel, is the approval authority for the use of Alternate IV in any contract other than a contract for basic or applied research to be performed solely by a college or university (but not for the management or operation of Government facilities). See the guidance at FAR 27.404-3(a)(3).~~

(d) The clause at 52.227-16, Additional Data Requirements, shall be used in all solicitations and

contracts involving experimental, developmental, research, or demonstration work (other than basic or applied research to be performed under a contract solely by a university or college when the contract amount will be \$500,000 or less), unless after consultation between the Contracting Officer and the center patent or intellectual property counsel a determination is made otherwise.

~~(g) The contracting officer shall use the clause at [1852.227-86](#), Commercial Computer Software—Licensing, in lieu of 1852.227-19, Commercial Computer Software—Restricted Rights (including, as applicable, using 1852.227-19 with its Alternates I and/or II), when it is considered appropriate for the acquisition of existing computer software.~~

~~(h) Normally the clause at 52.227-20, Rights in Data—SBIR Program, is the only data rights clause used in SBIR contracts. However, if during the performance of an SBIR contract (Phase I, Phase II, or Phase III) the need arises for NASA to obtain delivery of limited rights data or restricted computer software as defined in the clause at FAR 52.227-20, and the contractor agrees to such delivery, the limited rights data or restricted computer software may be acquired by modification of the contract (for example, by adding the clause at FAR 52.227-14 with any appropriate Alternates and making it applicable only to the limited rights data or restricted computer software to be delivered), or under a separate agreement, using the rights and related restrictions as set forth in FAR 27.404-2 as a guide.~~

(h) If the contract is a Small Business Innovation Research (SBIR) **[or Small Business Technology Transfer (STTR)]** contract, insert the clause at [52.227-20](#), Rights in Data-SBIR **[and STTR]** Program[s] **[(DEVIATION) (JAN 2026)]** in all Phase I, Phase II, and Phase III contracts awarded under **[either]** the Small Business Innovation Research **[(SBIR) or Small Business Technology Transfer (STTR)]** Program[s, **both**] established pursuant to **[15 U. S.C. 638]**. ~~The SBIR [or STTR] protection period may be extended in accordance with the Small Business Administration’s “Small Business Innovation Research Program Policy Directive” (September 24, 2002).~~ **This clause implements 15 U.S.C. 638 and the Small Business Administration’s “Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) Program Policy Directive” (84 FR 12794, April 2, 2019; see [www.sbir.gov](#)).** **[This clause includes an SBIR/STTR protection period of 20 years.]** After award of the contract, the contractor and the contracting officer may negotiate a **different [longer] SBIR/STTR protection period than the one specified in the SBIR/STTR Rights Notice referenced in paragraph (d) of the clause.** **If a different [longer] SBIR/STTR protection period is negotiated, paragraph (d) requires the contractor to revise the SBIR/STTR Rights Notice to reflect the negotiated period.]**

~~(i) Reserved.~~

~~(k)(i) The contracting officer shall add paragraph (e) as set forth in [1852.227-19\(a\)](#) to the clause at FAR 52.227-19, Commercial Computer Software—Restricted Rights, when it is contemplated that updates, correction notices, consultation information, and other similar items of information relating to commercial computer software delivered under a purchase order or contract are available and their receipt can be facilitated by signing a vendor supplied agreement, registration forms, or cards and returning them directly to the vendor.~~

~~(ii) The contracting officer shall add paragraph (f) as set forth at [1852.227-19\(b\)](#) to the clause at FAR 52.227-19, Commercial Computer Software—Restricted Rights when portions of a contractor's standard commercial license or lease agreement consistent with the clause, Federal laws, standard industry practices, and the FAR are to be incorporated into the purchase order or contract.~~

~~(l)(m)(1) The contracting officer, shall consult with the center patent or intellectual property counsel and the installation software release authority to determine when to use the clause at [1852.227-88](#), Government furnished computer software and related technical data.~~

(2) The clause [1852.227-88, **Government-furnished computer software and related technical data**] may be included in, or added to, the contract when it is contemplated that computer software and related technical data will be provided to the contractor as Government-furnished information for use in performing the contract.

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**PART 1852  
SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

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**PART 1852  
SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

**Subpart 1852.2—Text of Provisions and Clauses**

**1852.227-11 Patent Rights—Ownership by the Contractor (APR 2015) (DEVIATION JAN 2016)**

As prescribed at 1827.303(b)(1), modify the clause at FAR 52.227-11 by:

- (1) Adding the following subparagraphs (5) and (6) to paragraph (c) of the basic clause;
- (2) By adding the following subparagraph (iii) to paragraph (e)(1) of the basic clause;
- (3) By using the following paragraph (j) in lieu of paragraph (j) of the basic clause; and
- (4) By using the following subparagraph (2) in lieu of subparagraph (k)(2) of the basic clause:

~~(5) The Contractor may use whatever format is convenient to disclose reportable items required in subparagraph (e)(2). NASA prefers that the Contractor use either the electronic or paper version of NASA Form 1679, Disclosure of Invention and New Technology (including computer software) to disclose reportable items. Both the electronic and paper versions of NASA Form 1679 may be accessed at the electronic New Technology Reporting Web site <http://invention.nasa.gov>.~~ **[Per Executive Order 14104, Federal Research and Development in Support of Domestic Manufacturing and United States Jobs (dated July 28, 2023), paragraphs 4(e) and (4)(f), the contractor shall report all subject inventions required in 52.227-11(c)(1) to NASA by:**

**(i) First, completing input of all such subject inventions into the National Institute of Standards and Technology (NIST) iEdison website at <https://www.nist.gov/iedison>. No such input shall be considered to be complete until the iEdison system assigns the inputted report an Invention Report Number.**

**(ii) Next, to complete the process of disclosing the invention to NASA, the contractor shall report the resulting number to:**

- (A) The Contracting Officer's Representative (COR);**
- (B) The New Technology Representative (identified in this contract at 1852.227.72);**
- (C) The Patent Representative (identified in this contract at 1852.227.72); and**
- (D) The Contracting Officer (CO).**

**(iii) The contractor shall complete the disclosure by the deadline stated in 52.227-11(c)(1).]**

(6) In addition to the above, the Contractor shall provide the New Technology Representative identified in this contract at 1852.227-72 the following:

~~(i) An interim new technology summary report every 12 months (or such longer period as the Contracting Officer may specify) from the date of the contract, listing all subject inventions required to be disclosed during the period or certifying that there were none.~~

~~(ii) A final new technology summary report, within 3 months after completion of the contracted work, listing all subject inventions or certifying that there were none.~~

(iii) Upon request, the filing date, serial number and title, a copy of the patent application, and patent number and issue date for any subject invention in any country in which the contractor has applied for patents.

(iv) An irrevocable power to inspect and make copies of the patent application file, by the Government, when a Federal Government employee is a coinventor.

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### Part 1852 – Solicitation Provisions and Contract Clauses

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(End of addition)

(iii) The Contractor shall, through employee agreements or other suitable Contractor policy, require that its employees “will assign and do hereby assign” to the Contractor all right, title, and interest in any subject invention under this Contract.

(End of addition)

(j) For the purposes of this clause, communications between the Contractor and the Government shall be as specified in the NASA FAR Supplement at 1852.227-72, Designation of New Technology Representative and Patent Representative.

(End of addition)

(2) The Contractor shall include the clause in the NASA FAR Supplement at 1852.227- 70, New Technology-Other than a Small Business Firm or Nonprofit Organization, suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental, developmental, research, design, or engineering work to be performed by other than a small business firm or nonprofit organization. At all tiers, the New Technology-Other than a Small Business Firm or Nonprofit Organization clause shall be modified to identify the parties as follows: references to the Government are not changed, and in all references to the Contractor the subcontractor is substituted for the Contractor so that the subcontractor has all rights and obligations of the Contractor in the clause.

(End of substitution)

#### **1852.227-14 Rights In Data--General. (APR 2015).**

As prescribed in 1827.409(b)(1), modify the clause at FAR 52.227-14 by: (1) adding the following subparagraph (iv) to paragraph (c)(1) of the basic clause; (2) by adding the following provision to the end of Alternate IV if used in lieu of paragraph (c)(1) of the basic clause; and (3) by adding subparagraph (4) to paragraph (d) of the basic clause:

(iv) The contractor shall mark each scientific and technical article based on or containing data first produced in the performance of this contract and submitted for publication in academic, technical or professional journals, symposia proceedings or similar works with a notice, similar in all material respects to the following, on the cover or first page of the article, reflecting the Government’s non-exclusive worldwide license in the copyright.

#### GOVERNMENT RIGHTS NOTICE

This work was authored by employees of [insert the name of the Contractor] under Contract No. [insert contract number] with the National Aeronautics and Space Administration. The United States Government retains and the publisher, by accepting the article for publication, acknowledges that the United States Government retains a non-exclusive, paid-up, irrevocable, worldwide license to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, or allow others to do so, for United States Government purposes. All other rights are reserved by the copyright owner.

(End of Notice)

(End of addition)

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The contractor shall mark each scientific and technical article based on or containing data first produced in the performance of this contract and submitted for publication in academic, technical or professional journals, symposia proceedings or similar works with a notice, similar in all material respects to the following, on the cover or first page of the article, reflecting the Government's non-exclusive worldwide license in the copyright.

#### GOVERNMENT RIGHTS NOTICE

This work was authored by employees of [insert the name of the Contractor] under Contract No. [insert contract number] with the National Aeronautics and Space Administration. The United States Government retains and the publisher, by accepting the article for publication, acknowledges that the United States Government retains a non-exclusive, paid-up, irrevocable, worldwide license to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, or allow others to do so, for United States Government purposes. All other rights are reserved by the copyright owner.

(End of Notice)

(End of addition)

(4)(i) The Contractor agrees not to assert claim to copyright, publish or release to others any computer software first produced in the performance of this contract unless the Contracting Officer authorizes through a contract modification.

(ii) The prohibition on "release to others", as set forth in (d)(4)(i), does not prohibit release to another Federal Agency for its use or its contractors' use, as long as any such release is consistent with any restrictive markings on the software. Any restrictive markings on the software shall take precedence over the aforementioned release. Any release to a Federal Agency shall limit use to the Federal Agency or its contractors for Government purposes only. Any other release shall require the Contracting Officer's prior written permission.

(iii) 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)(4)(i) of this clause, the Contracting Officer may direct the contractor to assert, or authorize the assertion of, a claim to copyright in such data and to assign, or obtain the assignment of, such copyright to the Government or its designated assignee.

(End of addition)

#### ~~1852.227-19 Commercial Computer Software—Restricted Rights. (JUL 1997)~~

~~(a) As prescribed in 1827.409(k)(i), add the following paragraph (e) to the basic clause at FAR 52.227-19:~~

~~(e) For the purposes of receiving updates, correction notices, consultation information, or other similar information regarding any computer software delivered under this contract/purchase order, the NASA Contracting Officer or the NASA Contracting Officer's Technical Representative/User may sign any vendor-supplied agreements, registration forms, or cards and return them directly to the vendor; however, such signing shall not alter any of the rights or obligations of either NASA or the vendor set forth in this clause or elsewhere in this contract/purchase order.~~

~~(End of addition)~~

~~(b) As prescribed in 1827.409(k)(ii), add the following paragraph (f) to the basic clause at FAR 52.227-19:~~

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~~(f) Subject to paragraphs (a) through (e) above, those applicable portions of the Contractor's standard commercial license or lease agreement pertaining to any computer software delivered under this purchase order/contract that are consistent with Federal laws, standard industry practices, and the Federal Acquisition Regulation (FAR) shall be incorporated into and made part of this purchase order/contract.~~

~~(End of addition)~~

#### **1852.227-70 New Technology-Other than a Small Business Firm or Nonprofit Organization.**

As prescribed in 1827.303(d)(1), insert the following clause:

NEW TECHNOLOGY—OTHER THAN A SMALL BUSINESS FIRM OR NONPROFIT ORGANIZATION  
(APR 2015) [(DEVIATION JAN 2026)]

(b) Definitions. As used in this clause—

*"Administrator"* means the Administrator [or **Deputy Administrator**] of the National Aeronautics and Space Administration (NASA) ~~or duly authorized representative.~~

*"Contract"* has the meaning provided in the Federal Acquisition Regulation (FAR), Subpart 2.1-Definitions.

*"Made"* means—

(1) When used in relation to any invention other than a plant variety, the conception or first actual reduction to practice of the invention; or

(2) When used in relation to a plant variety, that the Contractor has at least tentatively determined that the variety has been reproduced with recognized characteristics.

*"Nonprofit organization"* means a domestic university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)), or any domestic nonprofit scientific or educational organization qualified under a State nonprofit organization statute.

*"Practical application"* means to manufacture, in the case of a composition or product; to practice, in the case of a process or method; or to operate, in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.

*"Reportable item"* means any invention, discovery, improvement, or innovation of the contractor, whether or not patentable or otherwise protectable under Title 35 of the United States Code, made in the performance of any work under any NASA contract or in the performance of any work that is reimbursable under any clause in any NASA contract providing for reimbursement of costs incurred before the effective date of the contract. Reportable items include, but are not limited to, new processes, machines, manufactures, and compositions of matter, and improvements to, or new applications of, existing processes, machines, manufactures, and compositions of matter. Reportable items also include new computer programs, and improvements to, or new applications of, existing computer programs, whether or not copyrightable or otherwise protectable under Title 17 of the United States Code.

*"Small business firm"* means a domestic small business concern as defined at 15 U.S.C. 632 and implementing regulations of the Administrator of the Small Business Administration. (For the purpose of this definition, the criteria and size standard adopted in the FAR Subpart 2.1 definitions for "small business concern" and for "small business subcontractor" will be used.)

*"Subject invention"* means any reportable item which is or may be patentable or otherwise protectable under Title 35 of the United States Code, or any novel variety of plant that is or may be protectable under the Plant Variety Protection Act (7 U.S.C. 2321, et seq.).

(c) Allocation of principal rights.

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(1) Presumption of title.

(i) Any reportable item that the Administrator considers to be a subject invention shall be presumed to have been made in the manner specified in paragraph (1)(A) or (1)(B) of Section 20135(b) of the National Aeronautics and Space Act (51 U.S.C. 20135(b)) (hereinafter "the Act"), and the above presumption shall be conclusive unless at the time of reporting the reportable item in accordance with paragraph (e)(2) of this clause the Contractor submits to the Contracting Officer a written statement, containing supporting details, demonstrating that the reportable item was not made in the manner specified in the Act.

(ii) Regardless of whether title to a given subject invention would otherwise be subject to an advance waiver or is the subject of a petition for waiver as described in paragraph (b)(3) of this clause, the Contractor may nevertheless file the statement described in paragraph (b)(1)(i) of this clause. The Administrator will review the information furnished by the Contractor in any such statement and any other available information relating to the circumstances surrounding the making of the subject invention and will notify the Contractor whether the Administrator has determined that the subject invention was made in the manner specified in paragraph (1)(A) or (1)(B) of Section 20135(b) of the Act.

(2) Property rights in subject inventions. Each subject invention for which the presumption of paragraph (b)(1)(i) of this clause is conclusive or for which there has been a determination that it was made in the manner specified in paragraph (1)(A) or (1)(B) of Section 20135(b) of the Act shall be the exclusive property of the United States as represented by NASA unless the Administrator waives all or any part of the rights of the United States, as provided in paragraph (b)(3) of this clause.

(3) Waiver of rights.

(i) Section 20135(g) of the Act provides for the promulgation of regulations by which the Administrator may waive all or any part of the rights of the United States with respect to any invention or class of inventions made or that may be made under conditions specified in paragraph (1)(A) or (1)(B) of Section 20135(b) of the Act. The promulgated NASA Patent Waiver Regulations, 14 CFR Part 1245, Subpart 1, provide procedures for the Contractor to submit petitions (requests) for waiver of rights and guidance for NASA in acting on petitions for such waiver of rights.

(ii) As provided in 14 CFR 1245, Subpart 1, the Contractor may petition, either prior to execution of the contract or within 30 days after execution of the contract, for advance waiver of rights to any invention or class of inventions that may be made under a contract. If such a petition is not submitted, or if after submission it is denied, the Contractor (or an employee inventor of the Contractor) may petition for waiver of rights to an identified subject invention within eight months of first disclosure of invention in accordance with paragraph (e)(2) of this clause, or within such longer period as may be authorized in accordance with 14 CFR 1245.105.

(d) Minimum rights reserved by the Government.

(1) With respect to each subject invention for which a waiver of rights has been granted, the Government reserves--

(i) An irrevocable, nonexclusive, nontransferable, royalty-free license for the practice of such invention throughout the world by or on behalf of the United States or any foreign government in accordance with any treaty or agreement with the United States; and

(ii) Such other rights as stated in 14 CFR 1245.107.

(2) Nothing contained in this paragraph (c) shall be considered to grant to the Government any rights with respect to any invention other than a subject invention.

(e) Minimum rights to the Contractor.

(1) The Contractor is hereby granted a revocable, nonexclusive, royalty-free license in each patent application filed in any country on a subject invention in which the Government has title and in any

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resulting patent, unless the Contractor fails to disclose the subject invention within the times specified in paragraph (e)(2) of this clause. The Contractor's license extends to its domestic subsidiaries and affiliates, if any, within the corporate structure of which the Contractor is a party and includes the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded. The license is transferable only with the approval of the Administrator except when transferred to the successor of that part of the Contractor's business to which the invention pertains.

(2) The Contractor's domestic license may be revoked or modified by the Administrator to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with 37 CFR Part 404, Licensing of Government Owned Inventions. The Contractor's license will not be revoked in that field of use or the geographical areas in which the Contractor has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of the Administrator to the extent the Contractor, its licensees, or its domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.

(3) Before revoking or modifying the Contractor's license, the Contractor will be provided a written notice of the Administrator's intention to revoke or modify the license, and the Contractor will be allowed 30 days (or such other time as may be authorized by the Administrator for good cause shown) after the notice to show cause why the license should not be revoked or modified. The Contractor has the right to appeal to the Administrator any decision concerning the revocation or modification of its license.

(f) Contractor's obligations.

(1) The Contractor shall establish and maintain active and effective procedures to assure that reportable items are promptly identified and disclosed to Contractor personnel responsible for the administration of this New Technology-Other than a Small Business Firm or Nonprofit Organization clause within six months of conception and/or first actual reduction to practice, whichever occurs first in the performance of work under this contract. These procedures shall include the maintenance of laboratory notebooks or equivalent records and other records as are reasonably necessary to document the conception and/or the first actual reduction to practice of the reportable items, and records that show that the procedures for identifying and disclosing reportable items are followed. Upon request, the Contractor shall furnish the Contracting Officer a description of such procedures for evaluation and for determination as to their effectiveness.

(2) The Contractor shall disclose in writing each reportable item to the Contracting Officer within two months after the inventor discloses it in writing to Contractor personnel responsible for the administration of this New Technology-Other than a Small Business Firm or Nonprofit Organization clause or within six months after the Contractor becomes aware that a reportable item has been made, whichever is earlier, but in any event for subject inventions before any on sale, public use, or publication of such invention known to the Contractor. The disclosure to the agency shall identify the inventor(s) or innovator(s) and this contract under which the reportable item was made. It shall be sufficiently complete in technical detail to convey a clear understanding, to the extent known at the time of the disclosure, of the nature, purpose, operation, and physical, chemical, biological, or electrical characteristics of the reportable item. The disclosure shall also identify any publication, sale or offer for sale, or public use of any subject invention and whether a manuscript describing such invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to the agency, the Contractor will promptly notify the agency of the acceptance of any manuscript describing a subject invention for publication or of any sale, offer for sale, or public use planned by the Contractor for such invention.

(3) ~~The Contractor may use whatever format is convenient to disclose reportable items required in subparagraph (e)(2). NASA prefers that the Contractor use either the electronic or paper version of NASA Form 1679, Disclosure of Invention and New Technology (including computer software) to disclose~~

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reportable items. Both the electronic and paper versions of NASA Form 1679 may be accessed at the electronic New Technology Reporting Web site <http://invention.nasa.gov>. [Per Executive Order 14104, Federal Research and Development in Support of Domestic Manufacturing and United States Jobs (dated July 28, 2023), paragraphs 4(e) and (4)(f), the contractor shall report all subject inventions required in 52.227-11(c)(1) to NASA by:

(i) First, completing input of all such subject inventions into the National Institute of Standards and Technology (NIST) iEdison website at <https://www.nist.gov/iedison>. No such input shall be considered to be complete until the iEdison system assigns the inputted report an Invention Report Number.

(ii) Next, to complete the process of disclosing the invention to NASA, the contractor shall report the resulting number to:

- (A) The Contracting Officer's Representative (COR);
- (B) The New Technology Representative (identified in this contract at 1852.227.72);
- (C) The Patent Representative (identified in this contract at 1852.227.72); and
- (D) The Contracting Officer (CO).

(iii) The contractor shall complete the disclosure by the deadline stated in 52.227-11(c)(1).]

~~(5) The Contractor shall furnish the Contracting Officer the following:~~

~~(iv) Interim new technology summary reports every 12 months (or such longer period as may be specified by the Contracting Officer) from the date of the contract, listing reportable items during that period, and certifying that all reportable items have been disclosed (or that there are no such inventions).~~

~~(v) A final new technology summary report, within 3 months after completion of the contracted work, listing all reportable items or certifying that there were no such reportable items, and listing all subcontracts at any tier containing a patent rights clause or certifying that there were no such subcontracts.~~

(4) The Contractor agrees, upon written request of the Contracting Officer, to furnish additional technical and other information available to the Contractor as is necessary for the preparation of a patent application on a subject invention and for the prosecution of the patent application, and to execute all papers necessary to file patent applications on subject inventions and to establish the Government's rights in the subject inventions.

(5) The Contractor agrees, subject to paragraph 27.302(j) of the Federal Acquisition Regulation (FAR), that the Government may duplicate and disclose subject invention disclosures and all other reports and papers furnished or required to be furnished pursuant to this clause.

(g) Examination of records relating to inventions.

(1) The Contracting Officer or any authorized representative shall, until 3 years after final payment under this contract, have the right to examine any books (including laboratory notebooks), records, and documents of the Contractor relating to the conception or first actual reduction to practice of inventions in the same field of technology as the work under this contract to determine whether—

(i) Any such inventions are subject inventions;

(ii) The Contractor has established and maintained the procedures required by paragraph (e)(1) of this clause; and

(iii) The Contractor and its inventors have complied with the procedures.

(2) If the Contracting Officer learns of an unreported Contractor invention that the Contracting Officer believes may be a subject invention, the Contracting Officer may require the Contractor to disclose the invention to the agency for a determination of ownership rights.

(3) Any examination of records under this paragraph will be subject to appropriate conditions to protect the confidentiality of the information involved.

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(h) Withholding of payment (this paragraph does not apply to subcontracts).

(1) Any time before final payment under this contract, the Contracting Officer may, in the Government's interest, withhold payment until a reserve not exceeding \$50,000 or 5 percent of the amount of this contract, whichever is less, shall have been set aside if, in the Contracting Officer's opinion, the Contractor fails to--

- (i) Establish, maintain, and follow effective procedures for identifying and disclosing reportable items pursuant to paragraph (e)(1) of this clause;
- (ii) Disclose any reportable items pursuant to paragraph (e)(2) of this clause;
- ~~(iii) Deliver acceptable interim new technology summary reports pursuant to paragraph (e)(4)(i) of this clause or a final new technology summary report pursuant to (e)(4)(ii); or~~
- ~~(iv) [(iii)]~~ Provide the information regarding subcontracts pursuant to paragraph (h)(4) of this clause.

(2) Such reserve or balance shall be withheld until the Contracting Officer has determined that the Contractor has rectified whatever deficiencies exist and has delivered all reports, disclosures, and other information required by this clause.

(3) Final payment under this contract shall not be made before the Contractor delivers to the Contracting Officer all disclosures of reportable items required by paragraph (e)(2) of this clause; ~~and an acceptable final new technology summary report pursuant to paragraph (e)(4)(ii) of this clause.~~

(4) The Contracting Officer may decrease or increase the sums withheld up to the maximum authorized above. No amount shall be withheld under this paragraph while the amount specified by this paragraph is being withheld under other provisions of the contract. The withholding of any amount or the subsequent payment thereof shall not be construed as a waiver of any Government rights.

(i) Subcontracts.

(1) Unless otherwise authorized or directed by the Contracting Officer, the Contractor shall—

(i) Include this clause (suitably modified to identify the parties) in any subcontract hereunder (regardless of tier) with other than a small business firm or nonprofit organization for the performance of experimental, developmental, or research work; or

(ii) Include the clause at FAR 52.227-11, as modified by 1852.227-11, (suitably modified to identify the parties) in any subcontract hereunder (regardless of tier) with a small business firm or nonprofit organization for the performance of experimental, developmental, or research work; and

(iii) Modify the applicable clause in any subcontract hereunder (regardless of tier) to identify the parties as follows: references to the Government are not changed, and in all references to the Contractor, the subcontractor is substituted for the Contractor so that the subcontractor has all rights and obligations of the Contractor in the clause.

(2) In the event of a refusal by a prospective subcontractor to accept such a clause the Contractor:

(i) Shall promptly submit a written notice to the Contracting Officer setting forth the subcontractor's reasons for such refusal and other pertinent information that may expedite disposition of the matter; and

(ii) Shall not proceed with such subcontract without the written authorization of the Contracting Officer.

(3) In the case of subcontracts at any tier, the agency, subcontractor, and Contractor agree that the mutual obligations of the parties created by this clause constitute a contract between the subcontractor and NASA with respect to those matters covered by this clause.

(4) The Contractor shall promptly notify the Contracting Officer in writing upon the award of any subcontract hereunder (regardless of tier) by identifying the subcontractor, the applicable patent rights

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clause in the subcontract, the work to be performed under the subcontract, and the dates of award and estimated completion. Upon request of the Contracting Officer, the Contractor shall furnish a copy of such subcontract, and, no more frequently than annually, a listing of the subcontracts that have been awarded.

(5) The subcontractor will retain all rights provided for the Contractor in the clause of subparagraph (h)(1)(i) or (ii) of this clause, whichever is included in the subcontract, and the Contractor will not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractor's subject inventions.

(j) Preference for United States industry. Unless provided otherwise, no Contractor that receives title to any subject invention and no assignee of any such Contractor shall grant to any person the exclusive right to use or sell any subject invention in the United States unless such person agrees that any products embodying the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement may be waived by the Administrator upon a showing by the Contractor or assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

(End of clause)

**1852.227-71 Requests for Waiver of Rights to Inventions.**

As prescribed in 1827.303(d)(2), insert the following provision in all solicitations that include the clause at 1852.227-70, New Technology-Other than a Small Business Firm or Nonprofit Organization:

REQUESTS FOR WAIVER OF RIGHTS TO INVENTIONS (~~APR 2015~~) [(DEVIATION JAN 2026)]

(a) In accordance with Section 20135(g) of the National Aeronautics and Space Act (51 U.S.C. 20135(g)) (hereinafter "the Act") and the NASA Patent Waiver Regulations, 14 CFR Part 1245, Subpart 1, NASA may waive all or any part of the rights of the United States with respect to any invention or class of inventions made or that may be made under a NASA contract or subcontract with other than a small business firm or a domestic nonprofit organization if the Administrator determines that the interests of the United States will be served thereby. Waiver of rights in inventions made or that may be made under such NASA contract or subcontract may be requested at different time periods. Advance waiver of rights to any invention or class of inventions that may be made under a contract or subcontract may be requested prior to the execution of the contract or subcontract, or within 30 days after execution by the selected contractor (or such longer period as may be specified by the Contracting Officer). In addition, waiver of rights to an individually identified invention or to a class of inventions made and reported under a contract or subcontract may be requested, even though a request for an advance waiver was not made or, if made, was not granted.

(b) Each request for waiver of rights shall be by petition to the Administrator. No specific forms need be used, but the request should contain a positive statement that waiver of rights is being requested under the NASA Patent Waiver Regulations; a clear indication of whether the request is for an advance waiver or for a waiver of rights for an individually identified invention or class of inventions; whether foreign rights are also requested and, if so, the countries, and a citation of the specific section or sections of the regulations under which such rights are requested. For individually identified inventions or a class of inventions, the petition shall identify each invention with particularity (e.g., by NASA's assigned number to the Disclosure of Invention and New Technology report or by title and inventorship). For advance waivers, the petition shall identify the invention or class of inventions that the Contractor believes will be made under the contract and for which waiver is being requested. To meet the statutory standard of "any invention or class of inventions," the petition shall be directed to a single invention or to inventions directed to a particular process, machine, manufacture, or composition of matter, or to a narrowly-drawn, focused area of

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technology. Additionally, each petition shall include an identification of the petitioner; place of business and address; if petitioner is represented by counsel, the name, address and telephone number of the counsel; the name, address, and telephone number of the party with whom to communicate when the request is acted upon; the signature of the petitioner or authorized representative; and the date of signature. In general, waivers are granted in order to provide for the widest practicable dissemination of new technology resulting from NASA programs, and to promote early utilization, expeditious development, and continued availability of this new technology for commercial purposes and the public benefit. Thus, it is preferable that the petition also include a description of the Contractor's plan for commercializing the invention or class of inventions for which waiver is being requested (e.g., identify specific fields of use).

(c) Petitions for advance waiver of rights should, preferably, be included with the proposal, or at least in advance of contract negotiations. Petitions for advance waiver, prior to contract execution, shall be submitted to the Contracting Officer. All other petitions shall be submitted to the Patent Representative designated in the contract.

(d) Petitions submitted with proposals selected for negotiation of a contract will be forwarded by the Contracting Officer to the installation Patent Counsel for processing and then to the Inventions and Contributions Board. ~~The Board will consider these petitions and where the Board makes the findings to support the waiver, the Board will recommend to the Administrator that waiver be granted, and will notify the petitioner and the Contracting Officer of the Administrator's determination. The Contracting Officer will be informed by the Board whenever there is insufficient time or information or other reasons to permit a decision to be made without unduly delaying the execution of the contract. In the latter event, the petitioner will be so notified by the Contracting Officer. All other petitions will be processed by installation Patent Counsel and forwarded to the Board. The Board shall notify the petitioner of its action and if waiver is granted, the conditions, reservations, and obligations thereof will be fed in the Instrument of Waiver.~~ Whenever the Board notifies a petitioner of a recommendation adverse to, or different from, the waiver requested, the petitioner may request reconsideration under procedures set forth in the Regulations.

(End of provision)

**1852.227-72 Designation of New Technology Representative and Patent Representative.**

As prescribed in 1827.303(d)(3), insert the following clause:

DESIGNATION OF NEW TECHNOLOGY REPRESENTATIVE AND PATENT REPRESENTATIVE (APR 2015)~~[(DEVIATION) (JAN 2026)]~~

(a) For purposes of administration of the clause ~~of~~ **[in]** this contract entitled **[either]** “New Technology-Other than a Small Business Firm or Nonprofit Organization” or “Patent Rights—Ownership by the Contractor,” ~~whichever is included,~~ the **[cognizant center]** ~~installation~~ New Technology **[Representatives]** and Patent Representatives identified at [http://prod.nais.nasa.gov/portals/pl/new\\_tech\\_poes.html](http://prod.nais.nasa.gov/portals/pl/new_tech_poes.html) [\[https://prod.nais.nasa.gov/pub/pub\\_library/techrep.html\]](https://prod.nais.nasa.gov/pub/pub_library/techrep.html) are hereby designated by the Contracting Officer to administer such clause for the installation(s) involved.

(b) Disclosures of reportable items and of subject inventions, ~~interim new technology summary reports, final new technology summary reports,~~ utilization reports, and other reports required by the applicable “New Technology” or “Patent Rights-Ownership by the Contractor” clause, as well as any correspondence with respect to such matters, shall be directed to the New Technology Representative unless transmitted in response to correspondence or request from the Patent Representative. Inquiries or requests regarding disposition of rights, election of rights, or related matters shall be directed to the Patent Representative. This clause shall be

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included in any subcontract hereunder requiring a “New Technology-Other than a Small Business Firm or Nonprofit Organization” clause or “Patent Rights—Ownership by the Contractor” clause, unless otherwise authorized or directed by the Contracting Officer. [Additional] ~~The respective~~ responsibilities and authorities of the aforementioned representatives are set forth in 1827.305-270[303(b)(2)] of the NASA FAR Supplement.

(End of clause)

#### **1852.227-84 Patent Rights Clauses.**

As prescribed in 1827.303(a)(1), the contracting officer shall insert the following provision in solicitations for experimental, developmental, or research work to be performed in the United States when the eventual awardee may be a small business or a nonprofit organization:

#### PATENT RIGHTS CLAUSES (APR 2015)

This solicitation contains the patent rights clauses of FAR 52.227-11 (as modified by the NFS) and NFS 1852.227-70. If the contract resulting from this solicitation is awarded to a small business or nonprofit organization, the clause at NFS 1852.227-70 shall not apply. If the award is to other than a small business or nonprofit organization, the clause at FAR 52.227-11 shall not apply.

#### **1852.227-85 Invention Reporting and Rights—Foreign.**

As prescribed in 1827.303(e)(1), insert the following clause:

#### INVENTION REPORTING AND RIGHTS—FOREIGN (APR 2015)[(DEVIATION JAN 2026)]

- (a) As used in this clause, the term "invention" means any invention, discovery or improvement, and "made" means the conception or first actual demonstration that the invention is useful and operable.
- (b) The Contractor shall report promptly to the Contracting Officer each invention made in the performance of work under this contract. The report of each such invention shall—
- (1) Identify the inventor(s) by full name; and
  - (2) Include such full and complete technical information concerning the invention as is necessary to enable an understanding of the nature and operation thereof.
- (c) The Contractor hereby grants to the Government of the United States of America as represented by the Administrator of the National Aeronautics and Space Administration the full right, title and interest in and to each such invention throughout the world, except for the foreign country in which this contract is to be performed. As to such foreign country, Contractor hereby grants to the Government of the United States of America as represented by the Administrator of the National Aeronautics and Space Administration an irrevocable, nontransferable, nonexclusive, royalty-free license to practice each such invention by or on behalf of the United States of America or any foreign government pursuant to any treaty or agreement with the United States of America, provided that Contractor within a reasonable time files a patent application in that foreign country for each such invention. Where Contractor does not elect to file such patent application for any such invention in that foreign country, full right, title and interest in and to such invention in that foreign country shall reside in the Government of the United States of America as represented by the Administrator of the National Aeronautics and Space Administration.
- (d) The Contractor agrees to execute or to secure the execution of such legal instruments as may be necessary to confirm and to protect the rights granted by paragraph (c) of this clause, including papers incident

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to the filing and prosecution of patent applications.

~~(e) Upon completion of the contract work, and prior to final payment, the Contractor shall submit to the Contracting Officer a final report listing all inventions required to be reported under this contract or certifying that no such inventions have been made.~~

(f) In each subcontract, the Contractor awards under this contract where the performance of research, experimental design, engineering, or developmental work is contemplated, the Contractor shall include this clause (suitably modified to substitute the subcontractor in place of the Contractor) and the name and address of the Contracting Officer.

(End of Clause)

~~1852.227-86 Commercial Computer Software License.~~

~~As prescribed in 1827.409(g), insert the following clause:~~

~~COMMERCIAL COMPUTER SOFTWARE LICENSE (APR 2015)~~

~~(a) Any delivered commercial computer software (including documentation thereof) developed at private expense and claimed as proprietary shall be subject to the restricted rights in paragraph (d) of this clause. Where the vendor/contractor proposes its standard commercial software license, those applicable portions thereof consistent with Federal laws, standard industry practices, the Federal Acquisition Regulations (FAR) and the NASA FAR Supplement, including the restricted rights in paragraph (d) of this clause, are incorporated into and made a part of this purchase order/contract. Those portions of the vendor's/contractor's standard commercial license or lease agreement that conflict with Federal law (e.g., indemnity provisions or choice of law provisions that specify other than Federal law) are not incorporated into and made a part of this purchase order/contract and do not apply to any computer software delivered under this purchase order/contract.~~

~~(b) If the vendor/contractor does not propose its standard commercial software license until after this purchase order/contract has been issued, or until at or after the time the computer software is delivered, such license shall nevertheless be deemed incorporated into and made a part of this purchase order/contract under the same terms and conditions as in paragraph (a) of this clause. For purposes of receiving updates, correction notices, consultation, and similar activities on the computer software, no document associated with the aforementioned activities shall alter the terms of this clause unless such document explicitly references this clause and an intent to amend this clause and is signed by the NASA Contracting Officer.~~

~~€ The vendor's/contractor's acceptance is expressly limited to the terms and conditions of this purchase order/contract. If the specified computer software is shipped or delivered to NASA, it shall be understood that the vendor/contractor has unconditionally accepted the terms and conditions set forth in this clause, and that such terms and conditions (including the incorporated license) constitute the entire agreement between the parties concerning rights in the computer software.~~

~~(d) The following restricted rights shall apply:~~

~~(1) The commercial computer software may not be used, reproduced, or disclosed by the Government, or Government contractors or their subcontractors at any tier, except as provided below or otherwise expressly stated in the purchase order/contract.~~

~~(2) The commercial computer software may be—~~

~~(i) Used, or copied for use, in or with any computer owned or leased by, or on behalf of, the Government; provided, the software is not used, nor copied for use, in or with more than~~

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- ~~one computer simultaneously, unless otherwise permitted by the license incorporated under paragraphs (a) or (b) of this clause;~~
- ~~(ii) Reproduced for safekeeping (archives) or backup purposes;~~
- ~~(iii) Modified, adapted, or combined with other computer software, provided that the modified, combined, or adapted portions of the derivative software incorporating restricted computer software shall be subject to the same restricted rights; and~~
- ~~(iv) Disclosed and reproduced for use by Government contractors or their subcontractors in accordance with the restricted rights in subparagraphs (d)(2)(i), (ii), and (iii) of this clause; provided they have the Government's permission to use the computer software and have also agreed to protect the computer software from unauthorized use and disclosure.~~
- ~~(3) If the incorporated vendor's/contractor's software license contains provisions or rights that are less restrictive than the restricted rights in paragraph (d)(2) of this clause, then the less restrictive provisions or rights shall prevail.~~
- ~~(4) If the computer software is otherwise available without disclosure restrictions, it is licensed to the Government, without disclosure restrictions, with the rights in paragraphs (d)(2) and (3) of this clause.~~
- ~~(5) The Contractor shall affix a notice substantially as follows to any commercial computer software delivered under this contract:~~

~~Notice—Notwithstanding any other lease or license agreement that may pertain to, or accompany the delivery of, this computer software, the rights of the Government regarding its use, reproduction and disclosure are set forth in Government Contract No. \_\_\_\_\_.~~

~~(End of clause)~~

**1852.227-88 Government-furnished computer software and related technical data.**

As prescribed in 1827.409(m[j])(4), insert the following clause:

GOVERNMENT-FURNISHED COMPUTER SOFTWARE  
AND RELATED TECHNICAL DATA  
(APR 2015)

(a) Definitions. As used in this clause—

“Government-furnished computer software” or “GFCS” means computer software: (1) in the possession of, or directly acquired by, the Government whereby the Government has title or license rights thereto; and (2) subsequently furnished to the Contractor for performance of a Government contract.

“Computer software,” “data” and “technical data” have the meaning provided in the Federal Acquisition Regulations (FAR) Subpart 2.1—Definitions or the Rights in Data – General clause (FAR 52.227-14).

(b) The Government shall furnish to the Contractor the GFCS described in this contract or in writing by the Contracting Officer. The Government shall furnish any related technical data needed for the intended use of the GFCS.

(c) Use of GFCS and related technical data. The Contractor shall use the GFCS and related technical data, and any modified or enhanced versions thereof, only for performing work under this contract unless otherwise provided for in this contract or approved in writing by the Contracting Officer.

(1) The Contractor shall not, without the express written permission of the Contracting Officer, reproduce, distribute copies, prepare derivative works, perform publicly, display publicly, release, or disclose the GFCS or related technical data to any person except for the performance of work under this contract.

(2) The Contractor shall not modify or enhance the GFCS unless this contract specifically identifies the modifications and enhancements as work to be performed. If the GFCS is modified or enhanced pursuant to this contract, the Contractor shall provide to the Government the complete source code, if any, and all related

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documentation of the modified or enhanced GFCS.

(3) Allocation of rights associated with any GFCS or related technical data modified or enhanced under this contract shall be defined by the FAR Rights in Data clause(s) included in this contract (as modified by any applicable NASA FAR Supplement clauses). If no Rights in Data clause is included in this contract, then the FAR Rights in Data – General (52.227-14) as modified by the NASA FAR Supplement (1852.227-14) shall apply to all data first produced in the performance of this contract and all data delivered under this contract.

(4) The Contractor may provide the GFCS, and any modified or enhanced versions thereof, to subcontractors as necessary for the performance of work under this contract. Before release of the GFCS, and any modified or enhanced versions thereof, to such subcontractors (at any tier), the Contractor shall insert, or require the insertion of, this clause, including this paragraph (c)(4), suitably modified to identify the parties as follows: references to the Government are not changed, and in all references to the Contractor the subcontractor is substituted for the Contractor so that the subcontractor has all rights and obligations of the Contractor in the clause.

(d) The Government provides the GFCS in an “AS-IS” condition. The Government makes no warranty with respect to the serviceability and/or suitability of the GFCS for contract performance.

(e) The Contracting Officer may by written notice, at any time—

- (1) Increase or decrease the amount of GFCS under this contract;
- (2) Substitute other GFCS for the GFCS previously furnished, to be furnished, or to be acquired by the Contractor for the Government under this contract;
- (3) Withdraw authority to use the GFCS or related technical data; or
- (4) Instruct the Contractor to return or dispose of the GFCS and related technical data.

(f) Title to or license rights in GFCS. The Government shall retain title to or license rights in all GFCS. Title to or license rights in GFCS shall not be affected by its incorporation into or attachment to any data not owned by or licensed to the Government.

(g) Waiver of Claims and Indemnification. The Contractor agrees to waive any and all claims against the Government and shall indemnify and hold harmless the Government, its agents, and employees from every claim or liability, including attorneys fees, court costs, and expenses, arising out of, or in any way related to, the misuse or unauthorized modification, reproduction, release, performance, display, or disclosure of the GFCS and related technical data by the Contractor, a subcontractor, or by any person to whom the Contractor has released or disclosed such GFCS or related technical data.

(h) Flow-down of Waiver of Claims and Indemnification. In the event a contract includes this NASA FAR Supplement clause 1852.227-88, the Contractor shall include the foregoing clause 1852.227-88(g), suitably modified to identify the parties, in all subcontracts, regardless of tier, which involve use of the GFCS and/or related technical data in any way. At all tiers, the clause shall be modified to define GFCS as it is defined herein and to identify the parties as follows: references to the Government are not changed, and in all references to the Contractor the subcontractor is substituted for the Contractor so that the subcontractor has all rights and obligations of the Contractor in the clause. In subcontracts, at any tier, the Government, the subcontractor, and the Contractor agree that the mutual obligations of the parties created by this clause 1852.227-88 constitute a contract between the subcontractor and the Government with respect to the matters covered by the clause.

(End of clause)

## FAR PART 52 -- SOLICITATION PROVISIONS AND CONTRACT CLAUSES

\* \* \* \* \*

### 52.227-20 Rights in Data-SBIR [and STTR] Program[s].

As prescribed in 27.409(h) [and 1827.409(h)], insert the following clause:

#### RIGHTS IN DATA-SBIR [AND STTR] PROGRAM[S] (MAY 2014)-[(DEVIATION JAN 2026)]

(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 data* means data (other than computer software) developed at private expense that embody trade secrets or are commercial or financial and confidential or privileged.

*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.

*SBIR [and STTR] data* means data first produced by a Contractor that is a small business concern in performance of a small business innovation research [(SBIR)] contract[ or a small business technology transfer program (STTR) contract] issued under the authority of 15 U.S.C. 638, which data are not generally known, and which data without obligation as to its confidentiality have not been made available to others by the Contractor or are not already available to the Government.

*SBIR [and STTR] rights* means the rights in SBIR [and STTR] data set forth in the SBIR [and STTR]

Rights Notice of paragraph (d) of this clause.

*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. 116.)

*Unlimited rights* means the right 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 whatsoever, and to have or permit others to do so.

(b) Allocation of rights.

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

(i) Data specifically identified in this contract as data to be delivered without restriction;

(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 SBIR [or STTR] data in accordance with paragraph (d) of this clause or for limited rights data or restricted computer software in accordance with paragraph (f) 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 (e)(1) of this clause;

(ii) Protect SBIR [and STTR] rights in SBIR [and STTR] data delivered under this contract in the manner and to the extent provided in paragraph (d) of this clause;

(iii) Substantiate use of, add, or correct SBIR [and STTR] rights or copyright notices and to take other appropriate action, in accordance with paragraph (e) of this clause; and

(iv) Withhold from delivery those data which are limited rights data or restricted computer software to the extent provided in paragraph (f) of this clause.

(c) Copyright-

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

(i) Except as otherwise specifically provided in this contract, the Contractor may assert copyright subsisting in any data first produced in the performance of this contract.

(ii) When asserting copyright, the Contractor shall affix the applicable copyright notice 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 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, by or on behalf of the Government.

(2) Data not first produced in the performance of this contract. The Contractor shall not, without prior written permission of the Contracting Officer, incorporate in data delivered under this contract any data that are not first produced in the performance of this contract unless the Contractor (i) identifies such data and (ii) grants to the Government, or acquires on its behalf, a license of the same scope as set forth in paragraph (e)(1) of this clause.

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

(d) Rights to **[and marking of] SBIR [and STTR] data.**

(1) The Contractor is authorized to affix the following “SBIR **[or STTR]** Rights Notice” to SBIR **[or STTR]** data delivered under this contract and the Government will treat the data, subject to the provisions of paragraphs e and (f) of this clause, in accordance with the notice:

SBIR **[or STTR]** Rights Notice (DEC 2007) **[(DEVIATION JAN 2026)]**

These SBIR **[or STTR]** data are furnished with SBIR **[or STTR]** rights under Contract No. \_\_\_\_\_ **[, date of award \_\_\_\_\_,]** (and subcontract \_\_\_\_\_, if appropriate). For a period of **[20]** years, ~~unless extended in accordance with FAR 27.409(h), after acceptance of all items to be delivered under this contract~~ **[starting from the date of award]** the Government will use these data for Government purposes only, and they shall not be disclosed outside the Government (including disclosure for procurement purposes) during such period without permission of the Contractor, **[(unless specifically permitted elsewhere in the contract)]** except that, subject to the foregoing use and disclosure prohibitions, these data may be disclosed for use by support Contractors. After the **[SBIR or STTR]** protection period **[ends]**, the Government has a paid-up license to use, and to authorize others to use on its behalf, these data for Government purposes, but is relieved of all disclosure prohibitions and assumes no liability for unauthorized use of these data by third parties. This notice shall be affixed to any reproductions of these data, in whole or in part.

(End of notice)

(2) The Government’s sole obligation with respect to any SBIR **[or STTR]** data shall be as set forth in this paragraph (d).

(e) Omitted or incorrect markings.

(1) Data delivered to the Government without any notice authorized by paragraph (d) of this clause shall be deemed to have been furnished with unlimited rights. The Government assumes no liability 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, and 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 use of the proposed notice is authorized; and
- (iv) Acknowledges that the Government has no liability with respect to the disclosure or use of any such data made prior to the addition of the notice or resulting from the omission of the notice.

(3) If the 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.

(f) Protection of limited rights data and restricted computer software. The Contractor may withhold from delivery qualifying limited rights data and restricted computer software that are not identified in paragraphs (b)(1)(i), (ii), and (iii) of this clause. As a condition to this withholding, the Contractor shall identify the data being withheld, and furnish form, fit, and function data instead.

(g) 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 not proceed with the subcontract award without further authorization in writing from the Contracting Officer.

(h) Relationship to patents. 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)

\* \* \* \* \*

**SUBPART 1852.301—SOLICITATION PROVISIONS AND CONTRACT CLAUSES MATRIX**

**Key:**

<b>P or C</b>	Provision or Clause	<b>FP SUP</b>	Fixed-Price Supply	<b>CR CON</b>	Cost-Reimbursement Construction
*	* indicates the clause flows-down to subcontracts	<b>CR SUP</b>	Cost-Reimbursement Supply	<b>T&amp;M LH</b>	Time & Material/Labor Hour
<b>UCF</b>	Uniform Contract Format Section	<b>FP R&amp;D</b>	Fixed-Price Research and Development	<b>A&amp;E</b>	Architect-Engineering
<b>IBR or FT</b>	Indicates whether the clause may be incorporated by reference (IBR) or shall be used in full text (FT).	<b>CR R&amp;D</b>	Cost-Reimbursement Research and Development	<b>ID DEL</b>	Indefinite Delivery
<b>Fill In</b>	“X” indicates the clause requires text to be filled-in by the CO.	<b>FP SVC</b>	Fixed-Price Service	<b>TRN</b>	Transportation
<b>Mod or Sub</b>	“X” indicates the CO is authorized to make specific modifications to the clause or to use the clause on a "substantially as stated/substantially the same as basis.	<b>CR SVC</b>	Cost-Reimbursement Service	<b>SAP</b>	Simplified Acquisition Procedures
				<b>CI</b>	Commercial Item
<b>APP DEV</b>	“X” indicates the clause has an approved deviation. The PCD authorizing the deviation is listed.	<b>FP CON</b>	Fixed-Price Construction	<b>Clause application</b>	R = Required A = Required-When-Applicable O = Optional

Clause/ Provision Number	Title	Date	Prescribed In	P or C	UCF	IBR or FT	Fill In	Mod or Sub	App Dev	FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	A&E	ID DEL	TRN	SAP	CI	
<a href="#">1852.227-11</a>	Patent Rights - Ownership by the Contractor	(APR 2015) [(DEVIATION JAN 2026)] modifies FAR clause	<a href="#">1827.303(b)(1)</a>	C*	I	IBR						A	A	A	A	A	A	A					A	
<a href="#">1852.227-14</a>	Rights in Data - General	(APR 2015) modifies FAR clause	<a href="#">1827.409(b)(1)</a>	C	I	IBR				A	A	A	A	A	A			A		A	A	A		
<del><a href="#">1852.227-17</a></del>	<b>RESERVED</b>																							
<del><a href="#">1852.227-19</a></del>	<del>Commercial Computer Software— Restricted Rights.</del>	<del>(JUL 1997) modifies FAR clause</del>	<del><a href="#">1827.409(k)(i) and (ii)</a></del>	<del>C</del>	<del>I</del>	<del>IBR</del>				<del>A</del>				<del>A</del>									<del>A</del>	
<a href="#">1852.227-70</a>	New Technology- Other than a Small Business Firm or Nonprofit Organization	(APR 2015) [(DEVIATION JAN 2026)]	<a href="#">1827.303(d)(1)</a>	C*	G	IBR						A	A	A	A	A	A	A					A	
<a href="#">1852.227-71</a>	Requests for Waiver of Rights to Inventions	(APR 2015) [(DEVIATION JAN 2026)]	<a href="#">1827.303(d)(2)</a>	P	L	IBR						A	A	A	A	A	A	A					A	
<a href="#">1852.227-72</a>	Designation of New Technology Representative and Patent Representative	(APR 2015) [(DEVIATION JAN 2026)]	<a href="#">1827.303(d)(3)</a>	C*	G	IBR						A	A	A	A	A	A	A					A	

**SUBPART 1852.301—SOLICITATION PROVISIONS AND CONTRACT CLAUSES MATRIX**

**Key:**

<b>P or C</b>	Provision or Clause	<b>FP SUP</b>	Fixed-Price Supply	<b>CR CON</b>	Cost-Reimbursement Construction
*	* indicates the clause flows-down to subcontracts	<b>CR SUP</b>	Cost-Reimbursement Supply	<b>T&amp;M LH</b>	Time & Material/Labor Hour
<b>UCF</b>	Uniform Contract Format Section	<b>FP R&amp;D</b>	Fixed-Price Research and Development	<b>A&amp;E</b>	Architect-Engineering
<b>IBR or FT</b>	Indicates whether the clause may be incorporated by reference (IBR) or shall be used in full text (FT).	<b>CR R&amp;D</b>	Cost-Reimbursement Research and Development	<b>ID DEL</b>	Indefinite Delivery
<b>Fill In</b>	“X” indicates the clause requires text to be filled-in by the CO.	<b>FP SVC</b>	Fixed-Price Service	<b>TRN</b>	Transportation
<b>Mod or Sub</b>	“X” indicates the CO is authorized to make specific modifications to the clause or to use the clause on a "substantially as stated/substantially the same as basis.	<b>CR SVC</b>	Cost-Reimbursement Service	<b>SAP</b>	Simplified Acquisition Procedures
				<b>CI</b>	Commercial Item
<b>APP DEV</b>	“X” indicates the clause has an approved deviation. The PCD authorizing the deviation is listed.	<b>FP CON</b>	Fixed-Price Construction	<b>Clause application</b>	R = Required A = Required-When-Applicable O = Optional

Clause/ Provision Number	Title	Date	Prescribed In	P or C	UCF	IBR or FT	Fill In	Mod or Sub	App Dev	FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	A&E	ID DEL	TRN	SAP	CI
<a href="#">1852.227-84</a>	Patent Rights Clauses	(APR 2015)	<a href="#">1827.303(a)(1)</a>	P	L	IBR						A	A	A	A	A	A	A				A	
<a href="#">1852.227-85</a>	Invention Reporting and Rights-- Foreign	(APR 2015) [(DEVIATION JAN 2026)]	<a href="#">1827.303(e)(1)</a>	C*	G	IBR							A	A	A	A	A	A				A	
<a href="#">1852.227-86</a>	<del>Commercial Computer Software Licensing</del>	(APR 2015)	<a href="#">1827.409(g)</a>	<del>C</del>	<del>G</del>	<del>IBR</del>				A	A	A	A	A	A	A	A	A		A		A	
<a href="#">1852.227-88</a>	Government-furnished Computer Software and Related Technical Data.	(APR 2015)	<a href="#">1827.409(m)(1) and (2)</a>	C	I	IBR				A	A	A	A	A	A	A	A	A	A	A	A	A	

CLEAN REGULATORY VERSION WITH CHANGES INCORPORATED:

**PART 1827  
PATENTS, DATA, AND COPYRIGHTS**

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**PART 1827**  
**PATENTS, DATA, AND COPYRIGHTS**

**Subpart 1827.1—General**

**1827.000[101] ~~Scope of part~~ [Applicability]**

The provisions of FAR Part 27 apply to NASA acquisitions unless specifically excepted in this part.

**Subpart 1827.3 - Patent Rights under Government Contracts**

"Reportable item" means any invention, discovery, improvement, or innovation of the contractor, whether or not patentable or otherwise protectable under Title 35 of the United States Code, made in the performance of any work under any NASA contract or in the performance of any work that is reimbursable under any clause in any NASA contract providing for reimbursement of costs incurred before the effective date of the contract. Reportable items include, but are not limited to, new processes, machines, manufactures, and compositions of matter, and improvements to, or new applications of, existing processes, machines, manufactures, and compositions of matter. Reportable items also include new computer programs, and improvements to, or new applications of, existing computer programs, whether or not copyrightable or otherwise protectable under Title 17 of the United States Code.

"Subject invention," in lieu of the definition in FAR 27.301, means any reportable item that is or may be patentable or otherwise protectable under Title 35 of the United States Code, or any novel variety of plant that is or may be protectable under the Plant Variety Protection

**1827.303 Solicitation provisions and contract clauses.**

(a)(1) The contracting officer shall insert the provision at [1852.227-84](#), Patent Rights Clauses, in solicitations for experimental, developmental, or research work to be performed in the United States when the eventual awardee may be a small business or a nonprofit organization.

(b)(1) When the clause at FAR 52.227-11 is included in a solicitation or contract, it shall be modified as set forth at [1852.227-11](#). For each contract containing the clause at 52.227-11, Patent Rights—Ownership by the Contractor, or the clause at [1852.227-70](#), New Technology-Other than a Small Business Firm or Nonprofit Organization:

(iii) To qualify for the clause at FAR 52.227-11, a prospective contractor shall be required to represent itself as either a small business firm or a nonprofit organization. If the contracting officer has reason to question the size or nonprofit status of the prospective contractor, the contracting officer will follow the procedures at FAR 27.304-1(a).

(viii) The contracting officer shall complete paragraph (j) of the clause at FAR 52.227-11 with the following: "Communications and information submissions required by this clause will be made to the individuals identified in the clause at [1852.227-72](#), Designation of New Technology Representative and Patent Representative."

(ix) See also paragraph (d)(3) of this section.

(2) The contracting officer shall furnish, or require the contractor to furnish, directly to the New Technology Representative and the Patent Representative, a copy of each contract (and modifications thereto), and copies of the final technical report, interim technical progress reports, and other pertinent material provided under the contract, unless the New Technology Representative or Patent Representative indicates otherwise. The Patent Representative shall review each reportable item to ascertain whether it is to

be considered a subject invention, obtain any determinations required by paragraph (b) of the clause at [1852.227-70](#), New Technology—Other than a Small Business Firm or Nonprofit Organization, and notify the contractor.

(8) Alternate IV to 52.227-11 is not used in NASA contracts. See instead 1827.303(b)(1).

(d)(1) The contracting officer shall insert the clause at [1852.227-70](#), New Technology- Other than a Small Business Firm or Nonprofit Organization, in all NASA solicitations and contracts with other than a small business firm or a nonprofit organization (i.e., those subject to section 21035(b) of the Act), if the contract is to be performed in the United States, and has as a purpose the performance of experimental, developmental, research, design, or engineering work. Contracts for any of the following purposes may be considered to involve the performance of work of the type described above (these examples are illustrative and not all inclusive):

- (i) Conduct of basic or applied research.
- (ii) Development, design, or manufacture for the first time of any machine, article of manufacture, or composition of matter to satisfy NASA's specifications or special requirements.
- (iii) Development of any process or technique for attaining a NASA objective not readily attainable through the practice of a previously developed process or technique.
- (iv) Testing of, evaluation of, or experimentation with a machine, process, concept, or technique to determine whether it is suitable or could be made suitable for a NASA objective.
- (v) Construction work or architect-engineer services having as a purpose the performance of experimental, developmental, or research work or test and evaluation studies involving such work.
- (vi) The operation of facilities or the coordination and direction of the work of others, if these activities involve performing work of any of the types described in paragraphs (i) through (v) of this section.

(4) The contracting officer shall insert the provision at [1852.227-71](#), Requests for Waiver of Rights to Inventions, in all solicitations that include the clause at [1852.227-70](#), New Technology-Other than a Small Business Firm or Nonprofit Organization (see paragraph (d)(1) of this section).

(5) The contracting officer shall insert the clause at [1852.227-72](#), Designation of New Technology Representative and Patent Representative, in all solicitations and contracts containing either of the clauses at FAR 52.227-11, Patent Rights—Ownership by the Contractor, or [1852.227-70](#), New Technology-Other than a Small Business Firm or Nonprofit Organization (see paragraph (d)(1) of this section). It may also be inserted, upon consultation with the center patent or intellectual property counsel, in solicitations and contracts using another patent rights clause. The center New Technology and Patent Representatives are identified at [https://prod.nais.nasa.gov/pub/pub\\_library/techrep.html](https://prod.nais.nasa.gov/pub/pub_library/techrep.html).

(e)(1) Under any NASA contract with other than a small business or nonprofit organization (i.e., contracts subject to Section 20135(b) of the Act), title to subject inventions vests in NASA when the determinations of Section 20135(b)(1)(A) or (b)(1)(B) have been made.

(i) When work is to be performed outside the United States by contractors that are not domestic firms, the clause at [1852.227-85](#), Invention Reporting and Rights—Foreign, shall be used unless the contracting officer determines, with concurrence of the center patent or intellectual property counsel, that the objectives of the contract would be better served by use of the clause at FAR 52.227-13, Patent Rights—Ownership by the Government. For this purpose, the contracting officer may presume that a contractor is not a domestic firm unless it is known that the firm is not foreign owned, controlled, or influenced. (See FAR 27.304-3 regarding subcontracts with U.S. firms.)

(ii) *Contractor petitions for waiver of title.* {The procedures and instructions for contractors to submit petitions for waiver of rights in subject inventions are provided in the NASA Patent Waiver Regulations, 14 CFR Part 1245, Subpart 1, <http://www.gpo.gov/fdsys/pkg/CFR-2012-title14-vol5/pdf/CFR-2012-title14-vol5-part1245.pdf>. When a waiver of title is granted, the contractor's right to

title, the rights reserved by the Government, and other conditions and obligations of the waiver, such as requirements for reporting and filing patent applications on waived inventions, are provided in the NASA Patent Waiver Regulations, 14 CFR Part 1245, Subpart 1, and the Instrument of Waiver executed under those Regulations.

(e)(2) For NASA contracts, the contractor right to elect title under the FAR only applies to contracts with small businesses and nonprofit organizations. For other business entities, see subparagraph (b) of this section.

(e)(3)(iv) *Utilization reports.* For each subject invention made in the performance of work under a NASA contract with other than a small business firm or a nonprofit organization and for which waiver of title has been granted, the requirements for utilization reports shall be as set forth in the NASA Patent Waiver Regulations, 14 CFR Part 1245, Subpart 1, and the Instrument of Waiver executed under those Regulations.

## **1827.304 Procedures.**

### **1827.304-1 General.**

(b)(1) *Exceptions.* In any contract with other than a small business firm or nonprofit organization, the NASA Patent Waiver Regulations, 14 CFR Part 1245, Subpart 1, shall apply.

(c) *Greater rights determinations.* In any contract with other than a small business firm or a nonprofit organization and with respect to which advance waiver of rights has not been granted (see 1827.302(b)(3)), the contractor (or an employee-inventor of the contractor after consultation with the contractor) may request waiver of title to an individual identified subject invention pursuant to the NASA Patent Waiver Regulations, 14 CFR Part 1245, Subpart 1.

(c)(3) *Preference for United States industry.* For each subject invention made in the performance of work under a NASA contract with other than a small business firm or a nonprofit organization and for which waiver of title has been granted, waiver of the requirement for substantial manufacture in the United States shall be in accordance with Title 35 of the United States Code, Section 204.

(d) *Retention of rights by inventor.* The NASA Patent Waiver Regulations, 14 CFR Part 1245, Subpart 1, apply for any invention made in the performance of work under any contract with other than a small business firm or a nonprofit organization.

(f) *Revocation or modification of contractor's minimum rights.* The procedures for revoking or modifying the license to a contractor that is other than a small business firm or a nonprofit organization are described in 14 CFR 1245.108.

(g) *Exercise of march-in rights.* For contracts with other than a small business firm or a nonprofit organization, the procedures for the exercise of march-in rights shall be as set forth in the NASA Patent Waiver Regulations, 14 CFR Part 1245, Subpart 1.

(h) *Licenses and assignments under contracts with nonprofit organizations.* Contractor requests for assignments should be made to the Patent Representative designated in the clause at [1852.227-72](#).

(i) *New technology reporting plan* -- In contracts with an estimated cost in excess of \$2,500,000 (or less when appropriate) that contain the clause at [1852.227-70](#), New Technology—Other than a Small Business Firm or Nonprofit Organization, the contracting officer may require the contractor to submit, for post-award Government approval, a detailed plan for new technology reporting that demonstrates an adequate understanding of and commitment to the reporting requirements of the clause.

(j) *Securing invention rights acquired by the Government* -- When the Government acquires the entire right to, title to, and interest in an invention under the clause at [1852.227-70](#), New Technology—Other than a Small Business Firm or Nonprofit Organization, a determination of title is to be made in accordance with Section 20135(b) of the Act (51 U.S.C. 20135(b)), and reflected in appropriate instruments executed by NASA and forwarded to the contractor by the contracting officer.

(k) *Awards*. It is the policy of NASA to consider for a monetary award, when referred to the NASA Inventions and Contributions Board in accordance with 14 CFR Part 1240, Subpart 1, any subject invention reported to NASA in accordance with this subpart, and for which an application for patent has been filed.

(l) *Requirement for contractor prompt reporting of reportable items*. NASA contractors subject to Section 20135 of the National Aeronautics and Space Act (51 U.S.C. 20135) shall ensure the prompt reporting of reportable items in order to protect the Government's interest and to provide the widest practicable and appropriate dissemination, early utilization, expeditious development, and continued availability for the benefit of the scientific, industrial, and commercial communities and the general public.

#### **1827.304-2 Contracts placed by or for other Government agencies.**

(a)(3)(i) This subsection applies only to contracts placed by or for other agencies and not to task or delivery orders placed by or for other agencies against NASA Government-wide Acquisition Contracts (GWACs) or Multiple Agency Contracts (MACs).

(v) When a contract is placed for another agency with a small business or nonprofit organization and the agency does not request the use of a specific patent rights clause, the contracting officer shall use the clause at FAR 52.227-11, Patent Rights--Ownership by the Contractor as modified by [1852.227-11](#) (see 1827.303(b)(1)).

(vi) When a contract is placed for another agency with other than a small business or nonprofit organization, the contracting officer, in accordance with Section 20135 of the Act, shall use the clause at [1852.227-70](#), New Technology-Other than a Small Business Firm or Nonprofit Organization (see 1827.303(d)).

(vii) When work is to be performed outside the United States by contractors that are not domestic firms, the contracting officer shall use one of the clauses described in 1827.303(e)(1).

#### **1827.304-3 Subcontracts.**

(b) Unless otherwise authorized or directed by the contracting officer, contractors awarding subcontracts at any tier shall select and include in the subcontracts one of the clauses identified in subparagraphs (a)(1) or (a)(2) of this section. At all tiers, the applicable clause identified below shall be modified to identify the parties as follows: references to the Government are not changed, and in all references to the Contractor the subcontractor is substituted for the Contractor so that the subcontractor has all rights and obligations of the Contractor in the clause.

(1) The clause at [1852.227-70](#), New Technology-Other than a Small Business Firm or Nonprofit Organization, shall be used in any subcontract with other than a small business firm or a nonprofit organization if a purpose of the subcontract is the performance of experimental, developmental, research, design, or engineering work of any of the types described in 1827.303(d).

(2) The clause at FAR 52.227-11, Patent Rights--Ownership by the Contractor, modified by [1852.227-11](#) (see 1827.303(b)(1)), shall be used in any subcontract with a small business firm or a nonprofit organization if a purpose of the subcontract is the performance of experimental, developmental, or research work.

#### **1827.304-4 Appeals.**

FAR 27.304-4 shall apply unless otherwise provided in the NASA Patent Waiver Regulations, 14 CFR Part 1245, subpart 1.

### **Subpart 1827.4—Rights in Data and Copyrights**

#### **1827.404 Basic rights in data clause.**

##### **1827.404-3 Copyrighted works.**

(a)(4) For each subject invention made in the performance of work under a NASA contract with other than a small business firm or nonprofit organization and for which waiver of title has been granted, the Administrator shall reserve an irrevocable, nonexclusive, nontransferable, royalty-free license for the practice of such invention throughout the world by or on behalf of the United States or any foreign Government in accordance with any treaty or agreement of the United States.

##### **1827.404-4 Contractor's release, publication, and use of data.**

(a) NASA's intent is to ensure the most expeditious dissemination of computer software developed by it or its contractor. Accordingly, when the clause at FAR 52.227-14, Rights in Data- General, is modified by [1852.227-14](#) (see 1827.409(b)(1)), the contractor shall not assert claim to copyright, publish, or release to others computer software first produced in the performance of a contract without the contracting officer's prior written permission. The prohibition on "release to others" does not prohibit release to another Federal Agency for its use or its contractors' use, as long as any such release is consistent with any restrictive markings on the software. Any restrictive markings on the software shall take precedence over the aforementioned release. Any such release to a Federal Agency in accordance with this paragraph shall limit use to the Federal Agency or its contractors for Government purposes only.

(b)(1) The contracting officer may, in consultation with the center patent or intellectual property counsel, grant the contractor permission to assert claim to copyright, publish, or release to others computer software first produced in the performance of a contract if—

(i) The contractor has identified an existing commercial computer software product line or proposes a new one and states a positive intention of incorporating identified computer software first produced under the contract into that line, either directly itself or through a licensee;

(ii) The contractor has identified an existing open source software project or proposes a new one and states a positive intention of incorporating identified computer software first produced under the contract into that project, or has been instructed by the Agency to incorporate software first produced under the contract into an open source software project or otherwise release the software as open source software;

(iii) The contractor has made, or will be required to make, substantial contributions to the development of the computer software by co-funding or by cost-sharing, or by contributing resources (including but not limited to agreement to provide continuing maintenance and update of the software at no cost for Governmental use); or

(iv) The concurrence of the Agency Counsel for Intellectual Property, or designee, is obtained.

(c)(1) The contractor's request for permission in accordance with 1827.404-4(b) may be made either before contract award or during contract performance.]

(d)-If the contractor has not been granted permission to assert claim to copyright, subparagraph (d)(4)(ii) of the clause at FAR 52.227-14, Rights in Data--General (as modified by [1852.227-14](#))

enables NASA to direct the contractor to assert claim to copyright in computer software first produced under the contract and to assign, or obtain the assignment of, such copyright to the Government or its designated assignee. The contracting officer may, in consultation with the center patent or intellectual property counsel, so direct the contractor in situations where copyright protection is considered necessary in furtherance of Agency mission objectives, needed to support specific Agency programs, or necessary to meet statutory requirements.

**1827.409 Solicitation provisions and contract clauses.**

(b)(1) When the clause at FAR 52.227-14, Rights in Data—General, is included in a solicitation or contract, it shall be modified as set forth at 1852.227-14.

(e) The clause at 52.227-16, Additional Data Requirements, shall be used in all solicitations and contracts involving experimental, developmental, research, or demonstration work (other than basic or applied research to be performed under a contract solely by a university or college when the contract amount will be \$500,000 or less), unless after consultation between the Contracting Officer and the center patent or intellectual property counsel a determination is made otherwise.

(h) If the contract is a Small Business Innovation Research (SBIR) or Small Business Technology Transfer (STTR) contract, insert the clause at 52.227-20, Rights in Data-SBIR and STTR Programs (DEVIATION JAN 2026) in all Phase I, Phase II, and Phase III contracts awarded under either the Small Business Innovation Research (SBIR) or Small Business Technology Transfer (STTR) Programs, both established pursuant to [15 U. S.C. 638]. This clause implements 15 U.S.C. 638 and the Small Business Administration’s “Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) Program Policy Directive” (84 FR 12794, April 2, 2019; see [www.sbir.gov](http://www.sbir.gov)). This clause includes an SBIR/STTR protection period of 20 years. After award of the contract, the contractor and the contracting officer may negotiate a longer SBIR/STTR protection period than the one specified in the SBIR/STTR Rights Notice referenced in paragraph (d) of the clause. If a longer SBIR/STTR protection period is negotiated, paragraph (d) requires the contractor to revise the SBIR/STTR Rights Notice to reflect the negotiated period.

(j) The clause at 1852.227-88, Government-furnished computer software and related technical data, may be included in, or added to, the contract when it is contemplated that computer software and related technical data will be provided to the contractor as Government-furnished information for use in performing the contract.

**PART 1852  
SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

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**PART 1852  
SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

**Subpart 1852.2—Text of Provisions and Clauses**

**1852.227-11 Patent Rights—Ownership by the Contractor (APR 2015) (DEVIATION JAN 2026)**

As prescribed at 1827.303(b)(1), modify the clause at FAR 52.227-11 by:

- (1) Adding the following subparagraphs (5) and (6) to paragraph (c) of the basic clause;
- (2) By adding the following subparagraph (iii) to paragraph (e)(1) of the basic clause;
- (3) By using the following paragraph (j) in lieu of paragraph (j) of the basic clause; and
- (4) By using the following subparagraph (2) in lieu of subparagraph (k)(2) of the basic clause:

(5) Per Executive Order 14104, Federal Research and Development in Support of Domestic Manufacturing and United States Jobs (dated July 28, 2023), paragraphs 4(e) and (4)(f), the contractor shall report all subject inventions required in 52.227-11(c)(1) to NASA by:

(i) First, completing input of all such subject inventions into the National Institute of Standards and Technology (NIST) iEdison website at <https://www.nist.gov/iedison>. No such input shall be considered to be complete until the iEdison system assigns the inputted report an Invention Report Number.

(ii) Next, to complete the process of disclosing the invention to NASA, the contractor shall report the resulting number to:

- (A) The Contracting Officer's Representative (COR);
- (B) The New Technology Representative (identified in this contract at 1852.227.72);
- (C) The Patent Representative (identified in this contract at 1852.227.72); and
- (D) The Contracting Officer (CO).

(iii) The contractor shall complete the disclosure by the deadline stated in 52.227-11(c)(1).

(6) In addition to the above, the Contractor shall provide the New Technology Representative identified in this contract at 1852.227-72 the following:

(i) Upon request, the filing date, serial number and title, a copy of the patent application, and patent number and issue date for any subject invention in any country in which the contractor has applied for patents.

(ii) An irrevocable power to inspect and make copies of the patent application file, by the Government, when a Federal Government employee is a coinventor.

(End of addition)

(iii) The Contractor shall, through employee agreements or other suitable Contractor policy, require that its employees “will assign and do hereby assign” to the Contractor all right, title, and interest in any subject invention under this Contract.

(End of addition)

(j) For the purposes of this clause, communications between the Contractor and the Government shall be as specified in the NASA FAR Supplement at 1852.227-72, Designation of New Technology Representative and Patent Representative.

(End of addition)

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(2) The Contractor shall include the clause in the NASA FAR Supplement at 1852.227- 70, New Technology-Other than a Small Business Firm or Nonprofit Organization, suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental, developmental, research, design, or engineering work to be performed by other than a small business firm or nonprofit organization. At all tiers, the New Technology-Other than a Small Business Firm or Nonprofit Organization clause shall be modified to identify the parties as follows: references to the Government are not changed, and in all references to the Contractor the subcontractor is substituted for the Contractor so that the subcontractor has all rights and obligations of the Contractor in the clause.

(End of substitution)

#### **1852.227-14 Rights In Data--General. (APR 2015).**

As prescribed in 1827.409(b)(1), modify the clause at FAR 52.227-14 by: (1) adding the following subparagraph (iv) to paragraph (c)(1) of the basic clause; (2) by adding the following provision to the end of Alternate IV if used in lieu of paragraph (c)(1) of the basic clause; and (3) by adding subparagraph (4) to paragraph (d) of the basic clause:

(iv) The contractor shall mark each scientific and technical article based on or containing data first produced in the performance of this contract and submitted for publication in academic, technical or professional journals, symposia proceedings or similar works with a notice, similar in all material respects to the following, on the cover or first page of the article, reflecting the Government's non-exclusive worldwide license in the copyright.

#### GOVERNMENT RIGHTS NOTICE

This work was authored by employees of [insert the name of the Contractor] under Contract No. [insert contract number] with the National Aeronautics and Space Administration. The United States Government retains and the publisher, by accepting the article for publication, acknowledges that the United States Government retains a non-exclusive, paid-up, irrevocable, worldwide license to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, or allow others to do so, for United States Government purposes. All other rights are reserved by the copyright owner.

(End of Notice)

(End of addition)

The contractor shall mark each scientific and technical article based on or containing data first produced in the performance of this contract and submitted for publication in academic, technical or professional journals, symposia proceedings or similar works with a notice, similar in all material respects to the following, on the cover or first page of the article, reflecting the Government's non-exclusive worldwide license in the copyright.

#### GOVERNMENT RIGHTS NOTICE

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(End of Notice)

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(End of addition)

(4)(i) The Contractor agrees not to assert claim to copyright, publish or release to others any computer software first produced in the performance of this contract unless the Contracting Officer authorizes through a contract modification.

(ii) The prohibition on "release to others", as set forth in (d)(4)(i), does not prohibit release to another Federal Agency for its use or its contractors' use, as long as any such release is consistent with any restrictive markings on the software. Any restrictive markings on the software shall take precedence over the aforementioned release. Any release to a Federal Agency shall limit use to the Federal Agency or its contractors for Government purposes only. Any other release shall require the Contracting Officer's prior written permission.

(iii) 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)(4)(i) of this clause, the Contracting Officer may direct the contractor to assert, or authorize the assertion of, a claim to copyright in such data and to assign, or obtain the assignment of, such copyright to the Government or its designated assignee.

(End of addition)

**1852.227-70 New Technology-Other than a Small Business Firm or Nonprofit Organization.**

As prescribed in 1827.303(d)(1), insert the following clause:

NEW TECHNOLOGY—OTHER THAN A SMALL BUSINESS FIRM OR NONPROFIT ORGANIZATION  
(APR 2015) [(DEVIATION JAN 2026)]

(a) Definitions. As used in this clause—

*"Administrator"* means the Administrator or Deputy Administrator of the National Aeronautics and Space Administration (NASA).

*"Contract"* has the meaning provided in the Federal Acquisition Regulation (FAR), Subpart 2.1-Definitions.

*"Made"* means—

(1) When used in relation to any invention other than a plant variety, the conception or first actual reduction to practice of the invention; or

(2) When used in relation to a plant variety, that the Contractor has at least tentatively determined that the variety has been reproduced with recognized characteristics.

*"Nonprofit organization"* means a domestic university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)), or any domestic nonprofit scientific or educational organization qualified under a State nonprofit organization statute.

*"Practical application"* means to manufacture, in the case of a composition or product; to practice, in the case of a process or method; or to operate, in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.

*"Reportable item"* means any invention, discovery, improvement, or innovation of the contractor, whether or

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not patentable or otherwise protectable under Title 35 of the United States Code, made in the performance of any work under any NASA contract or in the performance of any work that is reimbursable under any clause in any NASA contract providing for reimbursement of costs incurred before the effective date of the contract. Reportable items include, but are not limited to, new processes, machines, manufactures, and compositions of matter, and improvements to, or new applications of, existing processes, machines, manufactures, and compositions of matter. Reportable items also include new computer programs, and improvements to, or new applications of, existing computer programs, whether or not copyrightable or otherwise protectable under Title 17 of the United States Code.

*"Small business firm"* means a domestic small business concern as defined at 15 U.S.C. 632 and implementing regulations of the Administrator of the Small Business Administration. (For the purpose of this definition, the criteria and size standard adopted in the FAR Subpart 2.1 definitions for "small business concern" and for "small business subcontractor" will be used.)

*"Subject invention"* means any reportable item which is or may be patentable or otherwise protectable under Title 35 of the United States Code, or any novel variety of plant that is or may be protectable under the Plant Variety Protection Act (7 U.S.C. 2321, et seq.).

(b) Allocation of principal rights.

(1) Presumption of title.

(i) Any reportable item that the Administrator considers to be a subject invention shall be presumed to have been made in the manner specified in paragraph (1)(A) or (1)(B) of Section 20135(b) of the National Aeronautics and Space Act (51 U.S.C. 20135(b)) (hereinafter "the Act"), and the above presumption shall be conclusive unless at the time of reporting the reportable item in accordance with paragraph (e)(2) of this clause the Contractor submits to the Contracting Officer a written statement, containing supporting details, demonstrating that the reportable item was not made in the manner specified in the Act.

(ii) Regardless of whether title to a given subject invention would otherwise be subject to an advance waiver or is the subject of a petition for waiver as described in paragraph (b)(3) of this clause, the Contractor may nevertheless file the statement described in paragraph (b)(1)(i) of this clause. The Administrator will review the information furnished by the Contractor in any such statement and any other available information relating to the circumstances surrounding the making of the subject invention and will notify the Contractor whether the Administrator has determined that the subject invention was made in the manner specified in paragraph (1)(A) or (1)(B) of Section 20135(b) of the Act.

(2) Property rights in subject inventions. Each subject invention for which the presumption of paragraph (b)(1)(i) of this clause is conclusive or for which there has been a determination that it was made in the manner specified in paragraph (1)(A) or (1)(B) of Section 20135(b) of the Act shall be the exclusive property of the United States as represented by NASA unless the Administrator waives all or any part of the rights of the United States, as provided in paragraph (b)(3) of this clause.

(3) Waiver of rights.

(i) Section 20135(g) of the Act provides for the promulgation of regulations by which the Administrator may waive all or any part of the rights of the United States with respect to any invention or class of inventions made or that may be made under conditions specified in paragraph (1)(A) or (1)(B) of Section 20135(b) of the Act. The promulgated NASA Patent Waiver Regulations, 14 CFR Part 1245, Subpart 1, provide procedures for the Contractor to submit petitions (requests) for waiver of rights and guidance for NASA in acting on petitions for such waiver of rights.

(ii) As provided in 14 CFR 1245, Subpart 1, the Contractor may petition, either prior to execution of the contract or within 30 days after execution of the contract, for advance waiver of rights to any invention or class of inventions that may be made under a contract. If such a petition is not submitted, or if after submission it is denied, the Contractor (or an employee inventor of the Contractor) may petition for

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waiver of rights to an identified subject invention within eight months of first disclosure of invention in accordance with paragraph (e)(2) of this clause, or within such longer period as may be authorized in accordance with 14 CFR 1245.105.

(c) Minimum rights reserved by the Government.

(1) With respect to each subject invention for which a waiver of rights has been granted, the Government reserves--

(i) An irrevocable, nonexclusive, nontransferable, royalty-free license for the practice of such invention throughout the world by or on behalf of the United States or any foreign government in accordance with any treaty or agreement with the United States; and

(ii) Such other rights as stated in 14 CFR 1245.107.

(2) Nothing contained in this paragraph (c) shall be considered to grant to the Government any rights with respect to any invention other than a subject invention.

(d) Minimum rights to the Contractor.

(1) The Contractor is hereby granted a revocable, nonexclusive, royalty-free license in each patent application filed in any country on a subject invention in which the Government has title and in any resulting patent, unless the Contractor fails to disclose the subject invention within the times specified in paragraph (e)(2) of this clause. The Contractor's license extends to its domestic subsidiaries and affiliates, if any, within the corporate structure of which the Contractor is a party and includes the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded. The license is transferable only with the approval of the Administrator except when transferred to the successor of that part of the Contractor's business to which the invention pertains.

(2) The Contractor's domestic license may be revoked or modified by the Administrator to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with 37 CFR Part 404, Licensing of Government Owned Inventions. The Contractor's license will not be revoked in that field of use or the geographical areas in which the Contractor has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of the Administrator to the extent the Contractor, its licensees, or its domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.

(3) Before revoking or modifying the Contractor's license, the Contractor will be provided a written notice of the Administrator's intention to revoke or modify the license, and the Contractor will be allowed 30 days (or such other time as may be authorized by the Administrator for good cause shown) after the notice to show cause why the license should not be revoked or modified. The Contractor has the right to appeal to the Administrator any decision concerning the revocation or modification of its license.

(e) Contractor's obligations.

(1) The Contractor shall establish and maintain active and effective procedures to assure that reportable items are promptly identified and disclosed to Contractor personnel responsible for the administration of this New Technology-Other than a Small Business Firm or Nonprofit Organization clause within six months of conception and/or first actual reduction to practice, whichever occurs first in the performance of work under this contract. These procedures shall include the maintenance of laboratory notebooks or equivalent records and other records as are reasonably necessary to document the conception and/or the first actual reduction to practice of the reportable items, and records that show that the procedures for identifying and disclosing reportable items are followed. Upon request, the Contractor shall furnish the Contracting Officer a description of such procedures for evaluation and for determination as to their effectiveness.

(2) The Contractor shall disclose in writing each reportable item to the Contracting Officer within

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two months after the inventor discloses it in writing to Contractor personnel responsible for the administration of this New Technology-Other than a Small Business Firm or Nonprofit Organization clause or within six months after the Contractor becomes aware that a reportable item has been made, whichever is earlier, but in any event for subject inventions before any on sale, public use, or publication of such invention known to the Contractor. The disclosure to the agency shall identify the inventor(s) or innovator(s) and this contract under which the reportable item was made. It shall be sufficiently complete in technical detail to convey a clear understanding, to the extent known at the time of the disclosure, of the nature, purpose, operation, and physical, chemical, biological, or electrical characteristics of the reportable item. The disclosure shall also identify any publication, sale or offer for sale, or public use of any subject invention and whether a manuscript describing such invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to the agency, the Contractor will promptly notify the agency of the acceptance of any manuscript describing a subject invention for publication or of any sale, offer for sale, or public use planned by the Contractor for such invention.

(3) Per Executive Order 14104, Federal Research and Development in Support of Domestic Manufacturing and United States Jobs (dated July 28, 2023), paragraphs 4(e) and (4)(f), the contractor shall report all subject inventions required in 52.227-11(c)(1) to NASA by:

(i) First, completing input of all such subject inventions into the National Institute of Standards and Technology (NIST) iEdison website at <https://www.nist.gov/iedison>. No such input shall be considered to be complete until the iEdison system assigns the inputted report an Invention Report Number.

(ii) Next, to complete the process of disclosing the invention to NASA, the contractor shall report the resulting number to:

- (A) The Contracting Officer's Representative (COR);
- (B) The New Technology Representative (identified in this contract at 1852.227.72);
- (C) The Patent Representative (identified in this contract at 1852.227.72); and
- (D) The Contracting Officer (CO).

(iii) The contractor shall complete the disclosure by the deadline stated in 52.227-11(c)(1).

(4) The Contractor agrees, upon written request of the Contracting Officer, to furnish additional technical and other information available to the Contractor as is necessary for the preparation of a patent application on a subject invention and for the prosecution of the patent application, and to execute all papers necessary to file patent applications on subject inventions and to establish the Government's rights in the subject inventions.

(5) The Contractor agrees, subject to paragraph 27.302(j) of the Federal Acquisition Regulation (FAR), that the Government may duplicate and disclose subject invention disclosures and all other reports and papers furnished or required to be furnished pursuant to this clause.

(f) Examination of records relating to inventions.

(1) The Contracting Officer or any authorized representative shall, until 3 years after final payment under this contract, have the right to examine any books (including laboratory notebooks), records, and documents of the Contractor relating to the conception or first actual reduction to practice of inventions in the same field of technology as the work under this contract to determine whether—

(i) Any such inventions are subject inventions;

(ii) The Contractor has established and maintained the procedures required by paragraph (e)(1) of this clause; and

(iii) The Contractor and its inventors have complied with the procedures.

(2) If the Contracting Officer learns of an unreported Contractor invention that the Contracting Officer believes may be a subject invention, the Contracting Officer may require the Contractor to disclose the invention to the agency for a determination of ownership rights.

(3) Any examination of records under this paragraph will be subject to appropriate

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conditions to protect the confidentiality of the information involved.

(g) Withholding of payment (this paragraph does not apply to subcontracts).

(1) Any time before final payment under this contract, the Contracting Officer may, in the Government's interest, withhold payment until a reserve not exceeding \$50,000 or 5 percent of the amount of this contract, whichever is less, shall have been set aside if, in the Contracting Officer's opinion, the Contractor fails to--

- (i) Establish, maintain, and follow effective procedures for identifying and disclosing reportable items pursuant to paragraph (e)(1) of this clause;
- (ii) Disclose any reportable items pursuant to paragraph (e)(2) of this clause;
- (iii) Provide the information regarding subcontracts pursuant to paragraph (h)(4) of this clause.

(2) Such reserve or balance shall be withheld until the Contracting Officer has determined that the Contractor has rectified whatever deficiencies exist and has delivered all reports, disclosures, and other information required by this clause.

(3) Final payment under this contract shall not be made before the Contractor delivers to the Contracting Officer all disclosures of reportable items required by paragraph (e)(2) of this clause.

(4) The Contracting Officer may decrease or increase the sums withheld up to the maximum authorized above. No amount shall be withheld under this paragraph while the amount specified by this paragraph is being withheld under other provisions of the contract. The withholding of any amount or the subsequent payment thereof shall not be construed as a waiver of any Government rights.

(h) Subcontracts.

(1) Unless otherwise authorized or directed by the Contracting Officer, the Contractor shall—

(i) Include this clause (suitably modified to identify the parties) in any subcontract hereunder (regardless of tier) with other than a small business firm or nonprofit organization for the performance of experimental, developmental, or research work; or

(ii) Include the clause at FAR 52.227-11, as modified by 1852.227-11, (suitably modified to identify the parties) in any subcontract hereunder (regardless of tier) with a small business firm or nonprofit organization for the performance of experimental, developmental, or research work; and

(iii) Modify the applicable clause in any subcontract hereunder (regardless of tier) to identify the parties as follows: references to the Government are not changed, and in all references to the Contractor, the subcontractor is substituted for the Contractor so that the subcontractor has all rights and obligations of the Contractor in the clause.

(2) In the event of a refusal by a prospective subcontractor to accept such a clause the Contractor:

(i) Shall promptly submit a written notice to the Contracting Officer setting forth the subcontractor's reasons for such refusal and other pertinent information that may expedite disposition of the matter; and

(ii) Shall not proceed with such subcontract without the written authorization of the Contracting Officer.

(3) In the case of subcontracts at any tier, the agency, subcontractor, and Contractor agree that the mutual obligations of the parties created by this clause constitute a contract between the subcontractor and NASA with respect to those matters covered by this clause.

(4) The Contractor shall promptly notify the Contracting Officer in writing upon the award of any subcontract hereunder (regardless of tier) by identifying the subcontractor, the applicable patent rights clause in the subcontract, the work to be performed under the subcontract, and the dates of award and estimated completion. Upon request of the Contracting Officer, the Contractor shall furnish a copy of such subcontract, and, no more frequently than annually, a listing of the subcontracts that have been awarded.

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(5) The subcontractor will retain all rights provided for the Contractor in the clause of subparagraph (h)(1)(i) or (ii) of this clause, whichever is included in the subcontract, and the Contractor will not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractor's subject inventions.

(i) Preference for United States industry. Unless provided otherwise, no Contractor that receives title to any subject invention and no assignee of any such Contractor shall grant to any person the exclusive right to use or sell any subject invention in the United States unless such person agrees that any products embodying the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement may be waived by the Administrator upon a showing by the Contractor or assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

(End of clause)

**1852.227-71 Requests for Waiver of Rights to Inventions.**

As prescribed in 1827.303(d)(2), insert the following provision in all solicitations that include the clause at 1852.227-70, New Technology-Other than a Small Business Firm or Nonprofit Organization:

REQUESTS FOR WAIVER OF RIGHTS TO INVENTIONS  
(APR 2015) (DEVIATION JAN 2026)

(a) In accordance with Section 20135(g) of the National Aeronautics and Space Act (51 U.S.C. 20135(g)) (hereinafter "the Act") and the NASA Patent Waiver Regulations, 14 CFR Part 1245, Subpart 1, NASA may waive all or any part of the rights of the United States with respect to any invention or class of inventions made or that may be made under a NASA contract or subcontract with other than a small business firm or a domestic nonprofit organization if the Administrator determines that the interests of the United States will be served thereby. Waiver of rights in inventions made or that may be made under such NASA contract or subcontract may be requested at different time periods. Advance waiver of rights to any invention or class of inventions that may be made under a contract or subcontract may be requested prior to the execution of the contract or subcontract, or within 30 days after execution by the selected contractor (or such longer period as may be specified by the Contracting Officer). In addition, waiver of rights to an individually identified invention or to a class of inventions made and reported under a contract or subcontract may be requested, even though a request for an advance waiver was not made or, if made, was not granted.

(b) Each request for waiver of rights shall be by petition to the Administrator. No specific forms need be used, but the request should contain a positive statement that waiver of rights is being requested under the NASA Patent Waiver Regulations; a clear indication of whether the request is for an advance waiver or for a waiver of rights for an individually identified invention or class of inventions; whether foreign rights are also requested and, if so, the countries, and a citation of the specific section or sections of the regulations under which such rights are requested. For individually identified inventions or a class of inventions, the petition shall identify each invention with particularity (e.g., by NASA's assigned number to the Disclosure of Invention and New Technology report or by title and inventorship). For advance waivers, the petition shall identify the invention or class of inventions that the Contractor believes will be made under the contract and for which waiver is being requested. To meet the statutory standard of "any invention or class of inventions," the petition shall be directed to a single invention or to inventions directed to a particular process, machine, manufacture, or composition of matter, or to a narrowly-drawn, focused area of technology. Additionally, each petition shall include an identification of the petitioner; place of business and address; if petitioner is represented by counsel, the name, address and telephone number of the counsel; the name, address, and telephone number of the party with whom to communicate when the request is acted

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upon; the signature of the petitioner or authorized representative; and the date of signature. In general, waivers are granted in order to provide for the widest practicable dissemination of new technology resulting from NASA programs, and to promote early utilization, expeditious development, and continued availability of this new technology for commercial purposes and the public benefit. Thus, it is preferable that the petition also include a description of the Contractor's plan for commercializing the invention or class of inventions for which waiver is being requested (e.g., identify specific fields of use).

(c) Petitions for advance waiver of rights should, preferably, be included with the proposal, or at least in advance of contract negotiations. Petitions for advance waiver, prior to contract execution, shall be submitted to the Contracting Officer. All other petitions shall be submitted to the Patent Representative designated in the contract.

(d) Petitions submitted with proposals selected for negotiation of a contract will be forwarded by the Contracting Officer to the installation Patent Counsel for processing and then to the Inventions and Contributions Board. Whenever the Board notifies a petitioner of a recommendation adverse to, or different from, the waiver requested, the petitioner may request reconsideration under procedures set forth in the Regulations.

(End of provision)

#### **1852.227-72 Designation of New Technology Representative and Patent Representative.**

As prescribed in 1827.303(d)(3), insert the following clause:

#### DESIGNATION OF NEW TECHNOLOGY REPRESENTATIVE AND PATENT REPRESENTATIVE (APR 2015) (DEVIATION JAN 2026)

(a) For purposes of administration of the clause of in this contract entitled either "New Technology-Other than a Small Business Firm or Nonprofit Organization" or "Patent Rights—Ownership by the Contractor," the cognizant center New Technology Representatives and Patent Representatives identified at [https://prod.nais.nasa.gov/pub/pub\\_library/techrep.html](https://prod.nais.nasa.gov/pub/pub_library/techrep.html) are hereby designated by the Contracting Officer to administer such clause for the installation(s) involved.

(b) Disclosures of reportable items and of subject inventions, utilization reports, and other reports required by the applicable "New Technology" or "Patent Rights—Ownership by the Contractor" clause, as well as any correspondence with respect to such matters, shall be directed to the New Technology Representative unless transmitted in response to correspondence or request from the Patent Representative. Inquiries or requests regarding disposition of rights, election of rights, or related matters shall be directed to the Patent Representative. This clause shall be included in any subcontract hereunder requiring a "New Technology-Other than a Small Business Firm or Nonprofit Organization" clause or "Patent Rights—Ownership by the Contractor" clause, unless otherwise authorized or directed by the Contracting Officer. Additional responsibilities and authorities of the aforementioned representatives are set forth in 1827.303(b)(2) of the NASA FAR Supplement.

(End of clause)

#### **1852.227-84 Patent Rights Clauses.**

As prescribed in 1827.303(a)(1), the contracting officer shall insert the following provision in solicitations for experimental, developmental, or research work to be performed in the United States when the eventual awardee may be a small business or a nonprofit organization:

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PATENT RIGHTS CLAUSES  
(APR 2015)

This solicitation contains the patent rights clauses of FAR 52.227-11 (as modified by the NFS) and NFS 1852.227-70. If the contract resulting from this solicitation is awarded to a small business or nonprofit organization, the clause at NFS 1852.227-70 shall not apply. If the award is to other than a small business or nonprofit organization, the clause at FAR 52.227-11 shall not apply.

**1852.227-85 Invention Reporting and Rights—Foreign.**

As prescribed in 1827.303(e)(1), insert the following clause:

INVENTION REPORTING AND RIGHTS—FOREIGN  
(APR 2015) (DEVIATION JAN 2026)

(a) As used in this clause, the term "invention" means any invention, discovery or improvement, and "made" means the conception or first actual demonstration that the invention is useful and operable.

(b) The Contractor shall report promptly to the Contracting Officer each invention made in the performance of work under this contract. The report of each such invention shall—

- (1) Identify the inventor(s) by full name; and
- (2) Include such full and complete technical information concerning the invention as is necessary to enable an understanding of the nature and operation thereof.

(c) The Contractor hereby grants to the Government of the United States of America as represented by the Administrator of the National Aeronautics and Space Administration the full right, title and interest in and to each such invention throughout the world, except for the foreign country in which this contract is to be performed. As to such foreign country, Contractor hereby grants to the Government of the United States of America as represented by the Administrator of the National Aeronautics and Space Administration an irrevocable, nontransferable, nonexclusive, royalty-free license to practice each such invention by or on behalf of the United States of America or any foreign government pursuant to any treaty or agreement with the United States of America, provided that Contractor within a reasonable time files a patent application in that foreign country for each such invention. Where Contractor does not elect to file such patent application for any such invention in that foreign country, full right, title and interest in and to such invention in that foreign country shall reside in the Government of the United States of America as represented by the Administrator of the National Aeronautics and Space Administration.

(d) The Contractor agrees to execute or to secure the execution of such legal instruments as may be necessary to confirm and to protect the rights granted by paragraph (c) of this clause, including papers incident to the filing and prosecution of patent applications.

(e) In each subcontract, the Contractor awards under this contract where the performance of research, experimental design, engineering, or developmental work is contemplated, the Contractor shall include this clause (suitably modified to substitute the subcontractor in place of the Contractor) and the name and address of the Contracting Officer.

(End of Clause)

**1852.227-88 Government-furnished computer software and related technical data.**

As prescribed in 1827.409(j), insert the following clause:

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#### GOVERNMENT-FURNISHED COMPUTER SOFTWARE AND RELATED TECHNICAL DATA (APR 2015)

(a) Definitions. As used in this clause—

“Government-furnished computer software” or “GFCS” means computer software: (1) in the possession of, or directly acquired by, the Government whereby the Government has title or license rights thereto; and (2) subsequently furnished to the Contractor for performance of a Government contract.

“Computer software,” “data” and “technical data” have the meaning provided in the Federal Acquisition Regulations (FAR) Subpart 2.1—Definitions or the Rights in Data – General clause (FAR 52.227-14).

(b) The Government shall furnish to the Contractor the GFCS described in this contract or in writing by the Contracting Officer. The Government shall furnish any related technical data needed for the intended use of the GFCS.

(c) Use of GFCS and related technical data. The Contractor shall use the GFCS and related technical data, and any modified or enhanced versions thereof, only for performing work under this contract unless otherwise provided for in this contract or approved in writing by the Contracting Officer.

(1) The Contractor shall not, without the express written permission of the Contracting Officer, reproduce, distribute copies, prepare derivative works, perform publicly, display publicly, release, or disclose the GFCS or related technical data to any person except for the performance of work under this contract.

(2) The Contractor shall not modify or enhance the GFCS unless this contract specifically identifies the modifications and enhancements as work to be performed. If the GFCS is modified or enhanced pursuant to this contract, the Contractor shall provide to the Government the complete source code, if any, and all related documentation of the modified or enhanced GFCS.

(3) Allocation of rights associated with any GFCS or related technical data modified or enhanced under this contract shall be defined by the FAR Rights in Data clause(s) included in this contract (as modified by any applicable NASA FAR Supplement clauses). If no Rights in Data clause is included in this contract, then the FAR Rights in Data – General (52.227-14) as modified by the NASA FAR Supplement (1852.227-14) shall apply to all data first produced in the performance of this contract and all data delivered under this contract.

(4) The Contractor may provide the GFCS, and any modified or enhanced versions thereof, to subcontractors as necessary for the performance of work under this contract. Before release of the GFCS, and any modified or enhanced versions thereof, to such subcontractors (at any tier), the Contractor shall insert, or require the insertion of, this clause, including this paragraph (c)(4), suitably modified to identify the parties as follows: references to the Government are not changed, and in all references to the Contractor the subcontractor is substituted for the Contractor so that the subcontractor has all rights and obligations of the Contractor in the clause.

(d) The Government provides the GFCS in an “AS-IS” condition. The Government makes no warranty with respect to the serviceability and/or suitability of the GFCS for contract performance.

(e) The Contracting Officer may by written notice, at any time—

(1) Increase or decrease the amount of GFCS under this contract;

(2) Substitute other GFCS for the GFCS previously furnished, to be furnished, or to be acquired by the Contractor for the Government under this contract;

(3) Withdraw authority to use the GFCS or related technical data; or

(4) Instruct the Contractor to return or dispose of the GFCS and related technical data.

(f) Title to or license rights in GFCS. The Government shall retain title to or license rights in all GFCS. Title to or license rights in GFCS shall not be affected by its incorporation into or attachment to any data not owned by or licensed to the Government.

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(g) Waiver of Claims and Indemnification. The Contractor agrees to waive any and all claims against the Government and shall indemnify and hold harmless the Government, its agents, and employees from every claim or liability, including attorneys fees, court costs, and expenses, arising out of, or in any way related to, the misuse or unauthorized modification, reproduction, release, performance, display, or disclosure of the GFCS and related technical data by the Contractor, a subcontractor, or by any person to whom the Contractor has released or disclosed such GFCS or related technical data.

(h) Flow-down of Waiver of Claims and Indemnification. In the event a contract includes this NASA FAR Supplement clause 1852.227-88, the Contractor shall include the foregoing clause 1852.227-88(g), suitably modified to identify the parties, in all subcontracts, regardless of tier, which involve use of the GFCS and/or related technical data in any way. At all tiers, the clause shall be modified to define GFCS as it is defined herein and to identify the parties as follows: references to the Government are not changed, and in all references to the Contractor the subcontractor is substituted for the Contractor so that the subcontractor has all rights and obligations of the Contractor in the clause. In subcontracts, at any tier, the Government, the subcontractor, and the Contractor agree that the mutual obligations of the parties created by this clause 1852.227-88 constitute a contract between the subcontractor and the Government with respect to the matters covered by the clause.

(End of clause)

## FAR PART 52 -- SOLICITATION PROVISIONS AND CONTRACT CLAUSES

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### 52.227-20 Rights in Data-SBIR [and STTR] Program[s].

As prescribed in 27.409(h) and 1827.409(h), insert the following clause:

#### RIGHTS IN DATA-SBIR AND STTR PROGRAM[S] (MAY 2014)-(DEVIATION JAN 2026)

(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 data* means data (other than computer software) developed at private expense that embody trade secrets or are commercial or financial and confidential or privileged.

*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.

*SBIR and STTR data* means data first produced by a Contractor that is a small business concern in performance of a small business innovation research (SBIR) contract or a small business technology transfer program (STTR) contract issued under the authority of 15 U.S.C. 638, which data are not generally known, and which data without obligation as to its confidentiality have not been made available to others by the Contractor or are not already available to the Government.

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*SBIR and STTR rights* means the rights in SBIR and STTR data set forth in the SBIR and STTR Rights Notice of paragraph (d) of this clause.

*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. 116.)

*Unlimited rights* means the right 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 whatsoever, and to have or permit others to do so.

(b) Allocation of rights.

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

(i) Data specifically identified in this contract as data to be delivered without restriction;

(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 SBIR or STTR data in accordance with paragraph (d) of this clause or for limited rights data or restricted computer software in accordance with paragraph (f) 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 (e)(1) of this clause;

(ii) Protect SBIR [and STTR] rights in SBIR and STTR data delivered under this contract in the manner and to the extent provided in paragraph (d) of this clause;

(iii) Substantiate use of, add, or correct SBIR and STTR rights or copyright notices and to take other appropriate action, in accordance with paragraph (e) of this clause; and

(iv) Withhold from delivery those data which are limited rights data or restricted computer software to the extent provided in paragraph (f) of this clause.

(c) Copyright-

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

(i) Except as otherwise specifically provided in this contract, the Contractor may assert copyright subsisting in any data first produced in the performance of this contract.

(ii) When asserting copyright, the Contractor shall affix the applicable copyright notice 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 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, by or on behalf of the Government.

(2) Data not first produced in the performance of this contract. The Contractor shall not, without prior written permission of the Contracting Officer, incorporate in data delivered under this contract any data that are not first produced in the performance of this contract unless the Contractor (i) identifies such data and (ii) grants to the Government, or acquires on its behalf, a license of the same scope as set forth in paragraph (e)(1) of this clause.

(3) Removal of copyright notices. The Government will not remove any copyright notices placed on

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data pursuant to this paragraph (e), and will include such notices on all reproductions of the data.

(d) Rights to and marking of SBIR and STTR data.

(1) The Contractor is authorized to affix the following “SBIR or STTR Rights Notice” to SBIR or STTR data delivered under this contract and the Government will treat the data, subject to the provisions of paragraphs (e) and (f) of this clause, in accordance with the notice:

SBIR or STTR Rights Notice (DEC 2007) (DEVIATION JAN 2026)

These SBIR or STTR data are furnished with SBIR or STTR rights under Contract No. \_\_\_\_\_, date of award \_\_\_\_\_, (and subcontract \_\_\_\_\_, if appropriate). For a period of 20 years, starting from the date of award the Government will use these data for Government purposes only, and they shall not be disclosed outside the Government (including disclosure for procurement purposes) during such period without permission of the Contractor, (unless specifically permitted elsewhere in the contract) except that, subject to the foregoing use and disclosure prohibitions, these data may be disclosed for use by support Contractors. After the SBIR or STTR protection period ends, the Government has a paid-up license to use, and to authorize others to use on its behalf, these data for Government purposes, but is relieved of all disclosure prohibitions and assumes no liability for unauthorized use of these data by third parties. This notice shall be affixed to any reproductions of these data, in whole or in part.

(End of notice)

(2) The Government’s sole obligation with respect to any SBIR or STTR data shall be as set forth in this paragraph (d).

(e) Omitted or incorrect markings.

(1) Data delivered to the Government without any notice authorized by paragraph (d) of this clause shall be deemed to have been furnished with unlimited rights. The Government assumes no liability 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, and 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 use of the proposed notice is authorized; and
- (iv) Acknowledges that the Government has no liability with respect to the disclosure or use of any

such data made prior to the addition of the notice or resulting from the omission of the notice.

(3) If the 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.

(f) Protection of limited rights data and restricted computer software. The Contractor may withhold from delivery qualifying limited rights data and restricted computer software that are not identified in paragraphs (b)(1)(i), (ii), and (iii) of this clause. As a condition to this withholding, the Contractor shall identify the data being withheld, and furnish form, fit, and function data instead.

(g) 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 not proceed with the subcontract award without further authorization in writing from the

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Contracting Officer.

(h) Relationship to patents. 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)

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**SUBPART 1852.301—SOLICITATION PROVISIONS AND CONTRACT CLAUSES MATRIX**

Key:

<b>P or C</b>	Provision or Clause	<b>FP SUP</b>	Fixed-Price Supply	<b>CR CON</b>	Cost-Reimbursement Construction
*	* indicates the clause flows-down to subcontracts	<b>CR SUP</b>	Cost-Reimbursement Supply	<b>T&amp;M LH</b>	Time & Material/Labor Hour
<b>UCF</b>	Uniform Contract Format Section	<b>FP R&amp;D</b>	Fixed-Price Research and Development	<b>A&amp;E</b>	Architect-Engineering
<b>IBR or FT</b>	Indicates whether the clause may be incorporated by reference (IBR) or shall be used in full text (FT).	<b>CR R&amp;D</b>	Cost-Reimbursement Research and Development	<b>ID DEL</b>	Indefinite Delivery
<b>Fill In</b>	"X" indicates the clause requires text to be filled-in by the CO.	<b>FP SVC</b>	Fixed-Price Service	<b>TRN</b>	Transportation
<b>Mod or Sub</b>	"X" indicates the CO is authorized to make specific modifications to the clause or to use the clause on a "substantially as stated/substantially the same as basis.	<b>CR SVC</b>	Cost-Reimbursement Service	<b>SAP</b>	Simplified Acquisition Procedures
				<b>CI</b>	Commercial Item
<b>APP DEV</b>	"X" indicates the clause has an approved deviation. The PCD authorizing the deviation is listed.	<b>FP CON</b>	Fixed-Price Construction	<b>Clause application</b>	R = Required A = Required-When-Applicable O = Optional

Clause/ Provision Number	Title	Date	Prescribed In	P or C	UCF	IBR or FT	Fill In	Mod or Sub	App Dev	FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	A&E	ID DEL	TRN	SAP	CI	
<a href="#">1852.227-11</a>	Patent Rights - Ownership by the Contractor	(APR 2015) [(DEVIATION JAN 2026)] modifies FAR clause	<a href="#">1827.303(b)(1)</a>	C*	I	IBR						A	A	A	A	A	A	A					A	
<a href="#">1852.227-14</a>	Rights in Data - General	(APR 2015) modifies FAR clause	<a href="#">1827.409(b)(1)</a>	C	I	IBR				A	A	A	A	A	A			A		A	A	A		
<a href="#">1852.227-70</a>	New Technology- Other than a Small Business Firm or Nonprofit Organization	(APR 2015) [(DEVIATION JAN 2026)]	<a href="#">1827.303(d)(1)</a>	C*	G	IBR						A	A	A	A	A	A	A					A	
<a href="#">1852.227-71</a>	Requests for Waiver of Rights to Inventions	(APR 2015) [(DEVIATION JAN 2026)]	<a href="#">1827.303(d)(2)</a>	P	L	IBR						A	A	A	A	A	A	A					A	
<a href="#">1852.227-72</a>	Designation of New Technology Representative and Patent Representative	(APR 2015) [(DEVIATION JAN 2026)]	<a href="#">1827.303(d)(3)</a>	C*	G	IBR						A	A	A	A	A	A	A					A	
<a href="#">1852.227-84</a>	Patent Rights Clauses	(APR 2015)	<a href="#">1827.303(a)(1)</a>	P	L	IBR						A	A	A	A	A	A	A					A	
<a href="#">1852.227-85</a>	Invention Reporting and Rights-- Foreign	(APR 2015) [(DEVIATION JAN 2026)]	<a href="#">1827.303(e)(1)</a>	C*	G	IBR							A	A	A	A	A	A					A	
<a href="#">1852.227-88</a>	Government-furnished Computer Software and Related Technical Data.	(APR 2015)	<a href="#">1827.409(m)(1) and (2)</a>	C	I	IBR				A	A	A	A	A	A	A	A	A	A	A	A	A	A	