EXHIBIT "A"
GENERAL CONDITIONS

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EX A-1 ADDITIONAL GENERAL CONDITIONS RELATING TO WORK FUNDED UNDER AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (Aug 2010) (Applies only to a subcontract over $25,000 that is funded in whole or in part by the Recovery Act, unless the subcontract is with an individual.) 16

GC-1 DEFINITIONS (Aug 2012)

"CONTRACTOR" means Los Alamos National Security, LLC (LANS), a limited liability company, which manages and operates Los Alamos National Laboratory (LANL) pursuant to Contract No. DE-AC52-06NA25396 between the U.S. Department of Energy (DOE) / National Nuclear Security Administration (NNSA) and LANS. CONTRACTOR also means Subcontract Administrator, the individual authorized to act on behalf of LANS.

"Beneficial Occupancy" or "Use and Possession Prior to Completion", if used in this subcontract or task order, means the procedure where CONTRACTOR occupies or makes use of any part of the Work, in accordance with General Condition GC-29 USE OF COMPLETED PORTIONS OF WORK.

"Days" means calendar days unless otherwise provided.

"FAR" means the Federal Acquisition Regulations at 48 CFR Chapter 1.

"Final Acceptance" means CONTRACTOR'S acceptance of all of the Work as a whole following SUBCONTRACTOR completion and successful inspection and testing. It is conclusive except for latent defects, gross mistakes or fraud.

"Final Completion", if used in this subcontract or task order, means the point when all of the Work reasonably inferable from Subcontract Documents has been completed, as determined by CONTRACTOR. This includes the final cleanup of the premises, completion of all final inspection punch list items, and submission of all remaining contractual documents.

"GOVERNMENT" means the United States of America and includes the DOE / NNSA

"Jobsite" means a site at which the Work shall be performed under this subcontract.

"Laboratory" or "LANL" means the geographical location of Los Alamos National Laboratory, a federally funded research and development center owned by the DOE / NNSA.

"Subcontract Documents" denotes the Subcontract Form of Agreement and those appendices and exhibits referenced thereon.

"SUBCONTRACTOR" means the entity listed on the Subcontract Form of Agreement, and its authorized representatives, successors, and permitted assigns.

"Substantial Completion", if used in this subcontract or task order, means the point when the Work or a designated portion of the Work is sufficiently complete, in accordance with the Subcontract Documents, so that CONTRACTOR may use or occupy the Work or designated portion thereof for its intended purpose, as determined by CONTRACTOR. Additional requirements for achieving Substantial Completion are provided in Exhibit D, Scope of Work and Technical Specifications.

"Work", "Goods" or "Services" means all the stated or implied activities to be performed by SUBCONTRACTOR as required by the Subcontract Documents, including the furnishing and supervision of all technical personnel and labor, and the supply of equipment, materials, and supplies necessary to perform this Subcontract.

GC-2A AUTHORIZED REPRESENTATIVES, COMMUNICATIONS AND NOTICES (Jan 2010)

Unless otherwise specified, all notices and communications in accordance with or related to this subcontract shall be between authorized representatives designated in writing by the parties and shall comply with security requirements set forth in Exhibit G "Security Requirements". Notices shall be in writing and may be served either personally on the authorized representative of the receiving party, by electronic scanned document attached to an email, by facsimile, by courier or express delivery, or by certified mail to the address shown on the face of this subcontract or as directed by notice.

GC-3 INDEPENDENT CONTRACTOR (Jun 2009)

SUBCONTRACTOR represents that it is fully experienced, properly qualified, registered, licensed, equipped, organized, and financed to perform the Work under this subcontract. SUBCONTRACTOR shall act as an independent contractor and not as the agent of CONTRACTOR or GOVERNMENT in performing this subcontract, maintaining complete control over its employees and all of its suppliers and subcontractors of any tier. Nothing contained in this subcontract or any lower-tier purchase order or subcontract awarded by SUBCONTRACTOR shall create any contractual relationship between any lower-tier supplier or subcontractor and either CONTRACTOR or GOVERNMENT. SUBCONTRACTOR shall perform the Work hereunder in accordance with its own methods subject to compliance with the subcontract.

GC-4 SUBCONTRACT INTERPRETATION (Jun 2009)

All questions concerning interpretation or clarification of this subcontract by SUBCONTRACTOR shall be immediately submitted in writing to CONTRACTOR for resolution. Subject to the provisions of the General Condition titled "CHANGES," all determinations, instructions, and clarifications of CONTRACTOR shall be final and conclusive unless SUBCONTRACTOR believes such determinations, instructions or clarifications are fraudulent or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence, in which case SUBCONTRACTOR shall proceed under the terms of the Disputes clause.

At all times SUBCONTRACTOR shall proceed with the Work in accordance with the determinations, instructions, and clarifications of CONTRACTOR. SUBCONTRACTOR shall be solely responsible for requesting instructions or interpretations and shall be solely liable for any costs and expenses arising from its failure to do so.

GC-5 NOTICE TO PROCEED (Jul 2011)

SUBCONTRACTOR shall not commence work on site at LANL prior to receipt of a notice to proceed issued by the Subcontract Administrator. A notice to proceed shall not be issued prior to:

(1) receipt by CONTRACTOR of a fully executed subcontract with the original signatures of both parties;

(2) receipt by CONTRACTOR of certificates of insurance and endorsements evidencing that required coverage and limits of insurance are in full force and effect, when such certificates and endorsements are required herein;

(3) approval by CONTRACTOR of SUBCONTRACTOR'S ES&H Plan submitted in accordance with the requirements of Exhibit F, when such ES&H Plan is required herein;

(4) approval by CONTRACTOR of any plans submitted by SUBCONTRACTOR in accordance with the requirements of Exhibit G, when such plan(s) is/are required herein;

(5) receipt by CONTRACTOR of executed payment and performance bonds, when such payment and performance bonds are required herein; and

(6) receipt by CONTRACTOR of written confirmation that SUBCONTRACTOR has included or will include (i.e. flow down) in subcontracts with its lower-tier suppliers and subcontractors all environment, safety, health, security, and quality assurance requirements contained in Exhibits F, G and H necessary to fulfill this subcontract as it relates to their portion of the Work; and

(7) compliance by SUBCONTRACTOR with any other applicable requirements specified in the subcontract.

CONTRACTOR reserves the right to issue a limited notice to proceed (LNTP) where CONTRACTOR determines circumstances require specific pre-performance activities necessary to support the subcontract. However this LNTP does not constitute a formal Notice to Proceed as set forth in this clause.

GC-6 ORDER OF PRECEDENCE (Jun 2009)

In resolving conflicts, discrepancies, errors or omissions between Subcontract Documents, the following order of precedence from highest to lowest shall be used, with the acknowledgement that a particular subcontract may not be comprised of all the documents listed below.

(1) Subcontract Form of Agreement
(2) Appendix SFA-1 titled “FAR & DEAR Clauses Incorporated By Reference”
(3) Exhibit "A" – General Conditions
(4) Exhibit “B” – Special Conditions
(5) Exhibit “F” – Environmental, Safety and Health Requirements
(6) Exhibit “G” – Security Requirements
(7) Exhibit “H” – Quality Assurance Requirements
(8) Exhibit "C" – Schedule of Quantities and Prices
(9) Exhibit "D" – Scope of Work
(10) Exhibit "D" – Technical Specifications
(11) Exhibit "E" – Drawings
(12) All other subcontract documents

NOTE: If this subcontract is funded in whole or part under the American Recovery and Reinvestment Act of 2009, Exhibit A1, ADDITIONAL GENERAL CONDITIONS RELATING TO WORK FUNDED UNDER AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (May 2009) shall take precedence over all documents listed herein except for the Subcontract Form of Agreement.

GC-8 LAWS AND REGULATIONS (Jun 2009)

(a) SUBCONTRACTOR shall comply with the requirements of applicable federal, state, and local laws and regulations. SUBCONTRACTOR shall also comply with DOE Directives, NNSA Policy Letters, and Laboratory policies and procedures, or parts thereof, which are identified in the subcontract. Copies of any such directives, letters, policies and procedures will be provided to the SUBCONTRACTOR upon request.

(b) If SUBCONTRACTOR discovers any discrepancy or inconsistency between this subcontract and any law, ordinance, statute, rule, regulation, order or decree, SUBCONTRACTOR shall immediately notify CONTRACTOR in writing.

(c) Regardless of the performer of the work, SUBCONTRACTOR is responsible for compliance with the requirements of this clause. SUBCONTRACTOR agrees to insert the substance of this clause, including this paragraph (c), in its subcontracts at any tier.

GC-9 PERMITS (Jun 2009)

Except as otherwise specified, SUBCONTRACTOR shall procure and pay for all permits, licenses, certifications and other applicable governing authority requirements and inspections, other than inspections performed by CONTRACTOR or GOVERNMENT or permits which by law or regulation must be acquired by CONTRACTOR or GOVERNMENT. SUBCONTRACTOR shall furnish any documentation, bonds, securities, deposits or assistance required to permit performance of the Work.

GC-10 TAXES (Jun 2009)

(a) SUBCONTRACTOR shall pay all taxes, levies, duties and assessments of every nature due in connection with the Work under this subcontract, and shall make any and all payroll deductions and withholdings required by law. SUBCONTRACTOR agrees to indemnify and hold harmless CONTRACTOR and GOVERNMENT from any liability on account of any and all such taxes, levies, duties, assessments and deductions.

(b) SUBCONTRACTOR shall with the approval of CONTRACTOR apply for and obtain for the benefit of the project any available exemption, deduction or exclusion under applicable laws for which SUBCONTRACTOR, CONTRACTOR or GOVERNMENT qualify.

GC-11 NEW MEXICO GROSS RECEIPTS TAX (Jun 2009)

SUBCONTRACTOR is required to pay such New Mexico Gross Receipts Tax (NMGRT) as may be required by law. CONTRACTOR will issue a New Mexico Nontaxable Transaction Certificate (NTTC) to all Subcontractors who provide goods or services to CONTRACTOR, on the condition that SUBCONTRACTOR only uses the NTTC as permitted by New Mexico law. In no event will the payment of NMGRT by SUBCONTRACTOR or its immediate and lower-tier subcontractors be considered an allowable cost under this subcontract if SUBCONTRACTOR or its immediate and lower-tier subcontractors are eligible for applicable deductions or exemptions from NMGRT under New Mexico law.

GC-12 FINES AND PENALTIES (Jun 2009)

If a state or federal agency takes an enforcement action with associated fines and penalties against CONTRACTOR and/or Government for regulatory and/or permit noncompliance that resulted from a failure of SUBCONTRACTOR to perform in accordance with this Subcontract (e.g., failure to meet regulatory reporting milestones, making false statements in reports, etc.), SUBCONTRACTOR shall reimburse CONTRACTOR and/or the Government for the amount of any resultant fine and/or the cost of additional Work required as a result of the enforcement action. CONTRACTOR may withhold such amounts from any payments due SUBCONTRACTOR.

GC-13 CONTRACTOR'S RIGHT TO OFFSET (Jan 2010)

CONTRACTOR may collect any amount determined by the Subcontract Administrator to be owed to CONTRACTOR by offsetting the amount against any payment due to the SUBCONTRACTOR under any subcontract it has with CONTRACTOR issued pursuant to CONTRACTOR'S contract with GOVERNMENT for management and operation of Los Alamos National Laboratory. Any challenge to the amount of an offset under this clause shall be resolved under the Disputes clause of this subcontract.

GC-14 LABOR, PERSONNEL AND WORK RULES (Jun 2009)

(a) SUBCONTRACTOR shall employ only competent and skilled personnel to perform the Work and shall remove from the Jobsite any SUBCONTRACTOR personnel determined to be unfit or to be acting in violation of any provision of this subcontract. SUBCONTRACTOR is responsible for maintaining labor relations in such manner that there is harmony among workers and shall comply with and enforce project and Jobsite procedures, regulations, work rules and work hours established by CONTRACTOR and GOVERNMENT.

(b) CONTRACTOR may, at its sole discretion, temporarily or permanently bar from the Work, and any other location within the Los Alamos National Laboratory (LANL), any employee of SUBCONTRACTOR or any of its lower-tier subcontractors by written notice to SUBCONTRACTOR. In the event an employee is excluded from the Jobsite, SUBCONTRACTOR shall, promptly replace such individual with another who is fully competent and skilled to perform the Work. SUBCONTRACTOR shall not be entitled to compensation for any costs resulting from the removal of such employee.

(c) SUBCONTRACTOR shall, to the extent permissible under applicable law, comply with the provisions of all labor agreement(s) which apply to the Work performed under this subcontract. If required by the terms of any such labor agreement(s), SUBCONTRACTOR shall, immediately after subcontract award, agree to comply with and be bound by the terms of such labor agreement(s).

(d) If SUBCONTRACTOR has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this subcontract, SUBCONTRACTOR shall immediately give notice, including all relevant information, to CONTRACTOR.

(e) SUBCONTRACTOR shall include the substance of this clause in all lower-tier subcontracts which require work to be performed at LANL.

GC-15 COMMERCIAL ACTIVITIES (Jun 2009)

Neither SUBCONTRACTOR nor its employees shall establish any commercial activity or issue concessions or permits of any kind to third parties for establishing commercial activities on the Jobsite or any other lands owned or controlled by CONTRACTOR or GOVERNMENT.

GC-16 NONDISCLOSURE, PUBLICITY AND ADVERTISING (Jan 2010)

SUBCONTRACTOR'S disclosure to a third party of any information, material, data, charts, graphs, or records obtained, developed or maintained under this subcontract is prohibited, except as approved in writing in advance by CONTRACTOR. Furthermore, SUBCONTRACTOR shall not make any announcement, release any photographs, or release any information concerning this subcontract, or the Laboratory, or any part thereof to any member of the public, press, business entity, or any other third party unless prior written consent is obtained from CONTRACTOR. All SUBCONTRACTOR requests for review and approval shall be addressed to CONTRACTOR. Additionally, SUBCONTRACTOR will ensure that its employees, subcontractors and/or affiliates who work on this subcontract understand this non-disclosure requirement and provide written acknowledgement of the same if requested by CONTRACTOR'S Subcontract Administrator. SUBCONTRACTOR agrees to include a similar requirement in all lower-tier subcontracts. All requests for authorization to release information by lower-tier subcontractors shall be subject approval of CONTRACTOR'S Subcontract Administrator.

GC-17 ENVIRONMENTAL, SAFETY AND HEALTH REQUIREMENTS (Jun 2009)

(a) SUBCONTRACTOR shall be solely responsible for conducting operations under this subcontract to avoid risk of harm to the health and safety of persons and property and for inspecting and monitoring all its equipment, materials and work practices to ensure compliance with its obligations under this subcontract.

(b) Throughout performance of the Work, SUBCONTRACTOR shall conduct all operations in such a way as to minimize impact upon the natural environment and prevent any spread or release of contaminated or hazardous substances.

(c) SUBCONTRACTOR shall be solely responsible for complying with Exhibit F titled "ENVIRONMENTAL, SAFETY, AND HEALTH REQUIREMENTS", if made a part of this subcontract.

GC-25 OVERSIGHT OF WORK BY SUBCONTRACTOR (Jun 2009)

At all times during performance of this Subcontract and until the Work is completed and accepted, SUBCONTRACTOR shall directly oversee the Work, and when Work is performed on site at LANL, assign and have on site a competent individual, who is satisfactory to CONTRACTOR, who has authority to act for SUBCONTRACTOR.

GC-30 CONTRACTOR'S COMPLIANCE WITH DOE DIRECTIVES (Jun 2009)

When requested by CONTRACTOR, SUBCONTRACTOR shall provide such information, assistance and support as necessary to ensure CONTRACTOR'S compliance with any DOE directives that may be applicable to the scope of the work. If SUBCONTRACTOR believes that such request for information, assistance or support is not provided for elsewhere in the subcontract and constitutes a change under the General Condition titled "Changes", SUBCONTRACTOR shall proceed in accordance with the "Changes" clause.

GC-35C CHANGES (Jun 2009)

(a) CONTRACTOR may, at any time, without notice to the sureties if any, unilaterally direct in writing subcontract changes, including additions, deletions, rescheduling and acceleration or deceleration, to all or any part of the Work, and SUBCONTRACTOR agrees to perform such work as changed. If any change under this clause, whether or not changed by any such order, or act or

omission of CONTRACTOR or GOVERNMENT, directly or indirectly causes an increase or decrease in the cost of or in the time required to perform any part of the Work an equitable adjustment shall be made to pricing or time of performance, or both. SUBCONTRACTOR shall, within thirty (30) calendar days of such change or act or omission, notify CONTRACTOR and submit detailed information substantiating its impact. SUBCONTRACTOR waives its rights, if any, to an equitable adjustment if it fails to comply with the requirements of this subclause. Upon agreement as to the impact of the change or act or omission, the subcontract shall be modified accordingly.

(b) SUBCONTRACTOR shall proceed diligently with performance of the Work, pending final resolution of any request for relief.

GC-36 DISPUTES (Jan 2010)

(a) *Definitions*. For purposes of this clause:

"Board" means the Civilian Board of Contract Appeals or such successor Board as may be established by law.

"Arbitration decision" means a decision of the Board in an arbitration pursuant to this clause.

"Claim" means a written demand or written assertion by either contracting party seeking as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of a subcontract term, or other relief arising under, or relating to, this subcontract. A voucher, invoice, or other request for payment or equitable adjustment under the terms of the subcontract that is not in dispute when submitted is not a claim. The SUBCONTRACTOR may convert such submission into a claim if it is disputed either as to liability or amount, or is not acted upon in a reasonable time, by demanding a decision by the Subcontract Administrator.

"Counterclaim" means a claim asserted in a pleading filed with the Board in an arbitration proceeding pursuant to this clause which arises from the same occurrence or transaction that is the subject matter of the opposing party's claim. Counterclaims do not need to be submitted to the Subcontract Administrator for decision.

(b) *Nature of the Subcontract*. This subcontract is not a Government contract and, therefore, is not subject to the Contract Disputes Act of 1978 (41 U.S.C. §§601-613). SUBCONTRACTOR acknowledges that GOVERNMENT is not a party to the subcontract, and, for purposes of the subcontract CONTRACTOR is not an agent of GOVERNMENT. Consequently, the provision for arbitration by the Board, as provided for in this clause, does not create or imply the existence of privity of contract between SUBCONTRACTOR and GOVERNMENT.

(c) *Scope of Clause*. The rights and procedures set forth in this clause are the exclusive rights and procedures for resolution of all claims and disputes arising under, or relating to, this subcontract, and no action based upon any claim or dispute arising under, or relating to, this subcontract shall be brought in any court except as provided in this clause. The parties shall be bound by any arbitration decision rendered pursuant to this clause, which shall be vacated, modified, or corrected only as provided in the Federal Arbitration Act (9 U.S.C. §§1-16). An arbitration decision may only be enforced in any court of competent jurisdiction in the State of New Mexico.

(d) *Filing a Claim/Subcontract Administrator's Decision*.

(1) Unless otherwise provided in this subcontract, SUBCONTRACTOR must file any claim against CONTRACTOR within sixty (60) Days after SUBCONTRACTOR knew or should have known the facts giving rise to the claim. Failure to file a claim within the period prescribed by this paragraph shall constitute a waiver of SUBCONTRACTOR'S right, if any, to an equitable adjustment under the subcontract.

(2) SUBCONTRACTOR shall submit any claim in writing to the Subcontract Administrator who shall issue a decision on the matter within sixty (60) Days of receipt of the claim. If the Subcontract Administrator fails to issue a decision within sixty (60) Days, SUBCONTRACTOR may request mediation or demand for arbitration as provided in paragraphs (e) and (f) of this clause.

(3) CONTRACTOR may, at any time prior to final payment under the subcontract or expiration of any warranty period, whichever is later, file a claim against SUBCONTRACTOR by issuing a written decision by the Subcontract Administrator asserting such a claim.

(4) The decision of the Subcontract Administrator shall be final and conclusive unless SUBCONTRACTOR requests mediation or demands arbitration in accordance with the terms of this clause.

(e) *Request for Mediation.*

(1) If the decision of the Subcontract Administrator is not satisfactory to SUBCONTRACTOR, or the Subcontract Administrator has failed to timely issue a decision in accordance with subparagraph (d) 2) of this provision, and SUBCONTRACTOR desires to pursue further action, SUBCONTRACTOR may request that the matter be scheduled for mediation. The request for mediation must be made within forty-five (45) Days after receipt of the Subcontract Administrator's decision.

(2) If the Subcontract Administrator believes that mediation of the dispute is likely to lead to a satisfactory resolution, he or she will so inform SUBCONTRACTOR and the matter will be scheduled for mediation. The parties will agree on the format of the mediation and will jointly select the mediator. The cost of the mediator and related expenses shall be divided evenly between the parties.

(3) If the Subcontract Administrator decides that mediation is not likely to lead to a satisfactory resolution of the claim, or that a mediation undertaken pursuant to this clause has been unsuccessful, he or she will so inform SUBCONTRACTOR in writing.

(f) *Demand for Arbitration.* If the decision of the Subcontract Administrator is not satisfactory to SUBCONTRACTOR, or if SUBCONTRACTOR'S request for mediation has been denied, or a mediation undertaken pursuant to paragraph (e) of this clause has been unsuccessful, or the Subcontract Administrator has failed to timely issue a decision in accordance with subparagraph (d) (2) of this clause, and SUBCONTRACTOR desires to pursue further action, SUBCONTRACTOR must submit to the Board a written demand for arbitration of the claim within forty-five (45) Days after receipt of the Subcontract Administrator's decision, or within forty-five (45) Days after the Subcontract Administrator notifies SUBCONTRACTOR that its request for mediation has been denied or that the mediation undertaken pursuant to paragraph (e) has been unsuccessful, whichever is later.

(g) *Arbitration Procedures/Costs.* The Board shall arbitrate the claim and any counterclaims in accordance with the Rules of the Board. All claims for $100,000 or less shall be arbitrated under the Board's Small Claims (Expedited) Procedure. All other claims, regardless of dollar amount, shall be arbitrated under the Board's Accelerated Procedure. Both parties shall be afforded an opportunity to be heard and to present evidence in accordance with the Rules of the Board. Unless the Board orders otherwise, each party shall pay its own costs of prosecuting or defending an arbitration before the Board.

(h) *Review of Arbitration Decision.* An arbitration decision shall be final and conclusive unless a party files a timely action to vacate, modify, or correct the decision pursuant to the Federal Arbitration Act.

(i) *Subcontractor Performance Pending Claim Resolution.* SUBCONTRACTOR shall proceed diligently with performance of the subcontract and shall comply with any decision of the Subcontract Administrator pending final resolution of any claim or dispute arising under, or relating to, the subcontract.

(j) *Choice of Law.* The subcontract shall be governed by federal law as provided in this paragraph. Irrespective of the place of award, execution, or performance, the subcontract shall be construed and interpreted, and its validity determined, according to the federal common law of government contracts as enunciated and applied to prime government contracts by the federal boards of contract appeals and federal courts having appellate jurisdiction over their decisions rendered pursuant to the Contract Disputes Act of 1978. The Federal Arbitration Act, other federal statutes, and federal rules shall govern as applicable. To the extent that federal common law of government contracts is not dispositive, the laws of the State of New Mexico shall apply.

(k) *Interest.* Interest on amounts adjudicated due and unpaid by a party shall be paid from the date the complaining party files a demand for arbitration with the Board. Interest on claims shall be paid at the rate established by the Secretary of the Treasury of the United States pursuant to Public Law 92-41 (85 Stat. 97).

GC-37 BANKRUPTCY (Jun 2009)

In the event SUBCONTRACTOR enters into proceedings relating to bankruptcy, whether voluntary or involuntary, SUBCONTRACTOR agrees to furnish CONTRACTOR written notification of the bankruptcy within five (5) days of the proceedings.

GC-39A WARRANTY (Jun 2009)

(a) SUBCONTRACTOR warrants that it will perform the services under this subcontract with the degree of high professional skill, sound practices and good judgment normally exercised by recognized professional firms providing services of a similar nature. In addition to all other rights and remedies which CONTRACTOR or GOVERNMENT may have, SUBCONTRACTOR shall, at its expense, re-perform the services to correct any deficiencies which result from SUBCONTRACTOR'S failure to perform in accordance with the above standards.

(b) All equipment and materials, if any, furnished under this subcontract shall be new, of clear title and of the most suitable grade of their respective kinds for their intended uses unless otherwise specified. All workmanship shall be first class and performed in accordance with sound industry practices acceptable to CONTRACTOR.

(c) SUBCONTRACTOR warrants all equipment, materials and services it furnishes or performs under this subcontract against all defects for a period from Work commencement to a date twelve (12) months after acceptance of the project as a whole by GOVERNMENT or SUBCONTRACTOR’S most favored customer warranty term, whichever is longer.

(d) In the event CONTRACTOR or GOVERNMENT discover defects in design, equipment, materials or workmanship at any time before the expiration of the specified warranty period, SUBCONTRACTOR shall, upon written notice from CONTRACTOR or GOVERNMENT and at SUBCONTRACTOR'S sole expense, cure any such defect by re-performing defective services and/or workmanship and repairing or replacing defective equipment and/or materials. All costs incidental to such corrective action including, but not limited to, review, access, removal, retesting and re-inspection shall be borne by SUBCONTRACTOR. If SUBCONTRACTOR fails to take corrective action within a reasonable time, CONTRACTOR or GOVERNMENT may perform the corrective measures by other reasonable means and SUBCONTRACTOR agrees to pay CONTRACTOR all actual costs, including labor burden, reasonably incurred by CONTRACTOR in performing or in having performed corrective actions. SUBCONTRACTOR further warrants any

and all corrective measures for a period of twelve (12) months following their acceptance by CONTRACTOR or GOVERNMENT.

GC-41 INDEMNITY (Jun 2009)

(a) To the maximum extent permitted by applicable law, but no further, SUBCONTRACTOR hereby releases and shall indemnify, defend and hold harmless CONTRACTOR, GOVERNMENT and their subsidiaries and affiliates and the officers, agents, employees, successors and assigns and authorized representatives of all the foregoing from and against any and all suits, actions, legal or administrative proceedings, claims, demands, damages, liabilities, interest, attorney's fees, costs, expenses, and losses of whatsoever kind or nature in connection with or incidental to the performance of this subcontract, whether arising before or after completion of the Work hereunder and in any manner directly or indirectly caused, occasioned, or contributed to in whole or in part, or claimed to be caused, occasioned or contributed to in whole or in part, by reason of any act, omission, fault or negligence whether active or passive of SUBCONTRACTOR, its lower-tier suppliers, subcontractors or of anyone acting under its direction or control or on its behalf.

(b) The foregoing shall include, but is not limited to, indemnity for:

(1) Property damage and injury to or death of any person, including employees of CONTRACTOR, GOVERNMENT or SUBCONTRACTOR.

(2) The breach by SUBCONTRACTOR of any representation, warranty, covenant, or performance obligation of this subcontract.

(c) SUBCONTRACTOR specifically waives any immunity provided against this indemnity by an industrial insurance or workers' compensation statute.

GC-43 ASSIGNMENTS (Jun 2009)

(a) Any assignment of this subcontract or rights hereunder, in whole or part, without the prior written consent of CONTRACTOR shall be void, except that upon ten (10) calendar days written notice to CONTRACTOR, SUBCONTRACTOR may assign, with CONTRACTOR'S approval, claims for monies due or to become due hereunder to a bank, trust company, or other financial institution including any federal lending agency. Any such assignment may cover all amounts payable under this subcontract and not already paid, and shall not be made to more than one party, except that any such assignment may be made to one party, as agent or trustee of two or more parties participating in SUBCONTRACTOR'S financing. Payments to an assignee of any monies due, or to become due hereunder, shall be subject to setoff or recoupment for any present or future claim or claims which CONTRACTOR may have against SUBCONTRACTOR arising under this and other subcontracts. Upon such assignment, SUBCONTRACTOR shall provide CONTRACTOR with two copies of any such assignment and shall indicate on each invoice to whom payment is to be made.

(b) This subcontract may be assigned by CONTRACTOR, in whole or in part, to GOVERNMENT or to others upon written notice to SUBCONTRACTOR.

(c) No assignment will be approved which would relieve SUBCONTRACTOR or its sureties, if any, of their responsibilities under this subcontract.

GC-44 SUSPENSION (Jun 2009)

(a) CONTRACTOR may by written notice to SUBCONTRACTOR suspend the Work under this subcontract in whole or in part at any time. Upon receipt of such notice, SUBCONTRACTOR shall discontinue work to the extent specified in the notice; continue to protect and maintain the Work; and take any other steps to minimize costs associated with such suspension.

(b) Upon receipt of notice to resume suspended work, SUBCONTRACTOR shall immediately resume performance under this subcontract to the extent required in the notice.

(c) If SUBCONTRACTOR intends to assert a claim for equitable adjustment under this clause it must, pursuant to the General Condition titled "CHANGES" and within ten (10) calendar days after receipt of notice to resume work, submit a written notification of claim and within twenty (20) calendar days thereafter a written proposal setting forth the impact of such suspension. Any such claim for equitable adjustment must exclude profit.

GC-45 EXPORT COMPLIANCE (Jun 2009)

(a) SUBCONTRACTOR agrees that U.S. export control laws and regulations may govern aspects of the performance of this subcontract. SUBCONTRACTOR also acknowledges that all applicable export rules and regulations of the origin countries shall apply to the exports of commodities, software and technology (technical data and assistance) under this subcontract. Additionally, SUBCONTRACTOR acknowledges that other rules and regulations may restrict the use of certain parties under this subcontract. Such laws, rules and regulations are generally described below. SUBCONTRACTOR shall be responsible for any delay resulting from SUBCONTRACTOR'S failure to comply fully and timely with any such laws, rules or regulations described herein.

(1) Restricted Parties Lists

The U.S. Government, foreign governments and international organizations publish Restricted Parties Lists ("Lists") that identify parties (such as known or suspected terrorists, money launderers and drug traffickers) restricted from certain or all types of transactions. SUBCONTRACTOR shall review all applicable Lists prior to initiating transactions with any third party for the performance of all or any portion of the Work to ensure such third party is not identified on any applicable Lists. SUBCONTRACTOR shall not enter into any transactions with any third party identified on any applicable Lists.

(2) U.S. Export Control Requirements

(i) SUBCONTRACTOR will comply with all U.S. export control laws and regulations, including the provisions of the Export Administration Act of 1979 and the U.S. Export Administration Regulations (15 C.F.R. 730-774) promulgated thereunder, the U.S. Department of Energy's export regulations (10 C.F.R. Part 810), the Arms Export Control Act, the International Traffic in Arms Regulations, and the sanctions and laws administered by the U.S. Treasury Department, Office of Foreign Assets Control (OFAC). SUBCONTRACTOR acknowledges that these statutes and regulations impose restrictions on the import and export to foreign countries and foreign nationals of certain categories of items and data and that licenses from the U.S. Department of Energy, U.S. Department of Commerce, U.S. State Department and/or OFAC may be required before such items or data can be disclosed, and that such licenses may impose further restrictions on use of and further disclosure of such data. SUBCONTRACTOR further acknowledges that the information which CONTRACTOR may disclose to SUBCONTRACTOR pursuant to the subcontract may be subject to these statutes and regulations.

(ii) All work produced by SUBCONTRACTOR that is deemed to be export controlled shall be clearly marked with a legend on each page which states "Restricted access and distribution pursuant to U.S. export control laws."

(3) Licensing Requirements

(i) General: The United States of America and each country have export regulations that control commodities, software and technology for various reasons, such as

national security, foreign policy, anti-terrorism, and to avoid the proliferation of weapons and potential weapons, e.g. certain nuclear, chemical or biological agents. Numerous countries have export regulations that specifically address dual-use items, meaning commercial items with the potential to be applied to military and/or weapon proliferation uses. SUBCONTRACTOR shall ensure that all necessary export licenses are timely obtained, or license exceptions confirmed in writing to CONTRACTOR, prior to the export of any commodity, software or technology. SUBCONTRACTOR shall provide to CONTRACTOR a copy of any export license obtained upon receipt by SUBCONTRACTOR, and in any event prior to the export occurring.

(ii) United States of America (USA) Export Licensing Requirements: SUBCONTRACTOR is solely responsible for obtaining any required USA export licenses for all commodities, software, and technology being supplied in the performance of the Work, except for any commodity, software or technology supplied by CONTRACTOR. A copy of the export license, or SUBCONTRACTOR'S rationale as to why a license is not required, shall be provided to CONTRACTOR in writing upon receipt of the export license or SUBCONTRACTOR'S determination that a license is not required, and in any event prior to the export occurring.

(b) In the event work under this subcontract is performed off shore, unless otherwise expressly provided for or otherwise approved in writing by CONTRACTOR:

(1) SUBCONTRACTOR shall use the specifications and technical data only for purposes of this subcontract;

(2) SUBCONTRACTOR shall not disclosure the specifications and/or technical data to any other person, except a lower-tier subcontractor within the same country where SUBCONTRACTOR is performing the work under this subcontract;

(3) Nothing in this subcontract shall permit SUBCONTRACTOR or any other non U.S. person to acquire any rights in the specifications and/or technical data;

(4) SUBCONTRACTOR, and any lower-tier subcontractor, shall destroy or return to CONTRACTOR all of the specifications and technical data upon completion of its subcontract; and

(5) SUBCONTRACTOR shall deliver the deliverables under this subcontract directly to and only to CONTRACTOR.

(c) SUBCONTRACTOR hereby agrees to indemnify, defend and hold CONTRACTOR, GOVERNMENT, each of their respective affiliates and the respective directors, officers, employees and representatives of each harmless from and against any and all claims, legal or regulatory actions, final judgments, reasonable attorneys' fees, civil fines and any other losses which any of them may incur as a result of SUBCONTRACTOR'S failure to comply with its obligations under this clause.

(d) The substance of this clause shall be included in all subcontracts at every tier.

GC-46 SUBCONTRACTS (Jul 2011)

(a) SUBCONTRACTOR shall not subcontract with any third party for the performance of all or any portion of the Work without the advance written approval of CONTRACTOR. Purchase orders and subcontracts of any tier must include provisions to secure all rights and remedies of CONTRACTOR and GOVERNMENT provided under this subcontract, and must impose upon the lower-tier supplier and subcontractor all of the duties and obligations required to fulfill this subcontract as it relates to their portion of the Work. SUBCONTRACTOR shall provide written confirmation prior to commencement of work on site at LANL that SUBCONTRACTOR has included or will include (i.e. flow down) in subcontracts with its lower-tier suppliers and subcontractors all environment, safety, health, security and quality assurance requirements

contained in Exhibits F, G and H necessary to fulfill this subcontract as it relates to their portion of the Work. Additionally, when requested by CONTRACTOR, SUBCONTRACTOR shall provide written confirmation that SUBCONTRACTOR has included (i.e. flowed down) in subcontracts with its lower-tier suppliers and subcontractors all other duties and obligations required to fulfill this Subcontract as it relates to their portion of the Work.

(b) Copies of all purchase orders and subcontracts are to be provided to CONTRACTOR upon request. Pricing may be deleted unless the compensation to be paid there under is reimbursable under this subcontract.

(c) No subcontract will be approved which would relieve SUBCONTRACTOR or its sureties, if any, of their responsibilities under this subcontract.

GC-47A TERMINATION FOR CONVENIENCE (Jun 2009)

FAR clause 52.249-2 titled “TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED PRICE) (May 2004) applies to this subcontract, as specified in Appendix SFA-1.

GC-48 TERMINATION FOR DEFAULT (Jun 2009)

FAR clause 52.249-8 titled “DEFAULT (FIXED PRICE SUPPLY AND SERVICE) (Apr 1984)” applies to this subcontract, as specified in Appendix SFA-1.

GC-49A FINAL INSPECTION AND ACCEPTANCE (Jun 2009)

When SUBCONTRACTOR considers the Work under this subcontract, or any CONTRACTOR specified segment thereof, complete and ready for acceptance, SUBCONTRACTOR shall notify CONTRACTOR in writing. CONTRACTOR will conduct such reviews, inspections and tests as needed to satisfy CONTRACTOR that each segment, or upon completion, the Work conforms to subcontract requirements. CONTRACTOR will notify SUBCONTRACTOR of any nonconformance and SUBCONTRACTOR shall take corrective action and the acceptance procedure shall be repeated as required by CONTRACTOR until each segment or, upon completion, the Work is accepted. If the Work is accepted in segments such acceptance is provisional pending Final Acceptance of the Work as a whole. CONTRACTOR'S written Notice of Final Acceptance of the Work shall be conclusive except for latent defects, fraud, or CONTRACTOR'S and GOVERNMENT'S rights under the General Condition titled "WARRANTY".

GC-51A REPRESENTATIONS AND CERTIFICATIONS (Mar 2012) (Does not apply in subcontracts below $2,500)

All Representations and Certifications provided by SUBCONTRACTOR are incorporated by reference and made part of this subcontract.

GC-55 SEVERABILITY (Jun 2009)

The provisions of this subcontract are severable. If any provision shall be determined to be illegal or unenforceable, such determination shall have no effect on any other provision hereof, and the remainder of the subcontract shall continue in full force and effect so that the purpose and intent of this subcontract shall still be met and satisfied.

GC-56 SURVIVAL (Jun 2009)

All terms, conditions and provisions of this subcontract, which by their nature are independent of the period of performance, shall survive the cancellation, termination, expiration, default or abandonment of this subcontract.

GC-57 RELEASE AGAINST CLAIMS (Jun 2009)

SUBCONTRACTOR shall promptly pay all claims of persons or firms furnishing labor, equipment or materials used in performing the Work hereunder. CONTRACTOR reserves the right to require

SUBCONTRACTOR to submit satisfactory evidence of payment and releases of all such claims. CONTRACTOR may withhold any payment until SUBCONTRACTOR has furnished such evidence of payment and release and shall indemnify and defend CONTRACTOR and GOVERNMENT against any liability or loss from any such claim.

GC-59 CERTIFICATION REGARDING FORMER UC OR CONTRACTOR EMPLOYEES (Jun 2009)

(a) Effective June 1, 2006, individuals who retire under CONTRACTOR'S Defined Benefit Pension Plan, who wish to begin a retirement benefit, are required to have a true and complete severance from CONTRACTOR with no prior prearrangement for reemployment with CONTRACTOR or any of CONTRACTOR'S affiliated companies or subcontractors to do similar work. This can be documented by completing a form at the time of termination stating that no prearrangement for reemployment existed prior to the termination, and by demonstrating a true and complete severance from CONTRACTOR for at least one year before working for any of CONTRACTOR'S affiliated companies or subcontractors.

(b) Effective June 1, 2006, individuals who retire under CONTRACTOR'S TCP 2 401(k) Retirement plan, before attaining age 59 ½, are required to have a true and complete severance from CONTRACTOR with no prior prearrangement for reemployment with CONTRACTOR or any of CONTRACTOR'S affiliated companies or subcontractors to do similar work. This can be documented by completing a form at the time of termination stating that no prearrangement for reemployment existed prior to the termination, and by demonstrating a true and complete severance from CONTRACTOR for at least one year before working for any of CONTRACTOR'S affiliated companies or subcontractors. Individuals who retire under CONTRACTOR'S TCP 2 401(k) Retirement plan after age 59 ½ can be immediately reemployed.

(c) An individual who retired under the University of California Retirement Plan (UCRP) or the Public Employees Retirement System (PERS) may be immediately reemployed by any of CONTRACTOR'S affiliated companies or subcontractors, unless that individual also retired under one of CONTRACTOR'S retirement plans in which case such individual must also comply with paragraph (a) or (b) above.

(d) Any former employee of CONTRACTOR or of the University of California (UC) who was terminated for cause or who resigned in lieu of termination for cause is prohibited from returning to work at Los Alamos National Laboratory (LANL) for a period of seven (7) years, unless there is a compelling reason to allow such individual to return to LANL sooner. SUBCONTRACTOR and its lower tier subcontractors may not employ any former employee of CONTRACTOR or of UC, who was terminated for cause or who resigned in lieu of termination for cause, for any on-site work at LANL or for any work under this subcontract in which such former employee may have any direct or indirect substantive contact with a current CONTRACTOR employee, unless approved by CONTRACTOR in writing prior to commencement of work by SUBCONTRACTOR.

(e) In order to assure compliance with paragraphs (a) through (d), SUBCONTRACTOR shall, with respect to its employees who are assigned to work under this subcontract and those of its lower tier subcontractors' employees who are assigned to work under this subcontract, certify that all individuals who are assigned to work under this subcontract are in compliance with the requirement of paragraphs (a) through (d) of this clause. Such certification must be provided in writing to CONTRACTOR before the start of work under this subcontract and on a quarterly basis thereafter on a form provided by CONTRACTOR. In making this certification SUBCONTRACTOR and its lower tier subcontractors may rely on information provided by applicants for employment or current employees, so long as SUBCONTRACTOR and its lower tier subcontractors have exercised due diligence and have, at a minimum, obtained the following information from each applicant or employee:

(1) whether the applicant or employee was a former UC or CONTRACTOR employee, and if so, the date of separation;

(2) whether the separation was the result of retirement, termination for cause, or resignation in lieu of termination for cause;

(3) whether the applicant or employee is a member of CONTRACTOR'S Defined Benefit Pension Plan or Contractor's TCP 2, 401(k) Plan; and

(4) confirmation that, if the applicant or employee retired under one of CONTRACTOR'S retirement plans, to the extent described above, the applicant had no prior prearrangement for reemployment by SUBCONTRACTOR or one of its lower tier subcontractors prior to termination.

(f) CONTRACTOR may exclude SUBCONTRACTOR from future subcontracts for a reasonable, specified period, if CONTRACTOR determines that SUBCONTRACTOR breached any of the requirements contained in paragraphs (a) through (d) of this clause.

(g) SUBCONTRACTOR shall ensure that the substance of this clause is included in all lower-tier subcontracts awarded pursuant to this subcontract.

GC-60 SUBCONTRACTS WITH CONTRACTOR'S TEAM MEMBERS AND TEAM MEMBER AFFILIATES (Jan 2010)

(a) As used in this provision:

(1) Team Members means any of the following entities: Bechtel National, University of California, The Babcock and Wilcox Company, and the Washington Division of URS, Professional project Services, Inc. and DreamTech Solutions, LLC doing business as Ngenuity.

(2) Team Member Affiliate means any person or entity which is a wholly owned, majority owned, or otherwise an affiliate of any Team Member. The term 'affiliate' is defined at FAR 2.101.

(b) Because of restrictions in the contract between NNSA and CONTRACTOR concerning the payment of fee or profit when subcontracting with any Team Member or any Team Member Affiliate, as well as Organizational Conflict of Interest concerns, neither SUBCONTRACTOR nor any tier of its lower tier subcontractors or suppliers shall enter into a subcontract with any Team Member or any Team Member Affiliate to provide goods or services under this subcontract without the advance written approval of the Subcontract Administrator. In the event that written approval is granted to enter into a subcontract with a Team Member or a Team Member Affiliate, no fee or profit shall be paid to such Team Member or Team Member Affiliate under the proposed subcontract. In the event it is later determined that a Team Member or a Team Member Affiliate has been paid a fee or profit, SUBCONTRACTOR shall reimburse CONTRACTOR the amount of this fee or profit.

(c) SUBCONTRACTOR shall include the substance of this provision in all lower tier subcontracts and purchase orders.

EX A-1 ADDITIONAL GENERAL CONDITIONS RELATING TO WORK FUNDED UNDER AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (Aug 2010) (Applies only to a subcontract over $25,000 that is funded in whole or in part by the Recovery Act, unless the subcontract is with an individual.)

Work performed under this subcontract will be funded, in whole or in part, with funds appropriated by the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, (Recovery Act). The Recovery Act's purposes are to stimulate the economy and to create and retain jobs. Requirements mandated by the Recovery Act are as follows:

(a) Definitions

Covered Funds means funds expended or obligated from appropriations under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5. Covered Funds will have special

accounting codes and will be identified as Recovery Act funds. Covered Funds must be reimbursed by September 30, 2015.

Non-Federal employer means any employer with respect to Covered Funds – CONTRACTOR or SUBCONTRACTOR, as the case may be, if CONTRACTOR or SUBCONTRACTOR is an employer; and any professional membership organization, certification of other professional body, any agent or licensee of the Federal government, or any person acting directly or indirectly in the interest of an employer receiving Covered Funds; or with respect to Covered Funds received by a State or local government, the State or local government receiving the funds and any contractor or subcontractor receiving the funds and any contractor or subcontractor of the State or local government; and does not mean any department, agency, or other entity of the federal government.

(b) Segregation and Payment of Costs

SUBCONTRACTOR must segregate the obligations and expenditures related to funding under the Recovery Act. Financial and accounting systems should be revised as necessary to segregate, track, and maintain these funds apart and separate from other revenue streams. No part of the funds from the Recovery Act shall be commingled with any other funds or used for a purpose other than that of making payments for costs allowable for Recovery Act projects. The Recovery Act funds can be used in conjunction with other funding as necessary to complete projects. However, SUBCONTRACTOR must ensure that the project contains the authorized Treasury Accounting Symbol (TAS) approved by CONTRACTOR to ensure linkage between procurement and financial data. SUBCONTRACTOR should issue separate subcontracts for the Recovery Act project tasks to ensure compliance with the tracking and reporting requirements of the Recovery Act and related Guidance.

(c) Prohibition on Use of Funds

None of the funds provided under this subcontract derived from the Recovery Act may be used for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

(d) Wage Rates

All laborers and mechanics employed by SUBCONTRACTOR and its lower-tier subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the Recovery Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (U.S.C.). With respect to the labor standards specified in this section, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan numbered 14 of 1950 (64 Stat. 1267, 5 U.S.C. App.) and section 3145 of title 40 United States Code. See http://www.dol.gov/esa/whd/contracts/dbra.htm .

(e) Publication

Information about this work will be published on the Internet and linked to the website www.recovery.gov, maintained by the Accountability and Transparency Board. The Board may exclude posting contractual or other information on the website on a case-by-case basis when necessary to protect national security or to protect information that is not subject to disclosure under sections 552 and 552a of title 5, United States Code.

(f) Registration requirements

SUBCONTRACTOR shall have a DUNS number and be registered in the Central Contractor Registration (CCR) within 10 days of the effective date of this subcontract.

(g) Utilization of Small Business

SUBCONTRACTOR shall to the maximum extent practicable give a preference to small business in the award of subcontracts for projects funded by Recovery Act dollars.

(h) Access

(1) As required by the Recovery Act, the Comptroller General and his representatives are authorized to examine any records of SUBCONTRACTOR or any of its subcontractors that involve transactions relating to this subcontract and to interview any officer or employee of SUBCONTRACTOR or any of its subcontractors, regarding such transactions.

(2) As required by the Recovery Act, any representative of an appropriate Inspector General is authorized to examine any records of SUBCONTRACTOR or any of its subcontractors that involves transactions relating to this subcontract and to interview any officer or employee of SUBCONTRACTOR or any of its subcontractors, regarding such transactions.

(3) As required by the Recovery Act, the Recovery Accountability and Transparency Board (The Board) and its representatives are authorized to conduct audits and reviews of contracts that use Recovery Act funds. In addition to having access to records of SUBCONTRACTOR and any of its subcontractors, and the right to interview any officer or employee of SUBCONTRACTOR or its subcontractors, the Board is also authorized to issue and enforce subpoenas to compel the testimony at public hearings, or otherwise, of persons who are not Federal officers or employees.

(i) Certification

In order for CONTRACTOR to accept any products or services funded by the Recovery Act, SUBCONTRACTOR shall certify that the items were delivered and/or work was performed for a purpose authorized under the Recovery Act.

(j) Federal Acquisition Regulation (FAR) Clauses

(1) The following alterations shall apply to the FAR clauses wherever necessary to make the context of the unmodified FAR clause applicable to this subcontract:

(i) The term "contractor" or “the contractor” shall mean "SUBCONTRACTOR";

(ii) The term "contract" shall mean this subcontract;

(iii) The term “subcontractor” shall mean “SUBCONTRACTOR’S first tier subcontractors”;

(iv) The term “DOE”, "Government," "Contracting Officer" and equivalent phrases shall mean CONTRACTOR and/or CONTRACTOR’S representative, except the terms "Government" and "Contracting Officer" do not change:

(A) In the phrases “Government Property,” “Government-Furnished Property,” and “Government-Owned Property;”

(B) In any patent clauses incorporated herein;

(C) When a right, act, authorization or obligation can be granted or performed only by the Government or the prime contract Contracting Officer or his duly authorized representative;

(D) When title to property is to be transferred directly to the Government;

(E) When access to proprietary financial information or other proprietary data is required except for authorized audit rights; and

(F) Where specifically modified herein.

(v) For authorized audit rights, the term "Contracting Officer or an authorized representative of the Contracting Officer" shall also include "CONTRACTOR, or an authorized representative of CONTRACTOR."

(2) The following clauses are interim FAR clauses that are in effect until the FAR is amended to implement, in final, provisions of the Recovery Act. SUBCONTRACTOR agrees that CONTRACTOR may unilaterally modify this subcontract to incorporate the final FAR clauses that implement the Recovery Act.

FAR 52.203-15 Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009. (Jun 2010)

(a) The Contractor shall post notice of employees rights and remedies for whistleblower protections provided under section 1553 of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5) (Recovery Act).

(b) The Contractor shall include the substance of this clause, including this paragraph (b), in all subcontracts that are funded in whole or in part with Recovery Act funds.

FAR 52.204-11 American Recovery and Reinvestment Act—Reporting Requirements (Jul 2010)

(a) *Definitions. For definitions related to this clause (e.g., contract, first-tier subcontract, total* compensation etc.) see the Frequently Asked Questions (FAQs) available at http://www.whitehouse.gov/omb/recovery_faqs_contractors. These FAQs are also linked under http://www.FederalReporting.gov.

(b) This contract requires the contractor to provide products and/or services that are funded under the American Recovery and Reinvestment Act of 2009 (Recovery Act). Section 1512(c) of the Recovery Act requires each contractor to report on its use of Recovery Act funds under this contract. These reports will be made available to the public.

(c) Reports from the Contractor for all work funded, in whole or in part, by the Recovery Act, are due no later than the 10th day following the end of each calendar quarter. The Contractor shall review the Frequently Asked Questions (FAQs) for Federal Contractors before each reporting cycle and prior to submitting each quarterly report as the FAQs may be updated from time-to-time. The first report is due no later than the 10th day after the end of the calendar quarter in which the Contractor received the award. Thereafter, reports shall be submitted no later than the 10th day after the end of each calendar quarter. For information on when the Contractor shall submit its final report, see http://www.whitehouse.gov/omb/recovery_faqs_contractors.

(d) The Contractor shall report the following information, using the online reporting tool available at www.FederalReporting.gov.

(1) The Government contract and order number, as applicable.

(2) The amount of Recovery Act funds invoiced by the contractor for the reporting period. A cumulative amount from all the reports submitted for this action will be maintained by the government's on-line reporting tool.

(3) A list of all significant services performed or supplies delivered, including construction, for which the contractor invoiced in this calendar quarter.

(4) Program or project title, if any.

(5) A description of the overall purpose and expected outcomes or results of the contract, including significant deliverables and, if appropriate, associated units of measure.

(6) An assessment of the contractor's progress towards the completion of the overall purpose and expected outcomes or results of the contract (*i.e.*, not started, less than 50 percent completed, completed 50 percent or more, or fully completed). This covers the contract (or portion thereof) funded by the Recovery Act.

(7) A narrative description of the employment impact of work funded by the Recovery Act. This narrative should be cumulative for each calendar quarter and address the impact on the Contractor's and first-tier subcontractors' workforce for all first-tier subcontracts valued at $25,000 or more. At a minimum, the Contractor shall provide—

(i) A brief description of the types of jobs created and jobs retained in the United States and outlying areas (see definition in FAR 2.101). This description may rely on job titles, broader labor categories, or the Contractor's existing practice for describing jobs as long as the terms used are widely understood and describe the general nature of the work; and

(ii) An estimate of the number of jobs created and jobs retained by the prime Contractor and all first-tier subcontracts valued at $25,000 or more, in the United States and outlying areas. A job cannot be reported as both created and retained. See an example of how to calculate the number of jobs at http://www.whitehouse.gov/omb/recovery_faqs_contractors.

(8) Names and total compensation of each of the five most highly compensated officers of the Contractor for the calendar year in which the contract is awarded if—

(i) In the Contractor's preceding fiscal year, the Contractor received—

(A) 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants) and cooperative agreements; and

(B) $25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants) and cooperative agreements; and

(ii) The public does not have access to information about the compensation of the senior executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986.

(9) For subcontracts valued at less than $25,000 or any subcontracts awarded to an individual, or subcontracts awarded to a subcontractor that in the previous tax year had gross income under $300,000, the Contractor shall only report the aggregate number of such first tier subcontracts awarded in the quarter and their aggregate total dollar amount.

(10) For any first-tier subcontract funded in whole or in part under the Recovery Act, that is valued at $25,000 or more and not subject to

reporting under paragraph 9, the Contractor shall require the subcontractor to provide the information described in paragraphs (d)(10)(i), (ix), (x), (xi), and (xii) of this section to the Contractor for the purposes of the quarterly report. The Contractor shall advise the subcontractor that the information will be made available to the public as required by section 1512 of the Recovery Act. The Contractor shall provide detailed information on these first-tier subcontracts as follows:

(i) Unique identifier (DUNS Number) for the subcontractor receiving the award and for the subcontractor's parent company, if the subcontractor has a parent company.

(ii) Name of the subcontractor.

(iii) Amount of the subcontract award.

(iv) Date of the subcontract award.

(v) The applicable North American Industry Classification System (NAICS) code.

(vi) Funding agency.

(vii) A description of the products or services (including construction) being provided under the subcontract, including the overall purpose and expected outcomes or results of the subcontract.

(viii) Subcontract number (the contract number assigned by the prime contractor).

(ix) Subcontractor's physical address including street address, city, state, and country. Also include the nine-digit zip code and congressional district if applicable.

(x) Subcontract primary performance location including street address, city, state, and country. Also include the nine-digit zip code and congressional district if applicable.

(xi) Names and total compensation of each of the subcontractor's five most highly compensated officers, for the calendar year in which the subcontract is awarded if—

(A) In the subcontractor's preceding fiscal year, the subcontractor received—

(1) 80 percent or more of its annual gross revenues in Federal contracts (and subcontracts), loans, grants (and subgrants), and cooperative agreements; and

(2) $25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), and cooperative agreements; and

(B) The public does not have access to information about the compensation of the senior executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986.

(xii) A narrative description of the employment impact of work funded by the Recovery Act. This narrative should be cumulative for

each calendar quarter and address the impact on the subcontractor's workforce. At a minimum, the subcontractor shall provide—

(A) A brief description of the types of jobs created and jobs retained in the United States and outlying areas (see definition in FAR 2.101). This description may rely on job titles, broader labor categories, or the subcontractor's existing practice for describing jobs as long as the terms used are widely understood and describe the general nature of the work; and

(B) An estimate of the number of jobs created and jobs retained by the subcontractor in the United States and outlying areas. A job cannot be reported as both created and retained. See an example of how to calculate the number of jobs at http://www.whitehouse.gov/omb/recovery_faqs_contractors.

FAR 52.215-2 Audit and Records — Negotiation (Alt I) (Mar 2009)

(a) As used in this clause, "records" includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.

(b) *Examination of costs*. If this is a cost-reimbursement, incentive, time-and-materials, labor-hour, or price redeterminable contract, or any combination of these, the Contractor shall maintain and the Contracting Officer, or an authorized representative of the Contracting Officer, shall have the right to examine and audit all records and other evidence sufficient to reflect properly all costs claimed to have been incurred or anticipated to be incurred directly or indirectly in performance of this contract. This right of examination shall include inspection at all reasonable times of the Contractor's plants, or parts of them, engaged in performing the contract.

(c) *Cost or pricing data*. If the Contractor has been required to submit cost or pricing data in connection with any pricing action relating to this contract, the Contracting Officer, or an authorized representative of the Contracting Officer, in order to evaluate the accuracy, completeness, and currency of the cost or pricing data, shall have the right to examine and audit all of the Contractor's records, including computations and projections, related to –

(1) The proposal for the contract, subcontract, or modification;

(2) The discussions conducted on the proposal(s), including those related to negotiating;

(3) Pricing of the contract, subcontract, or modification; or

(4) Performance of the contract, subcontract or modification.

(d) *Comptroller General or Inspector General*.

(1) The Comptroller General of the United States, an appropriate Inspector General appointed under section 3 or 8G of the Inspector General Act of 1978 (5 U.S.C. App.), or an authorized representative of either of the foregoing officials, shall have access to and the right to —

(i) Examine any of the Contractor's or any subcontractor's records that pertain to and involve transactions relating to this contract or a subcontract hereunder; and

(ii) Interview any officer or employee regarding such transactions.

(2) This paragraph may not be construed to require the Contractor or subcontractor to create or maintain any record that the Contractor or subcontractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(e) *Reports*. If the Contractor is required to furnish cost, funding, or performance reports, the Contracting Officer or an authorized representative of the Contracting Officer shall have the right to examine and audit the supporting records and materials, for the purpose of evaluating —

(1) The effectiveness of the Contractor's policies and procedures to produce data compatible with the objectives of these reports; and

(2) The data reported.

(f) *Availability*. The Contractor shall make available at its office at all reasonable times the records, materials, and other evidence described in paragraphs (a), (b), (c), (d), and (e) of this clause, for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in Subpart 4.7, Contractor Records Retention, of the Federal Acquisition Regulation (FAR), or for any longer period required by statute or by other clauses of this contract. In addition —

(1) If this contract is completely or partially terminated, the Contractor shall make available the records relating to the work terminated until 3 years after any resulting final termination settlement; and

(2) The Contractor shall make available records relating to appeals under the Disputes clause or to litigation or the settlement of claims arising under or relating to this contract until such appeals, litigation, or claims are finally resolved.

(g) *Flow Down Provision.*

(1) Except as provided in paragraph (g)(2) of this clause, the Contractor shall insert a clause containing all the terms of this clause, including this paragraph (g), in all subcontracts under this contract. The clause may be altered only as necessary to identify properly the contracting parties and the Contracting Officer under the Government prime contract.

(2) The authority of the Inspector General under paragraph (d)(1)(ii) of this clause does not flow down to subcontracts.

FAR 52.225-23 Required Use of American Iron, Steel, and Other Manufactured Goods — Buy American Act — Construction Materials Under Trade Agreements (Aug 2009) [Applicable only to contracts for the construction work as defined under the Federal Acquisition Regulation.]

(a) *Definitions*. As used in this clause—

"*Construction material*" means an article, material, or supply brought to the construction site by the Contractor or subcontractor for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are

discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site. Materials purchased directly by the Government are supplies, not construction material.

"*Domestic construction material*" means—

(1) An unmanufactured construction material mined or produced in the United States; or

(2) A construction material manufactured in the United States.

"*Foreign construction material*" means a construction material other than a domestic construction material.

"*Free trade agreement (FTA) country construction material*" means a construction material that—

(1) Is wholly the growth, product, or manufacture of an FTA country; or

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in an FTA country into a new and different construction material distinct from the materials from which it was transformed.

"*Least developed country construction material*" means a construction material that—

(1) Is wholly the growth, product, or manufacture of a least developed country; or

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a least developed country into a new and different construction material distinct from the materials from which it was transformed.

"*Manufactured construction material*" means any construction material that is not unmanufactured construction material.

"*Recovery Act designated country*" means any of the following countries:

(1) A World Trade Organization Government Procurement Agreement (WTO GPA) country (Aruba, Austria, Belgium, Bulgaria, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Taiwan, or United Kingdom);

(2) A Free Trade Agreement country (FTA)(Australia, Bahrain, Canada, Chile, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Israel, Mexico, Morocco, Nicaragua, Oman, Peru, or Singapore); or

(3) A least developed country (Afghanistan, Angola, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia, Central African Republic, Chad, Comoros, Democratic Republic of

Congo, Djibouti, East Timor, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Laos, Lesotho, Liberia, Madagascar, Malawi, Maldives, Mali, Mauritania, Mozambique, Nepal, Niger, Rwanda, Samoa, Sao Tome and Principe, Senegal, Sierra Leone, Solomon Islands, Somalia, Tanzania, Togo, Tuvalu, Uganda, Vanuatu, Yemen, or Zambia).

"*Recovery Act designated country construction material*" means a construction material that is a WTO GPA country construction material, an FTA country construction material, or a least developed country construction material.

"*Steel*" means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

"*United States*" means the 50 States, the District of Columbia, and outlying areas.

"*Unmanufactured construction material*" means raw material brought to the construction site for incorporation into the building or work that has not been—

(1) Processed into a specific form and shape; or

(2) Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.

"*WTO GPA country construction material*" means a construction material that—

(1) Is wholly the growth, product, or manufacture of a WTO GPA country; or

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a WTO GPA country into a new and different construction material distinct from the materials from which it was transformed.

(b) Construction materials.

(1) The restrictions of section 1605 of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5) (Recovery Act) and the Buy American Act (41 U.S.C. 10a–10d) do not apply to Recovery Act designated country construction material. Consistent with U.S. obligations under international agreements, this clause implements—

(i) Section 1605 of the Recovery Act by requiring, unless an exception applies, that all iron, steel, and other manufactured goods used as construction material in the project are produced in the United States; and

(ii) The Buy American Act by providing a preference for unmanufactured domestic construction material.

(2) The Contractor shall use only domestic or Recovery Act designated country construction material in performing this contract, except as provided in paragraphs (b)(3) and (b)(4) of this clause.

(3) The requirement in paragraph (b)(2) of this clause does not apply to the construction materials or components listed by the Government as follows:

None [*Contracting Officer to list applicable excepted materials or indicate "none".*]

(4) The Contracting Officer may add other construction material to the list in paragraph (b)(3) of this clause if the Government determines that—

(i) The cost of domestic construction material would be unreasonable.

(A) The cost of domestic iron, steel, or other manufactured goods used as construction material is unreasonable when the cumulative cost of such material will increase the overall cost of the contract by more than 25 percent;

(B) The cost of unmanufactured construction material is unreasonable when the cost of such material exceeds the cost of foreign material by more than 6 percent;

(ii) The construction material is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality; or

(iii) The application of the restriction of section 1605 of the Recovery Act or the Buy American Act to a particular construction material would be inconsistent with the public interest.

(c) Request for determination of inapplicability of section 1605 of the Recovery Act or the Buy American Act.

(1)

(i) Any Contractor request to use foreign construction material in accordance with paragraph (b)(4) of this clause shall include adequate information for Government evaluation of the request, including—

(A) A description of the foreign and domestic construction materials;

(B) Unit of measure;

(C) Quantity;

(D) Cost;

(E) Time of delivery or availability;

(F) Location of the construction project;

(G) Name and address of the proposed supplier; and

(H) A detailed justification of the reason for use of foreign construction materials cited in accordance with paragraph (b)(4) of this clause.

(ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed cost comparison table in the format in paragraph (d) of this clause.

(iii) The cost of construction material shall include all delivery costs to the construction site and any applicable duty.

(iv) Any Contractor request for a determination submitted after contract award shall explain why the Contractor could not reasonably foresee the need for such determination and could not have requested the determination before contract award. If

the Contractor does not submit a satisfactory explanation, the Contracting Officer need not make a determination.

(2) If the Government determines after contract award that an exception to section 1605 of the Recovery Act or the Buy American Act applies and the Contracting Officer and the Contractor negotiate adequate consideration, the Contracting Officer will modify the contract to allow use of the foreign construction material. However, when the basis for the exception is the unreasonable cost of a domestic construction material, adequate consideration is not less than the differential established in paragraph (b)(4)(i) of this clause.

(3) Unless the Government determines that an exception to the section 1605 of the Recovery Act or the Buy American Act applies, use of foreign construction material other than that covered by trade agreements is noncompliant with the applicable Act.

(d) *Data*. To permit evaluation of requests under paragraph (c) of this clause based on unreasonable cost, the Contractor shall include the following information and any applicable supporting data based on the survey of suppliers:

Foreign And Domestic Construction Materials Cost Comparison			
Construction material description	Unit of measure	Quantity	Cost (dollars)*
Item 1:			
Foreign construction material			
Domestic construction material			
Item 2:			
Foreign construction material			
Domestic construction material:			
Note: List name, address, telephone number, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary. Include other applicable supporting information. ***** *Include all delivery costs to the construction site*.			

FAR 52.244-6 Subcontracts for Commercial Items (Jun 2010)

(a) *Definitions.* As used in this clause—

"Commercial item" has the meaning contained in Federal Acquisition Regulation 2.101, Definitions.

"Subcontract" includes a transfer of commercial items between divisions, subsidiaries, or affiliates of the Contractor or subcontractor at any tier.

(b) To the maximum extent practicable, the Contractor shall incorporate, and require its subcontractors at all tiers to incorporate, commercial items or nondevelopmental items as components of items to be supplied under this contract.

(c)

(1) The Contractor shall insert the following clauses in subcontracts for commercial items:

(i) FAR 52.203-13, Contractor Code of Business Ethics and Conduct (Apr 2010) (Pub. L. 110-252, Title VI, Chapter 1 (41 U.S.C. 251 note)), if the subcontract exceeds $5,000,000 and has a performance period of more than 120 days. In altering this clause to identify the appropriate parties, all disclosures of violation of the civil False Claims Act or of Federal criminal law shall be directed to the agency Office of the Inspector General, with a copy to the Contracting Officer.

(ii) FAR 52.203-15, Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (Jun 2010) (Section 1553 of Pub. L. 111-5), if the subcontract is funded under the Recovery Act.

(iii) FAR 52.219-8, Utilization of Small Business Concerns (May 2004) (15 U.S.C. 637(d)(2) and (3)), if the subcontract offers further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds $550,000 ($1,000,000 for construction of any public facility), the subcontractor must include FAR 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(iv) FAR 52.222-26, Equal Opportunity (Mar 2007) (E.O. 11246).

(v) FAR 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Sept 2006) (38 U.S.C. 4212(a));

(vi) FAR 52.222-36, Affirmative Action for Workers with Disabilities (June 1998) (29 U.S.C. 793).

(vii) [Reserved]

(viii) FAR 52.222-50, Combating Trafficking in Persons (Feb 2009) (22 U.S.C. 7104(g)).

(ix) FAR 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. App. 1241 and 10 U.S.C. 2631), if flow down is required in accordance with paragraph (d) of FAR clause 52.247-64).

(2) While not required, the Contractor may flow down to subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

(d) The Contractor shall include the terms of this clause, including this paragraph (d), but not including paragraph (e), in subcontracts awarded under this contract.

(e) To the maximum extent practicable, when the Contractor acts as a purchasing agent for the Government with respect to a purchase that exceeds the simplified acquisition threshold, the Contractor shall conduct market research (10 U.S.C. 2377(c)) to—

(1) Determine if commercial items or, to the extent commercial items suitable to meet the agency's needs are not available, nondevelopmental items are available that—

(A) Meet the agency's requirements;

(B) Could be modified to meet the agency's requirements; or

(C) Could meet the agency's requirements if those requirements were modified to a reasonable extent; and

(2) Determine the extent to which commercial items or nondevelopmental items could be incorporated at the component level.