

Dated 7-15-16

Subcontract Form of Agreement ACES Non-Recurring Engineering (NRE)

Subcontractor: TBD

Subcontract No.: *

Address: *

Contact: *

Telephone: *

E-mail: *

D-U-N-S No.: *

NAICS Code: 541712

This subcontract, effective on the date of signature by the last party to sign, is hereby made and entered into by and between Los Alamos National Security, LLC (CONTRACTOR), and the above named SUBCONTRACTOR who hereby agree that all Work specified below, which is a portion of the goods and services to be provided by CONTRACTOR for the United States Department of Energy National Nuclear Security Administration (OWNER), shall be performed by the SUBCONTRACTOR in accordance with all the provisions of this subcontract.

1. SUBCONTRACT DOCUMENTS: This subcontract consists of the following documents:

- Subcontract Form of Agreement [Dated 7-15-16]
- Appendix SFA-1, FAR & DEAR Clauses Incorporated by Reference [Dated 7-15-16]
- Exhibit "A" General Conditions [Dated 7-15-16]
- Exhibit "B" Special Conditions [Dated 7-15-16]
- Exhibit "C" Form A Quantities and Pricing Schedule [Dated 7-15-16]
- Exhibit "C" Form B Milestone and Payment Schedules [Dated 7-15-16]
- Exhibit "D" Scope of Work and Technical Specifications [Dated 7-15-16]
- Exhibit "F" Environmental, Safety and Health Requirements [Dated TBD] *
- Exhibit "G" Physical Security Requirements [Dated TBD] *
- Exhibit "G" Cyber Security Requirements [Dated TBD] *
- Exhibit "H" Quality Assurance Requirements [Dated TBD] *

** Requirements for Exhibits "F", "G", and "H" cannot be determined until Exhibit "D" is negotiated. These Exhibits may be similar to those included in the LANS Sample Build subcontract for Crossroads and will be included, as appropriate, in any LANS NRE Subcontract that results from this RFP.*

2. WORK TO BE PERFORMED (Work): In accordance with the subcontract documents, SUBCONTRACTOR shall furnish all administrative, technical and professional services, and perform all operations, including the furnishing and supervision of all technical personnel and labor, and the furnishing of any equipment, material, tools, supplies and transportation necessary and required to satisfactorily perform the Work in accordance with Exhibit "D" Scope of Work and Technical Specifications.

3. PERIOD OF PERFORMANCE AND SCHEDULE: The period of performance for this subcontract shall commence on the effective date as defined in the opening paragraph above. The subcontract shall expire on *. The Work shall be performed in accordance with the Subcontract Schedule set forth in Exhibit "C" Form B Milestone and Payment Schedule.

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4. COMPENSATION:

- A. As full consideration for the satisfactory performance by SUBCONTRACTOR of this subcontract, CONTRACTOR shall pay to SUBCONTRACTOR the total sum of * (\$*). Payments will be in accordance with the payment provisions of this subcontract and with Payment Amounts set forth Exhibit "C" Form B Milestone and Payment Schedule.
- B. Cost sharing is a condition for Class Advance Waiver W(C) XXXXXXXX on intellectual property for a large business concern. SUBCONTRACTOR has asserted its intent to participate in the cost sharing arrangement by absorbing at least 40 percent of the Total Estimated ACES NRE Costs as follows:

CONTRACTOR Fixed Share	SUBCONTRACTOR Cost Share	Total Estimated ACES NRE Costs
\$XXX,XXX	\$XXX,XXX	\$XXX,XXX

In the event SUBCONTRACTOR does not share in the research costs at a minimum level of 40 percent, the Class A Advance Waiver W(C) XXXXXXXX will not be available and the existing FAR and DEAR intellectual property clauses as provided in Appendix SFA-1 of this subcontract shall apply.

All contributions, including cash and third party in-kind contributions, shall be accepted as part of the recipient's cost sharing or matching when such contributions meet all of the following criteria:

- Are verifiable from the recipient's records (General Provisions clause DEAR 970.5232-3 applies).
- Are not included as contributions for any other federal project or program.
- Are necessary and reasonable for proper and efficient accomplishment of project or program objectives.
- Are allowable under the applicable cost principles in Federal Acquisition Regulation (FAR) Subpart 31.2, as supplemented by DOE Acquisition Regulation (DEAR) Subpart 931.2.
- Are not paid by the Federal Government under another award, except where authorized by Federal statute to be used for cost sharing or matching.
- Are provided for in the approved budget when required by CONTRACTOR.

Unrecovered indirect costs may be included as part of cost sharing or matching only with the prior approval of CONTRACTOR. When an employer other than the SUBCONTRACTOR furnishes the services of an employee, these services shall be valued at the employee's regular rate of pay (plus an amount of fringe benefits that are reasonable, allowable, and allocable, but exclusive of overhead costs), provided these services are in the same skill for which the employee is normally paid.

5. JOINT VENTURE: In signing this subcontract as a Joint Venture comprised of *, *, and *, the parties agree that they shall be jointly and severally obligated to CONTRACTOR to fulfill all the SUBCONTRACTOR'S obligations and responsibilities set forth herein.

This subcontract embodies the entire agreement between CONTRACTOR and SUBCONTRACTOR and supersedes all other writings. The parties shall not be bound by or be liable for any statement, representation, promise, inducement or understanding not set forth herein.

For the CONTRACTOR:

For the SUBCONTRACTOR:

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Sample NRE

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Appendix SFA-1 FAR & DEAR Clauses Incorporated By Reference

- (a) The Federal Acquisition Regulation (FAR) and the Department of Energy Acquisition Regulation (DEAR) clauses which are incorporated by reference herein shall have the same force and effect as if printed in full text.
- (b) Full text of the referenced clauses may be accessed electronically at website address:
 FAR: <http://farsite.hill.af.mil/vffara.htm>
 DEAR: <http://farsite.hill.af.mil/vfdoea.htm>
- (c) The following alterations shall apply to FAR and DEAR clauses wherever necessary to make the context of the unmodified FAR and DEAR clauses applicable to this subcontract.
- (1) The term "Contractor" shall mean "SUBCONTRACTOR;"
 - (2) The term "Contract" shall mean this subcontract; and
 - (3) 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:
 - (i) In the phrases "Government Property," "Government-Furnished Property," and "Government-Owned Property;"
 - (ii) In any patent clauses incorporated herein;
 - (iii) 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;
 - (iv) When title to property is to be transferred directly to the Government;
 - (v) When access to proprietary financial information or other proprietary data is required except for authorized audit rights; and
 - (vi) Where specifically modified herein.
 - (4) 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."
- (d) Each of the individual FAR/DEAR clauses listed below is incorporated by reference into this subcontract when the condition(s) for applicability is/are met.

THE FOLLOWING CLAUSES APPLY TO THIS SUBCONTRACT REGARDLESS OF THE AMOUNT OF THE SUBCONTRACT PRICE, UNLESS OTHERWISE NOTED:

Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.222-4	Contract Work Hours and Safety Standards Act - Overtime Compensation (Jul 2005)	Applies to subcontracts that may require or involve the employment of laborers and mechanics. If applicable, only paragraphs (a) through (d) apply to subcontracts. Furthermore, if applicable, SUBCONTRACTOR shall flow down paragraphs (a) through (d) to all its lower-tier subcontracts that may require or involve the employment of laborers and mechanics.

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THE FOLLOWING CLAUSES APPLY TO THIS SUBCONTRACT REGARDLESS OF THE AMOUNT OF THE SUBCONTRACT PRICE, UNLESS OTHERWISE NOTED:		
Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.222-50	Combating Trafficking In Persons (Feb 2009)	Applies only in subcontracts for commercial items as defined in FAR subpart 2.101.
FAR 52.223-3	Hazardous Material Identification and Material Safety Data (Jan 1997) Alternate I (Jul 1995)	Applies if subcontract involves delivery of hazardous materials as defined in FAR subpart 23.301. If applicable, the term "Government" as used in this clause means "CONTRACTOR and the Government.
FAR 52.223-5	Pollution Prevention And Right-To-Know Information (May 2011) Alternate I (May 2011)	Applies in solicitations and subcontracts that provide for performance, in whole or in part, at LANL.
FAR 52.223-10	Waste Reduction Program (May 2011)	Applies only when work will be performed on site at LANL.
FAR 52.225-13	Restrictions on Certain Foreign Purchases (Jun 2008)	
FAR 52.227-3	Patent Indemnity (Apr 1984)	Applies in subcontracts that may result in the delivery of commercial items, as that term is defined in 48 CFR subpart 2.1.
FAR 52.227-23	Rights to Proposal Data (Technical) (Jun 1987)	Applies if subcontract is based on consideration of a technical proposal.
FAR 52.242-15	Stop Work Order (Aug 1989)	
FAR 52.244-6	Subcontracts for Commercial Items (Dec 2010)	
FAR 52.245-1	Government Property (Apr 2012)	Applies to (1) all cost reimbursement and time-and-material solicitations and subcontracts, and labor-hour solicitations when property is expected to be furnished for the labor-hour subcontract; (2) fixed-price solicitations and subcontracts when CONTRACTOR will provide Government property; and (3) subcontracts for the acquisition of commercial items where Government property that exceeds \$150,000 is furnished or where SUBCONTRACTOR is directed to acquire property for use under the subcontract that is titled in the Government.
FAR 52.245-1	Government Property (Apr 2012) Alternate I (Apr 2012)	Applies if subcontract is not a: (1) cost reimbursement, (2) time-and-material, (3) labor-hour, or (4) fixed-price awarded on the basis of submission of certified cost or pricing data.
FAR 52.245-2	Government Property Installation Operation Services (Apr 2012)	Applies if work performed at LANL when CONTRACTOR-furnished property will be provided for initial provisioning only and CONTRACTOR is not responsible for repair or replacement.
FAR 52.245-9	Use and Charges (Apr 2012)	Applies only if FAR 52.245-1 is applicable.
FAR 52.247-63	Preference for U.S.-Flag Air Carriers (Jun 2003)	Applies if performance of subcontract may involve international air transportation.
FAR 52.247-64	Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006)	Applies in all subcontracts, except those described in paragraph (e)(4) of FAR 52.247-64.
FAR 52.249-2	Termination For Convenience of the Government (Fixed Price) (Apr 2012)	Paragraph (d) is deleted; the period for submitting the subcontractor's termination settlement proposal in paragraph (e) is reduced to 6 months; and the period for submitting the subcontractor's request for equitable price adjustment in paragraph (l) is reduced to 45 days.
FAR 52.249-8	Default (Fixed-Price Supply and Service) (Apr 1984)	
DEAR 952.203-70	Whistleblower Protection For Contractor Employees (Dec 2000)	Applies to subcontracts involving work performed on behalf of DOE directly related to activities at DOE-owned or leased sites.
DEAR 952-204-71	Sensitive Foreign Nations Controls (Apr 1994)	

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THE FOLLOWING CLAUSES APPLY TO THIS SUBCONTRACT REGARDLESS OF THE AMOUNT OF THE SUBCONTRACT PRICE, UNLESS OTHERWISE NOTED:		
Clause Number	Title and Date	Additional Conditions of Applicability
DEAR 952.250-70	Nuclear Hazards Indemnity Agreement (Oct 2005) As Modified By DOE Acquisition Letter 2005-15 Note: Full text contained in Special Condition No. SC-14 NUCLEAR HAZARDS INDEMNITY AND PRICE ANDERSON ACT (Jan 2010)	Applies only if performance of subcontract may involve the risk of public liability, as that term is defined in the Atomic Energy Act of 1954, as amended, with the additional conditions described in paragraph (d)(2).
DEAR 970.5223-1	Integration Of Environment, Safety, And Health Into Work Planning And Execution (Dec 2000)	Applies to subcontracts involving complex or hazardous work at LANL.
DEAR 970.5229-1	State and Local Taxes (Dec 2000)	Paragraph (b) is deleted.

THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE EXCEEDS \$2,500:		
Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.222-41	Service Contract Labor Standards (May 2014)	Unless exempted, applies if the principal purpose of the subcontract is to furnish services in the United States through the use of service employees. See FAR subparts 22.1003-3 and 22.1003-4 for exemptions to SCA.
FAR 52.222-42	Statement of Equivalent Rates for Federal Hires (May 2014)	Applies when FAR 52.222-41 is applicable.
FAR 52.222-43	Fair Labor Standards Act and Service Contract Labor Standards – Price Adjustment (Multiple Year and Option Contracts) (May 2014)	Applies in solicitations and subcontracts if the subcontract is expected to be a fixed-price, time-and-materials, or labor-hour service contract containing the clause at 52.222-41, Service Contract Labor Standards, and is a multiple year subcontract or is a subcontract with options to renew.
FAR 52.222-44	Fair Labor Standards Act and Service Contract Labor Standards – Price Adjustment (May 2014)	Applies in solicitations and subcontracts if the subcontract is expected to be a fixed-price, time-and-materials, or labor-hour service contract containing the clause at 52.222-41, Service Contract Labor Standards, and is not a multiple year subcontract or is not a subcontract with options to renew.
FAR 52.222-51	Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment - Requirements (May 2014)	Applies if SUBCONTRACTOR has made the certification specified in FAR 52.222-48(a).
FAR 52.222-53	Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services - Requirements (May 2014)	Applies if SUBCONTRACTOR has made the certification specified in FAR 52.222-52(a).

THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE EXCEEDS \$3,000:		
Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.222-3	Convict Labor (Jun 2003)	Applies if subcontract will be performed in the United States, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, or the U.S. Virgin Islands.
FAR 52.222-54	Employment Eligibility Verification (Jan 2009)	Applies in each subcontract that— (1) Is for commercial or noncommercial services (except for commercial services that are part of the purchase of a COTS item (or an item that would be a COTS item, but for minor modifications), performed by the COTS provider, and are normally provided for that COTS item); and (2) Includes work performed in the United States.
FAR 52.225-1	Buy American Act - Supplies (May 2014)	Applies if the acquisition is for supplies for use within the United States; and none of the exceptions to the Buy American Act apply (e.g., nonavailability, public interest, or information technology that is a commercial item).

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THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE EXCEEDS \$3,000:		
Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.232-23	Assignment of Claims (May 2014) Alternate I (Apr 1984)	

THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE EXCEEDS \$10,000:		
Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.222-21	Prohibition of Segregated Facilities (Feb 1999)	Applies if FAR 52.222-26 Equal Opportunity is applicable.
FAR 52.222-26	Equal Opportunity (Mar 2007)	Applies unless one of the exemptions listed in FAR Subpart 22.807(b) is applicable.
FAR 52.222-36	Affirmative Action for Workers with Disabilities (Oct 2010)	Applies unless exempted by the rules, regulations, or orders of the Secretary of Labor.
FAR 52.222-40	Notification of Employee Rights Under the National Labor Relations Act (Dec 2010)	Applies only in subcontracts for commercial items as defined in FAR subpart 2.101 that will be performed wholly or partially in the United States, unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to section 3 of Executive Order 13496 of January 30, 2009.

THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE IS \$25,000 OR MORE:		
Clause Number	Title and Date	Additional Conditions of Applicability
DEAR 970.5223-3	Agreement Regarding Workplace Substance Abuse Programs At DOE Sites (Dec 2010)	Solicitation provision applicable if performance of subcontract involves: (i) access to or handling of classified information or special nuclear materials; (ii) high risk of danger to life, the environment, public health and safety, or national security; or (iii) transportation of hazardous materials to or from a DOE site.
DEAR 970.5223-4	Workplace Substance Abuse Programs at DOE Sites (Dec 2010)	Applies if performance of subcontract involves: (i) access to or handling of classified information or special nuclear materials; (ii) high risk of danger to life, the environment, public health and safety, or national security; or (iii) transportation of hazardous materials to or from a DOE site.

THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE IS \$100,000 OR MORE:		
Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.222-35	Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Sep 2010)	Applies unless exempted by the rules, regulations, or orders of the Secretary of Labor.
FAR 52.222-37	Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Sep 2006)	Applies unless exempted by the rules, regulations, or orders of the Secretary of Labor.

THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE EXCEEDS \$100,000:		
Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.203-7	Anti-Kickback Procedures (Jul 1995)	Paragraph (c) (1) is deleted.
FAR 52.203-12	Limitation On Payments To Influence Certain Federal Transactions (Sep 2007)	
FAR 52.223-14	Toxic Chemical Release Reporting (Aug 2003)	Applies only to the acquisition of non-commercial items. If applicable, paragraph (e) is deleted.
FAR 52.227-1	Authorization and Consent (Dec 2007)	Only paragraph (a) is applicable.
DEAR 970.5227-4	Authorization And Consent (Aug 2002), paragraph (a) only	Applies if subcontract is for research and development activities.

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THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE EXCEEDS \$100,000:		
Clause Number	Title and Date	Additional Conditions of Applicability
DEAR 970.5227-5	Notice and Assistance Regarding Patent and Copyright Infringement (Dec 2000)	

THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE EXCEEDS \$150,000:		
Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.203-3	Gratuities (Apr 1984)	
FAR 52.203-5	Covenant Against Contingent Fees (Apr 1984)	Applies only if subcontract is for non-commercial items.
FAR 52.203-6	Restrictions on Subcontractor Sales to the Government (Sep 2006)	Alternate I (Oct 1995) is also applicable if subcontract is for commercial items.
FAR 52.203-8	Cancellation, Rescission, And Recovery Of Funds For Illegal Or Improper Activity (May 2014)	Applies only if subcontract is for non-commercial items.
FAR 52.203-10	Price Or Fee Adjustment For Illegal Or Improper Activity (May 2014)	Applies only if subcontract is for non-commercial items. If applicable, in paragraph (d) the term "Government" means "Government or CONTRACTOR."
FAR 52.203-17	Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights (Apr 2014)	
FAR 52.215-2	Audit and Records –Negotiation (Oct 2010)	Applies in solicitations and subcontracts except those for— (i) The acquisition of utility services at rates not exceeding those established to apply uniformly to the general public, plus any applicable reasonable connection charge; or (ii) The acquisition of commercial items exempted under FAR 15.403-1.
FAR 52.219-8	Utilization of Small Business Concerns (Oct 2014)	Applies if subcontract offers further subcontracting opportunities and is to be performed within the United States and its outlying areas. If applicable and the subcontract exceeds \$650,000, SUBCONTRACTOR shall include FAR 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.
FAR 52.222-17	Nondisplacement of Qualified Workers (May 2014)	Applies in in solicitations and subcontracts for (1) service contracts, as defined at FAR 22.001, (2) that succeed subcontracts for performance of the same or similar work at the same location and (3) that are not exempted by FAR 22.1203-2 or waived in accordance with FAR 22.1203-3.
FAR 52.222-39	Notification of Employee Rights Concerning Payment of Union Dues or Fees (Dec 2004)	Applies unless exempted by the Department of Labor Deputy Assistant Secretary for Labor-Management Programs.
FAR 52.232-17	Interest (May 2014)	Applies unless one of the exemptions listed in FAR Subpart 32.611(a) is applicable.
FAR 52.246-7	Inspection Of Research And Development - Fixed-Price (Aug 1996)	Applies if the primary objective of the subcontract is the delivery of end items other than designs, drawings, or reports.
DEAR 952.209-72	Organizational Conflicts of Interest (Aug 2009) with Alternate I	Applies if subcontract is for advisory and assistance services, as defined in FAR Subpart 2.101. The activities and programs listed in FAR Subpart 37.202 are excluded or exempted from the definition of advisory or assistance services.

THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE EXCEEDS \$500,000:		
Clause Number	Title and Date	Additional Conditions of Applicability
DEAR 952.226-74	Displaced Employee Hiring Preference (Jun 1997)	Applies if subcontract is not for commercial items, as that term is defined in 48 CFR Subpart 2.1.

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THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE EXCEEDS \$500,000:		
Clause Number	Title and Date	Additional Conditions of Applicability
DEAR 970.5226-2	Workforce Restructuring Under Section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (Dec 2000)	Applies if subcontract is <u>not</u> for commercial items, as that term is defined in 48 CFR Subpart 2.1.

THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE EXCEEDS \$650,000, THE SUBCONTRACTOR IS A LARGE BUSINESS, AND FAR 52.219-8 IS APPLICABLE:		
Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.219-9	Small Business Subcontracting Plan (Oct 2014), Alternate II (Oct 2001)	Applies in subcontracts to other than small business concerns that offer subcontracting possibilities, and are expected to exceed \$650,000. Subcontracting plans are not required when the subcontractor provides a commercial item subject to the clause at 52.244-6, Subcontracts for Commercial Items.

THE FOLLOWING CLAUSES APPLY ONLY TO A NEGOTIATED SUBCONTRACT IF THE SUBCONTRACT PRICE EXCEEDS \$700,000:		
Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.215-10	Price Reduction for Defective Cost or Pricing Data (Aug 2011)	Applies if subcontract price is \$700,000 or more, unless one of the exceptions in FAR 15.403-1(b) is applicable.
FAR 52.215-11	Price Reduction for Defective Cost or Pricing Data – Modifications (Aug 2011)	Applies if modification price is \$700,000 or more, none of the exceptions in FAR 15.403-1(b) are applicable to modification, and FAR 52.215-10 was not applicable to subcontract.
FAR 52.215-12	Subcontractor Cost or Pricing Data (Oct 1997)	Applies if subcontract price is \$700,000 or more, unless one of the exceptions in FAR 15.403-1(b) is applicable.
FAR 52.215-13	Subcontractor Cost or Pricing Data – Modifications (Oct 2010)	Applies if subcontract price is \$700,000 or more, unless one of the exceptions in FAR 15.403-1(b) is applicable.
FAR 52.230-2	Cost Accounting Standards (May 2012)	Applies unless the subcontract is: (1) exempted from CAS (see 48 CFR 9903.201-1 (FAR Appendix)), or (2) subject to modified CAS coverage (see 48 CFR 9903.201-2 (FAR Appendix)) or (3) awarded to a foreign concern. When applicable, paragraph (b) is deleted and SUBCONTRACTOR shall include the substance of this clause, without paragraph (b), in all other subcontracts of any tier.
FAR 52.230-3	Disclosure And Consistency Of Cost Accounting Practices (May 2014)	Applies only to a negotiated subcontract that exceeds \$700,000 but is less than \$50 million, and the offeror certifies it is eligible for and elects to use modified CAS coverage. When applicable, paragraph (b) is excluded, and SUBCONTRACTOR shall include this clause in all other subcontracts of any tier, except those exempted by FAR 52.230-3 (d)).
FAR 52.230-4	Disclosure and Consistency of Cost Accounting Practices - Foreign Concerns (May 2014)	Applies only to a negotiated subcontract with a foreign concern, unless the subcontract is otherwise exempt from CAS (see 48 CFR 9903.201-1 (FAR Appendix)). Foreign concerns do not include foreign governments or their agents or instrumentalities.
FAR 52.230-6	Administration of Cost Accounting Standards (Mar 2008)	Applies if FAR 52.230-2, 52.230-3 or 52.230-5 is applicable.
DEAR 970.5232-5	Liability With Respect To Cost Accounting Standards (Dec 2000)	Applies when any Cost Accounting Standards clauses are applicable (i.e., FAR 52.230-2, 52.230-3, 52.230-6).

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THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE EXCEEDS \$700,000 AND THE SUBCONTRACTOR IS REQUIRED TO SUBMIT COST OR PRICING DATA, OR WHERE PREAWARD OR POSTAWARD COST DETERMINATIONS WILL BE SUBJECT TO FAR PART 31, CONTRACT COST PRINCIPLES AND PROCEDURES:		
Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.215-15	Pension Adjustments and Asset Reversions (Oct 2004)	

THE FOLLOWING CLAUSES APPLY ONLY IF THE SCOPE OF WORK REQUIRES THE DESIGN / REDESIGN, DEVELOPMENT, OR OPERATION OF A SYSTEM OF RECORDS ON INDIVIDUALS THAT IS SUBJECT TO THE PRIVACY ACT OF 1974:		
Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.224-1	Privacy Act Notification (Apr 1984)	
FAR 52.224-2	Privacy Act (Apr 1984)	

THE FOLLOWING CLAUSES APPLY AS STATED IN THE CONDITIONS OF APPLICABILITY:		
Clause Number	Title and Date	Conditions of Applicability
FAR 52.203-13	Contractor Code of Business Ethics and Conduct (Apr 2010)	Applies only in subcontracts for commercial items as defined in FAR subpart 2.101 that exceed \$5,000,000 and have a performance period of more than 120 days.
FAR 52.203-15	Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (Jun 2010)	Applies only in subcontracts for commercial items as defined in FAR subpart 2.101 that are funded under the Act.
FAR 52.211-15	Defense Priority And Allocation Requirements (Apr 2008)	Applies in subcontracts in support of an approved program issued in accordance with the provisions of the Defense Priorities and Allocations System (DPAS) regulation (15 CFR part 700).
FAR 52.222-1	Notice To The Government Of Labor Disputes (Feb 1997)	Applies if a potential labor dispute may delay the timely performance of the CONTRACTOR'S Prime Contract with DOE/NNSA.
FAR 52.222-24	Preward On-Site Equal Opportunity Compliance Evaluation (Feb 1999)	Solicitation provision that applies in solicitations, other than those for construction, when a subcontract is contemplated that will include the clause at 52.222-26, Equal Opportunity, and the amount of the subcontract is expected be \$10 million or more.
FAR 52.223-7	Notice of Radioactive Materials (Jan 1997)	Applies if items containing either (1) radioactive material (requiring specific licensing under the regulations issued pursuant to the Atomic Energy Act of 1954, as amended) or (2) other radioactive material (not requiring specific licensing in which the specific activity is greater than 0.002 microcuries per gram or the activity per item equals or exceeds 0.01 microcuries) are to be delivered or serviced under this subcontract. If applicable, SUBCONTRACTOR shall notify CONTRACTOR, in writing, 30 days prior to delivery of, or prior to completion of any servicing required by this subcontract.
FAR 52.227-10	Filing of Patent Applications - Classified Subject Matter ((Dec 2007)	Applies in all classified solicitations and subcontracts and in all solicitations and subcontracts where the nature of the work reasonably might result in a patent application containing classified subject matter.
FAR 52.227-14	Rights in Data - General (May 2014) as modified by DEAR 927.409(a), including Alternate V (Dec 2007)	Applies in subcontracts in which technical data or computer software is expected to be produced and in subcontracts for supplies that contain a requirement for production or delivery of data.
FAR 52.227-14	Rights In Data-General (May 2014) including Alternate I (Dec 2007), Alternate V (Dec 2007), and DEAR 927.409 Paragraph (d)(3)	Applies if the subcontract is for development work, or for basic and applied research where computer software is specified as a deliverable in the Statement of Work or other special circumstances apply as specified in the agreement.

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THE FOLLOWING CLAUSES APPLY AS STATED IN THE CONDITIONS OF APPLICABILITY:		
Clause Number	Title and Date	Conditions of Applicability
FAR 52.227-14	Rights In Data-General (May 2014) including Alternate IV (Dec 2007) and DEAR 927.409, subparagraph (a) Definitions	Applies if the subcontract is for basic or applied research and computer software is not specified as a deliverable in the Statement of Work, and no other special circumstances apply per DEAR 927.409.
FAR 52.227-16	Additional Data Requirements (Jun 1987)	Applies if subcontract involves experimental, developmental, research or demonstration work.
DEAR 952.211-71	Priorities And Allocations (Atomic Energy) (Apr 2008)	Applies in subcontracts issued in accordance with the provisions of the Defense Priorities and Allocations System (DPAS) regulation (15 CFR part 700) that are placed in support of authorized DOE atomic energy programs.
DEAR 952.227-11	Patent Rights – Retention by the Contractor (Short Form) (Mar 1995)	Applies if subcontract is for experimental, developmental, demonstration or research work to be performed by a small business firm or domestic nonprofit organization as defined at FAR Subpart 27.301. Subcontracts which are subject to exceptional circumstances in accordance with 35 U.S.C. 202 and subparagraph (b)(5) of DEAR 970.5227-12 are exempt from the requirements of this clause.
DEAR 952.227-13	Patent Rights – Acquisition by the Government (Sept 1997)	Applies if subcontract is for experimental, developmental, demonstration or research work, and subcontractor is not a small business firm or domestic nonprofit organization as defined at FAR Subpart 27.301.
DEAR 952.235-71	Research Misconduct (Jul 2005)	Applies if subcontract involves research.
DEAR 970.5208-1	Printing (Dec 2000)	Applies when printing is required, as "printing" is defined in Title I, Definitions, of the U.S. Government Printing and Binding Regulations (http://jcp.senate.gov/jcpregs.pdf)
DEAR 970.5227-1	Rights in Data-Facilities (Dec 2000)	Applies if subcontract involves the design or operation of any LANL plants or facilities or specially designed equipment for such LANL plants or facilities, or related support services for those plants or facilities.
DEAR 970.5227-7	Royalty Information (Dec 2000)	Solicitation provision which applies if the amount of royalties reported during negotiation is >\$250.
DEAR 970.5227-8	Refund Of Royalties (Aug 2002)	Applies if the amount of royalties reported during negotiation of the subcontract exceeds \$250. If applicable, SUBCONTRACTOR shall insert the substance of this clause in all lower tier subcontracts under this subcontract in which the amount of royalties reported during negotiation of the subcontract exceeds \$250.
DEAR 970.5227-12	Patent Rights Management and Operating Contracts, For-Profit Contractor, Advance Class Waiver (Aug 2002)	Applies if subcontract covers or is likely to cover subject matter that is classified for reasons of security.
DEAR 970.5232-3	Accounts, Records, and Inspection (Dec 2010)	Applies to subcontracts of any tier where costs incurred are a factor in determining the amount payable to the subcontractor. When the condition precedent is met, only paragraphs (a) through (h) of the clause shall apply.

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EXHIBIT "A" GENERAL CONDITIONS

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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.

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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.

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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-7 STANDARDS AND CODES (Jun 2009)

Wherever references are made in this subcontract to standards or codes in accordance with which the Work under this subcontract is to be performed, the edition or revision of the standards or codes current on the effective date of this subcontract shall apply unless otherwise expressly stated. In case of conflict between any referenced standards and codes and any Subcontract Documents, the General Condition titled "SUBCONTRACT INTERPRETATION" shall apply.

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.

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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.

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- (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.

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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-31A INSPECTION AND TESTING (Jun 2009)

- (a) All equipment and material furnished and work performed shall be properly inspected by SUBCONTRACTOR at its expense and shall at all times be subject to quality surveillance and quality audit by CONTRACTOR, GOVERNMENT or their authorized representatives who, upon reasonable notice, shall be afforded full and free access to the shops, factories or other places of business of SUBCONTRACTOR and its suppliers and subcontractors of any tier for such quality surveillance or audit. If any equipment, material or work is determined by CONTRACTOR or GOVERNMENT to be defective or not in conformance with this subcontract the provisions of the General Condition titled "WARRANTY" shall apply.
- (b) Unless otherwise provided in the subcontract, testing of equipment, materials or work shall be performed by SUBCONTRACTOR at its expense and in accordance with subcontract requirements. Should tests in addition to those required by this subcontract be desired by CONTRACTOR, SUBCONTRACTOR will be given reasonable notice to permit such testing. Such additional tests will be at CONTRACTOR'S expense.
- (c) SUBCONTRACTOR shall furnish samples as requested and shall provide reasonable assistance and cooperation necessary to permit tests to be performed on materials or work in place including reasonable stoppage of work during testing.

GC-35A 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, place of performance, to all or any part of the Work, and SUBCONTRACTOR agrees to perform such work as changed.
- (b) If any change under this clause, whether or not changed by any such order, or an 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.
- (c) SUBCONTRACTOR shall proceed diligently with performance of the Work, pending final resolution of any request for adjustment, dispute, claim, appeal, or action arising under the subcontract, and comply with any decision of CONTRACTOR.

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.

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"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

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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).

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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-38 RECORDS AND AUDIT (Jun 2009)

- (a) SUBCONTRACTOR shall maintain records and accounts in connection with the performance of this subcontract which will accurately document incurred costs, both direct and indirect, of whatever nature for a period of three (3) years from final payment unless otherwise specified by applicable law. CONTRACTOR, GOVERNMENT or their representatives shall have the right to examine and copy, at all reasonable times and with advance notification, such records and accounts for the purpose of verifying payments or requests for payment when costs are the basis of such payment and to evaluate the reasonableness of proposed subcontract price adjustments and claims.
- (b) If CONTRACTOR or GOVERNMENT establishes uniform codes of accounts for the project, SUBCONTRACTOR shall use such codes in identifying its records and accounts.
- (c) For subcontracts in excess of \$100,000.00, FAR clause 52.215-2, Audit and Records – Negotiation (JUN 1999) shall also apply, when included in Appendix SFA-1, FAR and DEAR Clauses Incorporated By Reference.

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.

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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-42 PATENT AND INTELLECTUAL PROPERTY INDEMNITY (Jun 2009)

- (a) SUBCONTRACTOR hereby indemnifies and shall defend and hold harmless GOVERNMENT, CONTRACTOR, and their representatives from and against any and all claims, actions, losses, damages, and expenses, including attorney's fees, arising from any claim, whether rightful or otherwise, that any concept, product, design, equipment, material, process, copyrighted material or confidential information, or any part thereof, furnished by SUBCONTRACTOR under this subcontract constitutes an infringement of any patent or copyrighted material or a theft of trade secrets.
- (b) If use of any part of such concept, product, design, equipment, material, process, copyrighted material or confidential information is limited or prohibited, SUBCONTRACTOR shall, at its sole expense, procure the necessary licenses to use the infringing or a modified but non-infringing concept, product, design, equipment, material, process, copyrighted material or confidential information or, with CONTRACTOR'S prior written approval, replace it with substantially equal but non-infringing concepts, products, designs, equipment, materials, processes, copyrighted material or confidential information; provided, however,
- (1) That any such substituted or modified concepts, products, designs, equipment, material, processes, copyrighted material or confidential information shall meet all the requirements and be subject to all the provisions of this subcontract; and
 - (2) That such replacement or modification shall not modify or relieve SUBCONTRACTOR of its obligations under this subcontract.
- (c) The foregoing obligation shall not apply to any concept, product, design, equipment, material, process, copyrighted material or confidential information the detailed design of which (excluding rating and/or performance specifications) has been furnished in writing by CONTRACTOR or GOVERNMENT to SUBCONTRACTOR.

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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.

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(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;

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- (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

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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-50 NON-WAIVER (Jan 2010)

- (a) Failure by CONTRACTOR to insist upon strict performance of any terms or conditions of this subcontract shall not operate as, nor be deemed to be, a waiver or release of SUBCONTRACTOR'S obligations under this subcontract. The following illustrative examples include but are not limited to:
- (1) Failure or delay to exercise any rights or remedies provided herein or by law;
 - (2) The acceptance of or payment for any goods or services hereunder;
 - (3) Failure to properly notify SUBCONTRACTOR in the event of breach of any obligation;
 - (4) The review or failure by CONTRACTOR to review SUBCONTRACTOR submissions;
 - (5) The inspection and test by CONTRACTOR or the failure to inspect and test the Work; and
 - (6) The termination either in whole or in part of Work under this subcontract.
- (b) CONTRACTOR or GOVERNMENT reserves the right to insist upon strict performance hereof and to exercise any of its rights or remedies as to any prior or subsequent default hereunder.

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-52 SUBCONTRACT CLOSE-OUT CERTIFICATION AND RELEASE REQUIREMENTS (Jun 2009)

To administratively close out this subcontract, SUBCONTRACTOR shall submit, in addition to other requirements of this subcontract, the following documentation:

- (1) Property Status

Include a certification that states the following:

"All Government and CONTRACTOR-furnished property, material, special tooling, and special test equipment furnished, acquired, or generated and accountable to this subcontract has been consumed, delivered or otherwise disposed of by transfer, plant clearance or other authorized means as instructed by CONTRACTOR."

- (2) Release and Certificate of Final Payment

SUBCONTRACTOR and each assignee, if any, under an assignment entered into under this subcontract and in effect at the time of final payment under this subcontract, shall execute and deliver, at the time of, and as a condition precedent to, final payment under this subcontract, a release in the format and content provided by CONTRACTOR, discharging CONTRACTOR, GOVERNMENT, and their respective officers, agents, and

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employees, of and from all liabilities, obligations and claims arising out of or under 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 (Feb 2015)

- (a) Effective June 1, 2006, individuals who retire under CONTRACTOR'S Defined Benefit Pension Plan (i.e., TCP-1), 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, before working for any of CONTRACTOR'S affiliated companies or subcontractors, for at least:
- one hundred eighty (180) days, if under the age of sixty (60) at the time of termination; or
 - ninety (90) days, if age sixty (60) or above at the time of termination.
- (b) Effective June 1, 2006, individuals who retire under CONTRACTOR'S 401(k) Retirement Plan (i.e., TCP-2), before attaining age sixty (60), 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, before working for any of CONTRACTOR'S affiliated companies or subcontractors, for at least one hundred eighty (180) days. Individuals who retire under CONTRACTOR'S 401(k) Retirement Plan after age sixty (60) do not have any restrictions on reemployment.
- (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

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to work at Los Alamos National Laboratory (LANL). 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. 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 employee was a former UC or CONTRACTOR employee, and if so:
 - (i) the date of separation;
 - (ii) age at separation; and
 - (iii) reason for separation.
 - (2) whether the employee is a member of CONTRACTOR'S Defined Benefit Pension Plan (i.e., TCP-1) or CONTRACTOR'S 401(k) Plan (i.e., TCP-2); and
 - (3) confirmation that, if the employee retired under one of CONTRACTOR'S retirement plans, to the extent described above, the employee had no prior prearrangement for reemployment by SUBCONTRACTOR or one of its lower tier subcontractors prior to separation.
- (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

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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.

GC-80B INVOICING AND PAYMENT (Aug 2014)

- (a) SUBCONTRACTOR shall prepare and submit invoices pursuant to the Special Condition titled "MEASUREMENT FOR PAYMENT." CONTRACTOR may reject all or part of an invoice because the measurement for payment provisions have not been met, noting the deficiencies for SUBCONTRACTOR correction and compliance with the subcontract requirements.

CONTRACTOR may require SUBCONTRACTOR to withhold amounts from its billings until a reserve is set aside in an amount that the Subcontract Administrator considers necessary to protect CONTRACTOR'S interests. The Subcontract Administrator may require a withhold of up to 5 percent (5%) of the amounts due to SUBCONTRACTOR, but the total amount shall not exceed \$50,000. The amounts withheld shall be retained until the Subcontract Administrator no longer deems such action necessary to protect CONTRACTOR'S interests.

Within thirty (30) calendar days after receipt of an invoice, CONTRACTOR will pay SUBCONTRACTOR the approved invoice amount, less any withholds.

CONTRACTOR may, as a condition precedent to any payment, require SUBCONTRACTOR to submit for itself, its subcontractors, immediate and remote, and all material suppliers, vendors, laborers and other parties acting through or under it, complete waivers and releases of all claims against CONTRACTOR or GOVERNMENT arising under or by virtue of this subcontract. Upon request, SUBCONTRACTOR shall in addition furnish acceptable evidence that all such claims have been satisfied.

Failure to specify the subcontract number or to submit supporting documentation may be cause for invoice rejection or delay in payment.

- (b) Any amounts otherwise payable under this subcontract may be withheld, in whole or in part, if:
- (1) Any claims are filed against SUBCONTRACTOR by CONTRACTOR, GOVERNMENT or third parties (for which CONTRACTOR or GOVERNMENT is or may become liable);
 - (2) SUBCONTRACTOR is in default of any subcontract condition;
 - (3) Adjustments are due from previous overpayment or audit result; or
 - (4) Offsets in favor of CONTRACTOR in other transactions are asserted.

CONTRACTOR will pay SUBCONTRACTOR such withheld payments when all issues are resolved to CONTRACTOR'S satisfaction.

If claims filed against SUBCONTRACTOR connected with performance under this subcontract, for which CONTRACTOR may be held liable if unpaid (e.g., unpaid withholding and back taxes), are not promptly discharged by SUBCONTRACTOR after receipt of written notice from CONTRACTOR to do so, CONTRACTOR may discharge such claims and deduct all costs in connection with such removal from withheld payments or other monies due, or which may become due, to SUBCONTRACTOR. If the amount of such withheld payment or other monies due SUBCONTRACTOR under this subcontract is insufficient to meet such costs, or if any claim against SUBCONTRACTOR is discharged by CONTRACTOR after final payment is made, SUBCONTRACTOR and its surety or sureties, if any, shall promptly pay CONTRACTOR all costs incurred thereby regardless of when such claim arose.

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- (c) Upon final acceptance of the Work by CONTRACTOR, SUBCONTRACTOR shall submit to CONTRACTOR a completed final release of claims acceptable to CONTRACTOR and a final correct invoice. Within thirty (30) calendar days after receipt of the final release of claims and final correct invoice, CONTRACTOR shall pay SUBCONTRACTOR the amount then remaining due.
- (d) SUBCONTRACTOR shall submit all invoices, in form and format directed by CONTRACTOR, electronically to invoices@lanl.gov or through the U.S. Postal Service to:

Los Alamos National Security, LLC
 Los Alamos National Laboratory
 Accounting Department, MS P240
 P.O. Box 1663
 Los Alamos, NM 87545-1663

GC-82 ON-SITE USE OF RADIOACTIVE MATERIAL (Aug 2014)

No radioactive material may be used or stored at the work site unless approved in advance in writing by the Subcontract Administrator.

GC-85 LOWER-TIER SUBCONTRACTORS (Aug 2014) [Applicable only when work will be performed at LANL.]

- (a) SUBCONTRACTOR shall submit to CONTRACTOR the list of all lower-tier (at all tiers) subcontractors and their function, together with a point of contact address and telephone number for each such subcontractor. Whenever, for any reason, SUBCONTRACTOR needs to substitute for, add to, or remove one or more of the aforementioned lower-tier subcontractors from Work under this Subcontract, SUBCONTRACTOR shall do so only with the prior approval of CONTRACTOR.
- (b) CONTRACTOR may not approve any proposed additional/substitute lower-tier subcontractor if CONTRACTOR has actual knowledge of the proposed additional/substitute lower-tier subcontractor's poor environmental compliance or safety performance under existing subcontracts with CONTRACTOR or any work performed for others even if the proposed lower-tier subcontractor has otherwise met all other ES&H qualification requirements in Exhibit F of this subcontract.
- (c) SUBCONTRACTOR'S request for CONTRACTOR approval of additional/substitute lower-tier subcontractor(s) must include the following information for each proposed additional/substitute lower-tier subcontractor:
- A brief explanation of the need to alter the list of lower-tier subcontractors
 - Name, address, contact, and phone number of proposed lower-tier subcontractor
 - Summary list of tasks to be performed under this Subcontract by the proposed lower-tier subcontractor
 - ESH qualification data for the proposed lower-tier subcontractor if required under Exhibit F of this subcontract.

GC-86 PROGRESS REPORTS (Aug 2014)

When requested by CONTRACTOR, SUBCONTRACTOR shall provide to CONTRACTOR, on a monthly basis, a concise summary report, in form and format and at a time directed by CONTRACTOR, describing the Work accomplished during the reporting period, Work forecasted to be completed during the next reporting period and a summary of problem areas, if any.

When requested by CONTRACTOR, CONTRACTOR and SUBCONTRACTOR shall meet weekly to review the status of the Work.

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GC-88 MINIMUM WAGES UNDER EXECUTIVE ORDER 13658 (Mar 2015)

This clause implements Executive Order 13658, Establishing a Minimum Wage for Contractors, dated February 12, 2014, and OMB Policy Memorandum M-14-09, dated June 12, 2014.

- (a) Each service employee, laborer, or mechanic employed in the United States (the 50 States and the District of Columbia) in the performance of this contract by SUBCONTRACTOR or any lower-tier subcontractor, regardless of any contractual relationship which may be alleged to exist between SUBCONTRACTOR and each service employee, laborer, or mechanic, shall be paid not less than the applicable minimum wage under Executive Order 13658. The minimum wage required to be paid to each service employee, laborer, or mechanic performing work on this subcontract between January 1, 2015, and December 31, 2015, shall be \$10.10 per hour.
- (b) SUBCONTRACTOR shall adjust the minimum wage paid under this subcontract each time that Secretary of Labor's annual determination of the applicable minimum wage under section 2(a)(ii) of Executive Order 13658 results in a higher minimum wage. Adjustments to the Executive Order minimum wage under section 2(a)(ii) of Executive Order 13658 will be effective for all service employees, laborers, or mechanics subject to the Executive Order beginning January 1 of the following year. The Secretary of Labor will publish annual determinations in the Federal Register no later than 90 days before such new wage is to take effect. The Secretary will also publish the applicable minimum wage on www.wdol.gov (or any successor website). The applicable published minimum wage is incorporated by reference into this subcontract.
- (c) CONTRACTOR will adjust the subcontract price or subcontract unit price under this clause only for the increase in labor costs resulting from the annual inflation increases in the Executive Order 13658 minimum wage beginning on January 1, 2016. CONTRACTOR shall consider documentation as to the specific costs and workers impacted in determining the amount of the adjustment.
- (d) CONTRACTOR will not adjust the subcontract price under this clause for any costs other than those identified in paragraph (c) of this clause, and will not provide price adjustments under this clause that result in duplicate price adjustments with the respective clause of this subcontract implementing the Service Contract Labor Standards statute (formerly known as the Service Contract Act) or the Wage Rate Requirements (Construction) statute (formerly known as the Davis Bacon Act).
- (e) SUBCONTRACTOR shall include the substance of this clause, including this paragraph (e) in all subcontracts.

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EXHIBIT "B" SPECIAL CONDITIONS

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- B-1 SUBCONTRACTOR'S REGIONAL AND COMMUNITY DEVELOPMENT PLAN
- B-2 SUBCONTRACTOR'S SMALL BUSINESS SUBCONTRACTING PLAN

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SC-2 AUTHORITY OF PERSONNEL (Apr 2012)

- (a) CONTRACTOR designates the below named individual as the Subcontract Administrator to administer the subcontract and act as CONTRACTOR'S authorized representative.

Darren Knox
Los Alamos National Security, LLC
Los Alamos National Laboratory
P.O. Box 1663, Mail Stop D447
Los Alamos, NM 87545-1663
Phone: (505) 665-3814
Email: dknox@lanl.gov

Additionally, all correspondence shall be issued and received by the designated Subcontract Administrator. The Subcontract Administrator is the only individual authorized to direct SUBCONTRACTOR to deviate from the express, written terms of the subcontract.

- (b) CONTRACTOR designates the below named individual as the Subcontract Technical Representative (STR), who is the point of contact for all of the technical aspects of the subcontract and is responsible for oversight of SUBCONTRACTOR'S technical performance under this subcontract. The STR is also responsible for monitoring and facilitating SUBCONTRACTOR compliance with various subcontract requirements, such as submission of technical deliverables and evidence of completion of training requirements.

Jim Lujan
Los Alamos National Security, LLC
Los Alamos National Laboratory
P.O. Box 1663, Mail Stop B260
Los Alamos, NM 87545-1663
Phone: (505) 665-0718
Email: jewel@lanl.gov

The STR may designate other personnel to oversee the performance of the Work, sign field tickets, etc. However, the designated STR retains ultimate authority over the technical aspects of the Work. Should SUBCONTRACTOR and the STR disagree over the technical aspects of the subcontract such matters will be immediately referred to CONTRACTOR'S Subcontract Administrator for resolution. The STR does not possess any authority, express or implied, to direct SUBCONTRACTOR to deviate from the terms and conditions of the subcontract.

- (c) The Subcontract Administrator's Property Representative (SAPR) is:

ASM-PM Disposition Office
Los Alamos National Security, LLC
Los Alamos National Laboratory
P.O. Box 1663, Mail Stop C308
Los Alamos, NM 87545
Phone: (505) 665-8079
Fax: (505) 667-3195
Email: disposition@lanl.gov

The ASM-PM Disposition Office is designated to monitor the government property provided, acquired, or used in the performance of this subcontract. Any questions concerning said government property should be addressed to the Subcontract Administrator with a copy to the SAPR. The SAPR is also authorized to take any action necessary to ensure compliance with Federal Property Management Regulations, DOE Property Management Regulations, the LANL Property Management Manual and the terms of this subcontract regarding the appropriate use, loss, replacement, transfer, return, or other disposition of government-furnished property or

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subcontractor-acquired property. Notwithstanding the foregoing, the SAPR does not possess authority to change any of the requirements under this subcontract.

- (d) The Acquisition Services Management Division Manager, or the Manager's designee, may change the Subcontract Administrator, STR or SAPR at any time upon written notice to the SUBCONTRACTOR.

SC-3A COMMENCEMENT, PROGRESS AND COMPLETION OF THE WORK (Aug 2014-Deviation)

- (a) SUBCONTRACTOR shall assure prosecution of the Work to completion in accordance with the Milestone and Payment Schedules stated in Exhibit "C" Form B.
- (b) When the Subcontract Schedule is deemed critical by CONTRACTOR, SUBCONTRACTOR shall provide to CONTRACTOR, whenever requested, for CONTRACTOR'S approval, an original and subsequently updated Subcontract Schedule showing all activities and sequence of operations needed for the orderly performance and completion of the Work in accordance with the Subcontract Milestones set forth above. SUBCONTRACTOR shall adhere to the approved Subcontract Schedule, submitting periodic progress reports and/or proposed schedule changes in form and manner directed by CONTRACTOR.

SC-10C INSURANCE REQUIREMENTS (Jan 2010-added)

- (a) SUBCONTRACTOR shall, at its expense, maintain in effect at all times, during the performance of the Services, insurance coverage with limits not less than those set forth below and with insurers with an A.M. Best rating of not less than A-VII or equivalent and under forms of policies satisfactory to CONTRACTOR:
- (1) Workers' Compensation as required by any applicable law or regulation.
 - (2) Employer's Liability of not less than \$500,000 each accident.
 - (3) Commercial General Liability with limits of liability for bodily injury, property damage and personal injury of not less than:

\$ 500,000	Combined single limit for Bodily Injury and Property Damage each occurrence;
\$ 500,000	Personal Injury Limit each occurrence;
\$1,000,000	Products-Completed Operations Annual Aggregate Limit; and
\$1,000,000	General Annual Aggregate Limit (other than Products-Completed Operations).
- (i) Coverage (a)(3) shall apply to the indemnity agreement in the General Condition titled "INDEMNITY".
- (ii) To the maximum extent permitted by applicable law but no further, GOVERNMENT and CONTRACTOR, and their members, subsidiaries and affiliates, and the officers, directors, and employees of the foregoing shall be named as Additional Insureds under the Commercial General Liability Insurance policy, but only with respect to liability caused by or arising out of the acts or omissions of SUBCONTRACTOR or its officers, employees or agents in the performance of ongoing operations for CONTRACTOR and GOVERNMENT. The United States Insurance Services Office (ISO) form CG 2010 07 04 or equivalent as determined by CONTRACTOR shall be used to show the Additional Insureds. Such insurance shall: (1) include an Insurer's waiver of subrogation in favor of the Additional Insureds; (2) be primary and non-contributory as regards any other coverage maintained for or by the Additional Insureds whether primary, excess, contingent, or on any other basis; (3) contain a

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cross-liability clause, also known as separation of interest / severability of interests / separation of insureds condition; and (4) be on an occurrence policy form, not a claims made form.

- (iii) In lieu of naming GOVERNMENT and CONTRACTOR, and their members, subsidiaries and affiliates, and the officers, directors, and employees of the foregoing as Additional Insureds under the Commercial General Liability policy, SUBCONTRACTOR may, at CONTRACTOR'S sole discretion and not as an option, provide Owners and Contractors Protective Liability Insurance. If SUBCONTRACTOR carries Owners and Contractors Protective Liability Insurance, the policy shall have a combined single limit for Bodily Injury or Property Damage of not less than: \$500,000 Each Occurrence and \$1,000,000 Annual Aggregate. If the policy covers more than one project, this subcontract (the Work) shall be designated in the Policy Declarations. The policy shall name GOVERNMENT and CONTRACTOR, and the officers, directors, and employees of the foregoing, as Named Insured.

If the CGL policy does not have an endorsement providing the General Annual Aggregate limits are as indicated above, SUBCONTRACTOR shall provide an endorsement titled "Amendment of Limits of Insurance (Designated Project or Premises)." Such endorsement shall provide for a Products-Completed Operations Annual Aggregate Limit of not less than \$1,000,000 and a General Annual Aggregate Limit of not less than \$1,000,000.

- (4) Automobile Liability (Owned, hired and non-owned) with combined single limits of liability for bodily injury or property damage of not less than \$500,000 any one occurrence. SUBCONTRACTOR'S Automobile Liability Insurance shall include coverage for Automobile Contractual Liability.
- (5) Errors and Omissions covering SUBCONTRACTOR'S professional negligent acts, errors or omissions with a limit of not less than \$1,000,000 per claim/annual aggregate. This policy shall apply to the indemnity agreement in the General Condition titled "INDEMNITY."
- (b) The required limits of coverage specified in (a)(1) through (a)(4) may be satisfied by a combination of a primary policy and an excess or umbrella policy.
- (c) The requirements contained herein as to types and limits, as well as CONTRACTOR'S approval of insurance coverage to be maintained by SUBCONTRACTOR, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by SUBCONTRACTOR under this subcontract.
- (d) Neither CONTRACTOR nor GOVERNMENT is maintaining any insurance on behalf of SUBCONTRACTOR covering against loss or damage to the Work or to any other property of SUBCONTRACTOR.
- (e) SUBCONTRACTOR shall deliver to CONTRACTOR no later than ten (10) calendar days after subcontract award, but in any event prior to commencing the Work or entering the Jobsite, certificates of insurance and necessary endorsements evidencing that such coverage and limits of insurance are in full force and effect. Certificates of insurance and endorsements must provide clear evidence that SUBCONTRACTOR'S insurance policies contain the minimum limits of coverage prescribed in this clause. Furthermore, certificates shall identify on their face CONTRACTOR'S subcontract number and provide that not less than thirty (30) calendar days advance written notice will be given to CONTRACTOR prior to cancellation, termination or material alteration of such policies. Delivery of certificates, endorsements and any notices of

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policy change shall be made to the Subcontract Administrator identified in clause SC-2
AUTHORITY OF PERSONNEL.

SC-13A MEASUREMENT FOR PAYMENT (Jun 2009-Added)

- (a) SUBCONTRACTOR shall submit an invoice upon completion of each Milestone. The amount due and payable shall be in accordance with the price set forth in Exhibit C Form B and the applicable milestone acceptance criteria of the subcontract.
- (b) SUBCONTRACTOR shall make all necessary measurements and conduct all tests and performance demonstrations required to establish each Payment Milestone has been satisfactorily accomplished. SUBCONTRACTOR shall notify CONTRACTOR prior to the time such measurements, tests or demonstrations are made or conducted. CONTRACTOR, at its discretion, may witness and verify such measurements, tests or demonstrations. Copies of all SUBCONTRACTOR'S records made for the purpose of determining Milestone completion shall be furnished to CONTRACTOR upon request.

SC-24 TECHNICAL DATA RIGHTS (Jun 2009)

CONTRACTOR and GOVERNMENT shall have, and SUBCONTRACTOR hereby grants CONTRACTOR and GOVERNMENT, a permanent, assignable, non-exclusive, royalty-free license to use any concept, product, process (patentable or otherwise), copyrighted material (including without limitation documents, specifications, calculations, maps, sketches, notes, reports, data, models, samples, drawings, designs, and electronic software) and confidential information owned by SUBCONTRACTOR upon commencement of the Work under this subcontract and used by SUBCONTRACTOR or furnished or supplied to CONTRACTOR or GOVERNMENT by SUBCONTRACTOR in the course of performance under this subcontract.

SC-103 KEY PERSONNEL (Jun 2009)

SUBCONTRACTOR shall not reassign or remove the key personnel listed below without the prior written authorization of CONTRACTOR. The key personnel listed below are an essential and material consideration for this subcontract. Any change to Key Personnel will be required to meet minimum qualifications listed herein and is subject to CONTRACTOR approval.

<u>Name</u>	<u>Title/Position</u>
*	Technical Project Leader

SC-105 LIMITATION OF FUNDS (Aug 2014)

- (a) The amount of funds presently available for payment by CONTRACTOR and allotted to this subcontract is * (\$*). SUBCONTRACTOR shall perform or have performed Work up to the point at which the total amount paid and payable approximates, but does not exceed the total amount actually allotted.
- (b) CONTRACTOR will allot additional funds incrementally to the subcontract up to the full subcontract ceiling, provided funds are made available by GOVERNMENT. Directed Change Orders issued under the Changes clause shall not be considered an authorization to exceed the allotted amount.
- (c) SUBCONTRACTOR shall notify CONTRACTOR in writing whenever it has reason to believe that the amount to be invoiced under this subcontract in the next 30 days, when added to all previously invoiced amounts, will exceed 80% of the total funds so far allotted. Upon notification, CONTRACTOR will allot additional funds or may suspend or terminate the subcontract in accordance with its terms.

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- (d) SUBCONTRACTOR is not authorized to continue performance or otherwise incur costs in excess of the allotted funds, unless one of the following exceptions applies: (1) if required to protect and maintain the Work in accordance with General Condition GC-44 SUSPENSION; or (2) protect and preserve the property related to this subcontract in accordance with GC-47(x) TERMINATION FOR CONVENIENCE.

SC-112 REGIONAL PURCHASING PRICING PREFERENCE (Apr 2014)

SUBCONTRACTOR shall maximize procurement opportunities for Northern New Mexico (NNM) small business concerns by implementing a Regional Purchasing Pricing Preference when procuring goods or services for this subcontract exceeding \$100,000. The price preference will be given by adding a 5% adjustment factor to the price/cost including priced options of a proposed lower-tier subcontractor that does not meet the definition of a NNM small business concern, when evaluating such bid/offer against other bids/offers received for the same goods or services.

NNM includes the counties of Taos, Santa Fe, Rio Arriba, Sandoval, Mora, San Miguel, and Los Alamos, and the eight regional Pueblos of Nambe, Ohkay Owingeh (formerly known as San Juan), Picuris, Pojoaque, San Ildefonso, Santa Clara, Taos, and Tesuque.

A NNM business concern is a business that is actively engaged in doing business in NNM, has an operative business location in NNM, and uses labor from NNM. To meet these requirements, a business must be able to demonstrate, if and when requested, through the submission of New Mexico gross receipts tax and unemployment compensation tax forms or otherwise, that for the calendar year preceding the submission of its bid/offer:

- (a) it has been properly authorized to do business and has been operating in NNM with a staff of three or more full time equivalent employees (of which 51% must reside in NNM), and that it currently has a facility in NNM that can support the business activity contemplated by the Statement of Work / Scope of Work; or
- (b) it has historically operated in NNM with two or less full time equivalent employees who reside in NNM, it is independently owned (i.e., its owner(s) exercise(s) close control over operations and decisions which are not subject to control or the power to control by others), its majority ownership interest is held by residents of NNM, it has been properly authorized to do business in NNM and it currently has a facility in NNM that can support the business activity contemplated by the Statement of Work / Scope of Work.

SUBCONTRACTOR shall report to CONTRACTOR, on April 30th and October 30th throughout the term of this subcontract, the results of its efforts to maximize procurement opportunities for NNM small business concerns. In addition, SUBCONTRACTOR shall submit a final report to CONTRACTOR at the completion/expiration of its subcontract.

SC-113 SUBCONTRACTOR'S REGIONAL AND COMMUNITY DEVELOPMENT PLAN (Jun 2009)

- (a) SUBCONTRACTOR will begin developing a Subcontractor's Regional and Community Development Plan (SRCDP) immediately upon notice of award and shall deliver its proposed SRCDP to the CONTRACTOR for review and approval within 60 days after notice of award. The SUBCONTRACTOR'S approved SRCDP shall be incorporated into the subcontract by reference through a subcontract modification, and shall apply with the same force and effect as if incorporated in full text.
- (b) During performance of the subcontract, the SUBCONTRACTOR shall maintain records, including receipts, payroll information, and any other documents that demonstrate SUBCONTRACTOR'S compliance with its SRCDP. SUBCONTRACTOR shall submit reports to CONTRACTOR semi-annually documenting its compliance with its SRCDP and, if requested by CONTRACTOR, shall provide evidence to substantiate any statement contained in a report.

Dated 7-15-16

SC-114 SUBCONTRACTOR'S SMALL BUSINESS SUBCONTRACTING PLAN (Aug 2014)

- (a) Unless exempt, SUBCONTRACTOR shall comply with the requirements set forth in Appendix SFA-1, FAR clause 52.219-9, Small Business Subcontracting Plan. SUBCONTRACTOR'S Small Business Subcontracting Plan (Plan) is subject to CONTRACTOR'S approval, and once approved is incorporated into this subcontract by reference as if fully set forth herein.
- (b) Subcontracting reports shall be submitted on the Individual Subcontracting Report (ISR) and the Summary Subcontracting Report (SSR) in accordance with the instructions on the Electronic Subcontracting Reporting System (eSRS) website at <http://www.esrs.gov>. SUBCONTRACTOR shall ensure that its lower-tier subcontractors with subcontracting plans submit the ISR and/or the SSR using eSRS.
- (c) ISR data must be submitted online at <http://www.esrs.gov> semi-annually during subcontract performance for the periods ending March 31 and September 30. A report is also required for each subcontract within 30 days of subcontract completion. Reports are due 30 days after the close of each reporting period. Reports are required when due, regardless of whether there has been any subcontracting activity since the inception of the subcontract or the previous reporting period.
- (d) SSR data must be submitted online at <http://www.esrs.gov> annually for the twelve month period ending September 30. Reports are due 30 days after the close of each reporting period.
- (e) Failure of SUBCONTRACTOR to comply in good faith with its CONTRACTOR-approved Plan and the above reporting requirements may be considered a material breach of this subcontract and constitute grounds for termination.

SC-143 OPTION TO EXTEND TERM OF SUBCONTRACT (Jan 2010)

CONTRACTOR may extend the term of this subcontract by giving written notice to SUBCONTRACTOR by the date specified as the expiration date of this subcontract. CONTRACTOR shall attempt to give SUBCONTRACTOR a preliminary written notice of its intent to extend the term of this subcontract at least 60 days before the then current expiration date; however, the preliminary notice shall not be a commitment by CONTRACTOR to extend the term of this subcontract. Failure to provide the preliminary notice at least 60 days before the current expiration date does not prevent CONTRACTOR from the exercise of an option. The exercise of an option to extend the term of this subcontract shall be accomplished by a unilateral written modification issued by CONTRACTOR.

The term of this subcontract may be extended pursuant to this clause for up to * (*) months beyond the initial term. Such extension may be made from time to time or in one modification. However, the total duration of this subcontract, including the exercise of options under this clause, shall not exceed * (*) months.

SC-156 AVAILABILITY OF FUNDS (MAR 2014)

Funds are not presently available for performance under this subcontract beyond U.S. Government fiscal year *. CONTRACTOR'S obligation for performance of this subcontract beyond that fiscal year is contingent upon the availability of Government appropriated funds each fiscal year thereafter and the transfer of those funds by DOE/NNSA to CONTRACTOR. If such appropriations or transfers are not made, CONTRACTOR shall have the right to terminate this subcontract without penalty by giving SUBCONTRACTOR prompt written notice thereof.

Dated 7-15-16

EXHIBIT B

APPENDIX B-1

LOS ALAMOS NATIONAL LABORATORY

SUBCONTRACTOR'S REGIONAL AND COMMUNITY DEVELOPMENT PLAN

SUBCONTRACTOR'S Regional and Community Development Plan dated * is attached and incorporated into this subcontract.

Sample NRE

Dated 7-15-16

**EXHIBIT B
APPENDIX B-2**

LOS ALAMOS NATIONAL LABORATORY

SMALL BUSINESS SUBCONTRACTING PLAN

SUBCONTRACTOR'S small business subcontracting plan dated * is attached and incorporated into this subcontract.

Sample NRE

Dated 7-15-16

**EXHIBIT "C" FORM A
QUANTITIES AND PRICING SCHEDULE**

NOTE:

This Exhibit "C" Form A is part of the model subcontract for ACES NRE and is provided to Offerors for informational purposes only. It is not intended that this form be returned with the Offeror's proposal.

1.0 WORK TO BE PERFORMED

Work shall be performed strictly in accordance with requirements of the Subcontract Documents.

2.0 PRICING

- a. Pricing for the ACES NRE is detailed on the Subcontract Form of Agreement. All amounts stated in the Pricing detail are fixed for the duration of the Subcontract and are not subject to escalation for any cause. Payment for these Pricing amounts shall constitute full payment for performance and acceptance of the Work and covers all costs of whatever nature incurred by SUBCONTRACTOR in accomplishing the Work in accordance with the provisions of this Subcontract.
- b. SUBCONTRACTOR shall maintain all work in progress until it is accepted. SUBCONTRACTOR shall repair, rework or replace as necessary any work damaged or lost due to normal wear and tear, anticipated events, or conditions within its control. No separate payment shall be made for such maintenance costs which are deemed included in the original Subcontract Pricing. Any failure to maintain the Work shall be considered a defect in accordance with the General Condition titled "WARRANTY."
- c. The subcontract's Milestone and Payment Schedule for ACES NRE is contained in Exhibit "C" Form B Milestone and Payment Schedule.

3.0 OPTIONS

CONTRACTOR may, at any time between the commencement and completion of the subcontract, exercise the options priced below. CONTRACTOR will give the SUBCONTRACTOR preliminary written notice of the exercise of options approximately 60 days in advance of the exercise of any options. The preliminary notice shall be accomplished unilaterally, at the sole discretion of CONTRACTOR.

- a. Pricing for options shall be based on pricing stipulated below. Option prices shall not increase for the time between the commencement and completion of the subcontract.
- b. Delivery requirements for all options will be negotiated at the time the option is exercised.
- c. CONTRACTOR reserves the right to exercise any one or all of the options multiple times between the commencement and completion of the subcontract.
- d. CONTRACTOR reserves the right to exercise options with lesser requirements or to split the requirements into multiple awards with lesser requirements.

Dated 7-15-16

Option Description	Exhibit "D" Reference	Price

Sample NRE

Dated 7-15-16

**EXHIBIT "C" FORM B
MILESTONE AND PAYMENT SCHEDULES**

NOTE:

This Exhibit "C" Form B is part of the model subcontract for ACES NRE and is provided to Offerors for informational purposes only. It is not intended that this form be returned with the Offeror's proposal.

The following Milestone and Payment Schedule is established pursuant to Exhibit "B" Special Conditions SC-3A and SC-13A:

No.	Milestone Description	Subcontract Schedule (# of months after Notice to Proceed)	Payment Amounts
1.0	<i>Initial Milestone</i>		\$ TBD
2.0	<i>(continue as necessary)</i>		TBD
—	"		"
—	"		"
—	"		"
—	"		"
—	"		"
—	<i>Final Milestone</i>		"
	TOTAL OF PAYMENTS		\$ TBD

SUBCONTRACTOR'S invoices will issue on Completion Dates and in the Payment Amounts established above. In the event SUBCONTRACTOR completes a Milestone prior to the associated Completion Date, CONTRACTOR is not obligated to accept the related invoice or make a payment associated with that Milestone until the stated Completion Date.

Dated 7-15-16

Exhibit “D” Scope of Work and Technical Specifications

RESERVED

This document will be negotiated based on the Technical Requirements Document issued with the RFP and the successful Offeror’s proposed Non-Recurring Engineering for ACES.

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1.0 SCOPE OF WORK:

SUBCONTRACTOR shall furnish qualified personnel, equipment, materials and facilities to perform, as detailed in this Exhibit "D", all services necessary to *, and required by or reasonably inferable from the Subcontract Documents. SUBCONTRACTOR shall not be relieved of performing the details of any work manifestly or customarily performed to carry out the intent of this subcontract. All work shall be performed as if fully and correctly set forth and described in the subcontract.

1.1 Work included

1.1.1 *

1.2 Work not included

1.2.1 *

1.3 Deliverables

1.3.1 *

1.4 Schedule

1.4.1 *

2.0 TECHNICAL REQUIREMENTS**2.1 Technical Specifications**

2.1.1 *

2.2 National / International Codes and Standards

2.2.1 *

2.3 Technical Approach

2.3.1 *

2.4 Technical Performance Requirements

2.4.1 *

2.5 Other Requirements

2.5.1 *

2.6 CONTRACTOR'S Policies and Procedures

2.6.1 *