

EXHIBIT "A"
GENERAL CONDITIONS

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GC-1C DEFINITIONS (Jun 2010)

“CONTRACTOR” means Los Alamos National Security, LLC (LANS), a limited liability company, which manages and operates Los Alamos National Laboratory pursuant to Contract No. DE-AC52-06NA25396 between the U.S. Department of Energy National Nuclear Security Administration and LANS.

“GOVERNMENT or Government” means the United States of America and includes the United States Department of Energy National Nuclear Security Administration (DOE/NNSA) and its authorized representatives and successors in interest.

“Laboratory” or “LANL” means the Los Alamos National Laboratory, a federally funded research and development center owned by DOE/NNSA.

“Lease” means a transfer of the right to possession and use of goods (i.e., things that are movable at the time of identification) for a term in return for consideration.

“Property” means the personal property items described in Attachment A, *Description of Personal Property and Technical Specifications*, in the quantities listed in Attachment B, *Line Items and Pricing*.

“SUBCONTRACTOR” means the business entity listed on the first page of this Subcontract, its authorized representatives, successors, and permitted assigns.

GC-6C ORDER OF PRECEDENCE (Mar 2012)

Any inconsistencies shall be resolved in accordance with the following descending order of precedence:

- (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) All other subcontract documents

GC-8B COMPLIANCE WITH LAWS, RULES, REGULATIONS AND STANDARDS (Jun 2010)

SUBCONTRACTOR represents and agrees that, when delivered to CONTRACTOR, the Property will in all respects comply with the applicable Standards promulgated under the Occupational Safety and Health Act of 1970, and all applicable Federal and State laws, rules, regulations, and standards. Copies of all reports and other documents relating to inspection of the items of Property that are required by such standards shall accompany the Property. Any thorough inspection by a qualified person that is required during the term when this Subcontract is in effect shall be for the expense of SUBCONTRACTOR. SUBCONTRACTOR shall indemnify CONTRACTOR for any loss, cost, or damage, including any fines or penalties which are incurred by CONTRACTOR as a result of failure of the Property to comply with the above mentioned Standards.

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-36 DISPUTES (Jan 2010)

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

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

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

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

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

- (b) Nature of the Subcontract. This subcontract is not a Government contract and, therefore, is not subject to the Contract Disputes Act of 1978 (41 U.S.C. §§601-613). SUBCONTRACTOR acknowledges that GOVERNMENT is not a party to the subcontract, and, for purposes of the subcontract CONTRACTOR is not an agent of GOVERNMENT. Consequently, the provision for arbitration by the Board, as provided for in this clause, does not create or imply the existence of privity of contract between SUBCONTRACTOR and GOVERNMENT.
- (c) Scope of Clause. The rights and procedures set forth in this clause are the exclusive rights and procedures for resolution of all claims and disputes arising under, or relating to, this subcontract, and no action based upon any claim or dispute arising under, or relating to, this subcontract shall be brought in any court except as provided in this clause. The parties shall be bound by any arbitration decision rendered pursuant to this clause, which shall be vacated, modified, or corrected only as provided in the Federal Arbitration Act (9 U.S.C. §§1-16). An arbitration decision may only be enforced in any court of competent jurisdiction in the State of New Mexico.
- (d) Filing a Claim/Subcontract Administrator’s Decision.
- (1) Unless otherwise provided in this subcontract, SUBCONTRACTOR must file any claim against CONTRACTOR within sixty (60) Days after SUBCONTRACTOR knew or should have known the facts giving rise to the claim. Failure to file a claim within the period prescribed by this paragraph shall constitute a waiver of SUBCONTRACTOR’S right, if any, to an equitable adjustment under the subcontract.
 - (2) SUBCONTRACTOR shall submit any claim in writing to the Subcontract Administrator who shall issue a decision on the matter within sixty (60) Days of receipt of the claim. If the Subcontract Administrator fails to issue a decision within sixty (60) Days, SUBCONTRACTOR may request mediation or demand for arbitration as provided in paragraphs (e) and (f) of this clause.
 - (3) CONTRACTOR may, at any time prior to final payment under the subcontract or expiration of any warranty period, whichever is later, file a claim against SUBCONTRACTOR by issuing a written decision by the Subcontract Administrator asserting such a claim.
 - (4) The decision of the Subcontract Administrator shall be final and conclusive unless SUBCONTRACTOR requests mediation or demands arbitration in accordance with the terms of this clause.

- (e) Request for Mediation.
- (1) If the decision of the Subcontract Administrator is not satisfactory to SUBCONTRACTOR, or the Subcontract Administrator has failed to timely issue a decision in accordance with subparagraph (d) 2) of this provision, and SUBCONTRACTOR desires to pursue further action, SUBCONTRACTOR may request that the matter be scheduled for mediation. The request for mediation must be made within forty-five (45) Days after receipt of the Subcontract Administrator's decision.
 - (2) If the Subcontract Administrator believes that mediation of the dispute is likely to lead to a satisfactory resolution, he or she will so inform SUBCONTRACTOR and the matter will be scheduled for mediation. The parties will agree on the format of the mediation and will jointly select the mediator. The cost of the mediator and related expenses shall be divided evenly between the parties.
 - (3) If the Subcontract Administrator decides that mediation is not likely to lead to a satisfactory resolution of the claim, or that a mediation undertaken pursuant to this clause has been unsuccessful, he or she will so inform SUBCONTRACTOR in writing.
- (f) Demand for Arbitration. If the decision of the Subcontract Administrator is not satisfactory to SUBCONTRACTOR, or if SUBCONTRACTOR'S request for mediation has been denied, or a mediation undertaken pursuant to paragraph (e) of this clause has been unsuccessful, or the Subcontract Administrator has failed to timely issue a decision in accordance with subparagraph (d) (2) of this clause, and SUBCONTRACTOR desires to pursue further action, SUBCONTRACTOR must submit to the Board a written demand for arbitration of the claim within forty-five (45) Days after receipt of the Subcontract Administrator's decision, or within forty-five (45) Days after the Subcontract Administrator notifies SUBCONTRACTOR that its request for mediation has been denied or that the mediation undertaken pursuant to paragraph (e) has been unsuccessful, whichever is later.
- (g) Arbitration Procedures/Costs. The Board shall arbitrate the claim and any counterclaims in accordance with the Rules of the Board. All claims for \$100,000 or less shall be arbitrated under the Board's Small Claims (Expedited) Procedure. All other claims, regardless of dollar amount, shall be arbitrated under the Board's Accelerated Procedure. Both parties shall be afforded an opportunity to be heard and to present evidence in accordance with the Rules of the Board. Unless the Board orders otherwise, each party shall pay its own costs of prosecuting or defending an arbitration before the Board.
- (h) Review of Arbitration Decision. An arbitration decision shall be final and conclusive unless a party files a timely action to vacate, modify, or correct the decision pursuant to the Federal Arbitration Act.
- (i) Subcontractor Performance Pending Claim Resolution. SUBCONTRACTOR shall proceed diligently with performance of the subcontract and shall comply with any decision of the Subcontract Administrator pending final resolution of any claim or dispute arising under, or relating to, the subcontract.
- (j) Choice of Law. The subcontract shall be governed by federal law as provided in this paragraph. Irrespective of the place of award, execution, or performance, the subcontract shall be construed and interpreted, and its validity determined, according to the federal common law of government contracts as enunciated and applied to prime government contracts by the federal boards of contract appeals and federal courts having appellate jurisdiction over their decisions rendered pursuant to the Contract Disputes Act of 1978. The Federal Arbitration Act, other federal statutes, and federal rules shall govern as applicable. To the extent that federal common law of government contracts is not dispositive, the laws of the State of New Mexico shall apply.

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

GC-37 BANKRUPTCY (Jun 2009)

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

GC-41A INDEMNITY (Jan 2010) (Applies only when work is performed on site at Los Alamos National Laboratory)

To the maximum extent permitted by applicable law but no further, SUBCONTRACTOR shall indemnify and defend CONTRACTOR and Government, and their subsidiaries and affiliates and the officers, agents, employees, successors and assigns and authorized representatives of all the foregoing, from and against all suits, actions, loss, damage, expense and liability for injury or harm to persons or property resulting from, arising out of, or in any way connected with the performance of this Subcontract, including, but not limited to, property damage, injury or death of any person, including employees of CONTRACTOR, Government or SUBCONTRACTOR, and the breach by SUBCONTRACTOR of any representation, warranty, covenant or performance obligation under this Subcontract. SUBCONTRACTOR'S aforesaid indemnity obligations shall apply to the fullest extent permitted by law, but in no event shall they apply to liability to the extent caused by the negligence or willful misconduct of CONTRACTOR or Government.

CONTRACTOR, Government and the insurers of each shall not financially contribute in any way to defense and indemnity obligations of SUBCONTRACTOR, whether or not covered by insurance.

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

GC-43 ASSIGNMENTS (Jun 2009)

- (a) Any assignment of this subcontract or rights hereunder, in whole or part, without the prior written consent of CONTRACTOR shall be void, except that upon ten (10) calendar days written notice to CONTRACTOR, SUBCONTRACTOR may assign, with CONTRACTOR'S approval, claims for monies due or to become due hereunder to a bank, trust company, or other financial institution including any federal lending agency. Any such assignment may cover all amounts payable under this subcontract and not already paid, and shall not be made to more than one party, except that any such assignment may be made to one party, as agent or trustee of two or more parties participating in SUBCONTRACTOR'S financing. Payments to an assignee of any monies due, or to become due hereunder, shall be subject to setoff or recoupment for any present or future claim or claims which CONTRACTOR may have against SUBCONTRACTOR arising under this and other subcontracts. Upon such assignment, SUBCONTRACTOR shall provide CONTRACTOR with two copies of any such assignment and shall indicate on each invoice to whom payment is to be made.
- (b) This subcontract may be assigned by CONTRACTOR, in whole or in part, to GOVERNMENT or to others upon written notice to SUBCONTRACTOR.
- (c) No assignment will be approved which would relieve SUBCONTRACTOR or its sureties, if any, of their responsibilities under this subcontract.

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

- (a) As used in this provision:
- (1) Team Members means any of the following entities: Bechtel National, University of California, The Babcock and Wilcox Company, and the Washington Division of URS, Professional project Services, Inc. and DreamTech Solutions, LLC doing business as Ngenuity.
 - (2) Team Member Affiliate means any person or entity which is a wholly owned, majority owned, or otherwise an affiliate of any Team Member. The term 'affiliate' is defined at FAR 2.101.
- (b) Because of restrictions in the contract between NNSA and CONTRACTOR concerning the payment of fee or profit when subcontracting with any Team Member or any Team Member Affiliate, as well as Organizational Conflict of Interest concerns, neither SUBCONTRACTOR nor any tier of its lower tier subcontractors or suppliers shall enter into a subcontract with any Team Member or any Team Member Affiliate to provide goods or services under this subcontract without the advance written approval of the Subcontract Administrator. In the event that written approval is granted to enter into a subcontract with a Team Member or a Team Member Affiliate, no fee or profit shall be paid to such Team Member or Team Member Affiliate under the proposed subcontract. In the event it is later determined that a Team Member or a Team Member Affiliate has been paid a fee or profit, SUBCONTRACTOR shall reimburse CONTRACTOR the amount of this fee or profit.
- (c) SUBCONTRACTOR shall include the substance of this provision in all lower tier subcontracts and purchase orders.

GC-61 ENTIRE AGREEMENT (Jan 2010)

This Subcontract embodies the entire agreement between CONTRACTOR and SUBCONTRACTOR. The parties shall not be bound by or liable for any statement, representation, promise or understanding not set forth herein. Nothing contained in proposals, correspondence, discussions, order acknowledgments or any other of SUBCONTRACTOR'S forms or documents has any effect on this Subcontract unless specifically incorporated herein.