

GENERAL TERMS & CONDITIONS
Individuals (IND OCT 2023)

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1. DEFINITIONS [Apr 2021]

The following terms shall have the meanings below:

- (a) Government means the United States of America and includes the U.S. Department of Energy (DOE), the National Nuclear Security Administration (NNSA), or any duly authorized representative thereof.
- (b) Company means Consolidated Nuclear Security, LLC acting under its Contract No. DE-NA0001942 with the DOE.
- (c) Seller means Contractor, Subcontractor, Supplier, or Vendor, which can be either a person or organization that has entered into this Agreement with Company.
- (d) Agreement means Purchase Order, Subcontract, Price Agreement, AVID Agreement, Basic Ordering Agreement, or Modification thereof.
- (e) Article or Clause is the numbered paragraph of General Terms & Conditions.
- (f) Procurement Representative means Subcontract Administrator, Buyer, Procurement Specialist, or Contract Specialist acting within the limits of a written authority to enter into, administer, or terminate Agreements and make related determinations and findings on behalf of Company.
- (g) Subcontract Technical Representative means the duly authorized Company representative who provides technical direction for performance of the work under this Agreement.
- (h) On-site work means work in furtherance of this Agreement at a DOE-owned or – leased area or Company-owned or – leased area.
- (i) Educational Institution means an entity of the type subject to 2 CFR 220.
- (j) “FAR” means the Federal Acquisition Regulations including all amendments and changes thereto in effect on the effective date of this Agreement.
- (k) “DEAR” means the DOE Acquisition Regulations, including all amendments and changes thereto in effect on the effective date of this Agreement.
- (l) “U.S.C.” means the United States Code.
- (m) “Commercial Item/Service” or “Commercial Component” or “Commercial Product” mean the same as the definitions for these terms set forth at FAR 2.101.
- (n) “Pantex” means the Pantex Plant in Amarillo, TX managed and operated by Company.
- (o) “Y-12” means The Y-12 National Security Complex in Oak Ridge, TN managed and operated by Company.
- (p) “Ref.” means the Article is based with variations on the cited regulation.

2. ORDER OF PRECEDENCE [Oct 2017]

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

- (a) The Schedule (excluding Sections C and G);
- (b) Schedule Section G:
 - (1) Negotiated Alterations or Special Provisions;
 - (2) General Terms and Conditions;
 - (3) Clauses Incorporated by Reference;
 - (4) Supplemental Conditions;
- (c) Specifications or Statement of Work, or other description of services or supplies (Section C); and
- (d) Drawings.

3. AGREEMENT FOR BENEFIT OF DOE [Apr 2021]

- (a) Funding — Company shall make all payments under this Agreement from Government funds advanced and agreed to be advanced by DOE, and not from its own funds. In almost all circumstances, funds recovered by Company from Seller are Government funds.
- (b) Administration — Administration of this Agreement may be transferred, in whole or in part, to DOE or its designee(s), and to the extent of such transfer and notice thereof to Seller, Company shall have no further responsibilities hereunder.
- (c) Company Right to Recovery — If Company seeks recovery from Seller, Seller agrees it shall not plead, assert or raise in any manner a defense that Company has no right to recover (1) because Company itself, rather than DOE/NNSA, has suffered no damages on account of the cost-reimbursable nature of Company’s Prime Contract with DOE, or (2) because DOE has accepted the project or task performed under this Agreement.

4. ACCEPTANCE OF TERMS AND CONDITIONS [Apr 2021]

- (a) Seller, by signing this Agreement, delivering the supplies, or performing the requirements indicated herein, agrees to comply with all the terms and conditions and all specifications and other documents that this Agreement incorporates by reference or attachment.

- (b) This Agreement sets forth the entire agreement between Company and Seller concerning the subject matter of this Agreement. To avoid any doubt, this Agreement supersedes all prior and contemporaneous negotiations, understandings, and agreements, whether oral or written, pertaining to the subject matter hereof, and it supersedes and takes precedence over any conflicting or supplemental terms and conditions included in any Seller proposal, quote, acknowledgment, or invoice, all of which are hereby objected to and expressly rejected.
- (c) Failure of Company to enforce any of the provisions of this Agreement shall not be construed as (1) evidence to interpret the requirements of this Agreement, (2) a waiver of any requirement, or (3) a waiver of the right of Company to enforce each and every provision. In accordance with Tennessee Code, Section 47-50-112(c), no waiver of any provision or part thereof of this Agreement shall be valid unless such waiver is in a writing signed by the Procurement Representative. Any waiver shall be strictly construed and shall apply on a one-time basis unless expressly stated to apply otherwise.

5. INDEPENDENT CONTRACTOR [Apr 2021]

- (a) Neither this Agreement nor Seller's performance hereunder shall constitute or create an employee/employer relationship. Seller shall act solely as an independent contractor, not as an employee or agent of Company. As an independent contractor Seller shall not be entitled to Workers Compensation or any other employee benefits or other insurance protection provided by Company. However, if Seller was previously a bona fide employee of Company or an affiliate, the retirement and other benefits that Seller may be entitled to as a result of said previous employment shall continue uninterrupted in accordance with the terms and conditions of each applicable benefit plan or other program, and such benefits shall not be affected by nor have any relationship to this Agreement.
- (b) Seller's responsibilities are limited to providing services and Seller has no authority to obligate Company to any Agreement or to exercise any supervision or direction over Company's employees.

6. COOPERATING WITH DOE OFFICE OF INSPECTOR GENERAL [Oct 2017]

Seller shall cooperate fully and promptly with requests from the DOE Office of Inspector General (OIG) for information and data relating to DOE programs and operations (i) comply with requests by the OIG for interviews and briefings and provide affidavits or sworn statements, if so requested by an employee of the OIG so designated to take affidavits or sworn statements, and (ii) not impede or hinder another employee's cooperation with the OIG.

7. REPORTING WASTE, FRAUD, AND ABUSE [Apr 2021]

- (a) Applies to — This Article applies to agreements that have a value in excess of \$5,500,000 and a performance period of more than 120 days.
- (b) General Requirements — Seller shall ensure its employees having information about actual or suspected violations of laws, regulations, or policies including fraud, waste, abuse, misuse, corruption, criminal acts, or mismanagement relating to DOE programs, operations, facilities, contracts, or information technology systems notify an appropriate authority. Examples of violations to be reported include, but are not limited to, allegations of false statements; false claims; bribery; kickbacks; fraud; environmental, safety, and health violations; theft, computer crimes; subcontractor mischarging; conflicts of interest; and conspiracy to commit any of these acts. Seller must ensure that its employees are aware that its employees are required to report actual or suspected violations. Reporting can be as follows: Y-12 Ethics Hotline; phone 865 576-1900; fax 865 574-9656; Pantex 806-477-6777; Fax 806-477-3005; Office of Inspector General; 1-800-541-1625 (M-F 8:00AM – 4PM EST).
- (c) Seller Specific Requirements — Seller shall inform its employees annually of their duty to report allegations of information described in General Requirements above; display the OIG hotline telephone number in buildings and common areas under its responsibility such as cafeterias, public telephone areas, official bulletin boards, reception rooms, and building lobbies; publish the OIG hotline telephone number in telephone books, newsletters, or other means of widespread communication to employees under its responsibility; Seller and its employees shall report to the OIG within a reasonable period of time, but not later than 24 hours after discovery of any alleged violations; shall not take any reprisal action against an employee for reporting actual or suspected violations to the OIG.
- (d) Flowdown — Requirements of this Article, including paragraph (d), shall be flowed down to all lower-tier subcontracts.

8. EMPLOYEE CONCERNS [Apr 2021]

- (a) Definitions. For the purposes of this Article, the following terms have the meaning set forth below:
 - (1) "Concerned Individual" means a current Seller Employee who expresses an Employee Concern through the ECP.
 - (2) "Discrimination" means adverse treatment of a Concerned Individual because he/she raised an Employee Concern.
 - (3) "Employee Concern" means a good-faith expression by a Concerned Individual that: (1) an activity, policy, or practice of DOE, or one of its contractors or subcontractors — including but not limited to, that which is related to the environment, safety, health, security, quality, and management of DOE facilities or operations — should be

improved, modified, or terminated; or (2) he or she has been subjected to HIRD (as defined herein) by DOE, Company or one or more of Company’s subcontractors, for raising an Employee Concern.

- (4) “Harassment” means a behavior or an action taken by one or more supervisors or co-workers against or toward a Concerned Individual to belittle, humiliate, or impede that Concerned Individual in his or her work environment or job performance because the Concerned Individual raised an Employee Concern. Harassment may include, but is not limited to, threatening, restraining, coercing, blacklisting, mocking, humiliating, or isolating a Concerned Individual.
 - (5) “Harassment, Intimidation, Retaliation/Reprisal, or Discrimination” (HIRD) means a type of Employee Concern that includes allegations of Harassment, Intimidation, Retaliation/Reprisal, or Discrimination for raising an Employee Concern.
 - (6) “Intimidation” means a behavior or an action taken by a supervisor or co-worker against or toward any employee to cause the employee to be fearful of filing an Employee Concern; cease from pursuing an Employee Concern; or otherwise be afraid for his/her safety or job security as a result of filing an Employee Concern.
 - (7) “Retaliation/Reprisal” means an adverse action taken against or toward a Concerned Individual with respect to employment (e.g., discharge, demotion, or other negative action with respect to the Concerned Individual’s compensation, terms, conditions or privileges of employment) because the employee raised an Employee Concern.
 - (8) “Seller Employee” means any person currently employed by Seller or by Seller’s subcontractors engaged in work for or supporting a Company project.
- (b) Seller shall establish and maintain an Employee Concerns Program (ECP) suitable for the organization to accept, process, and resolve Employee Concerns in a timely manner.
 - (c) Seller shall provide means to inform its employees and its subcontractor employees regarding their rights and responsibilities to raise any Employee Concern related, but not limited to, the environment, safety, health, security, quality, and management of DOE facilities and operations, as well as Harassment, Intimidation, Retaliation/Reprisal, or Discrimination (HIRD), to Seller’s ECP, Company’s ECP, or the DOE ECP.
 - (1) While Seller Employees are encouraged first to seek resolution with first-line supervisors or organizational managers, or through Seller’s or Seller’s subcontractors’ own existing complaint or dispute-resolution systems, Seller Employees have the right to report Employee Concerns through the Company ECP through the following avenues:

Y-12:

Call: (865) 241-5855, (865) 574-7755, (865) 574-3506;
 Helpline: (865) 576-1900;
 Online: <https://home1.y12.doe.gov/eec>;
 Form: UCN-21222, *Employee Concerns Submittal*; or
 Q&A: <https://home1.y12.doe.gov/answers/>.

Pantex:

Call: (806) 573-5348, (806) 573-5337, or (806) 573-6321;
 Helpline: (806) 573-6777;
 Online: <https://home1.y12.doe.gov/eec>;
 Form: UCN-21222, *Employee Concerns Submittal*; or
No More Surprises: <https://pantex.y12.doe.gov/nms/>.

Seller Employees may also call the NNSA Production Office at Y-12 at 1-865-241-6497 or at Pantex at 1-806-573-36623, or DOE Employee Concerns Hotline at 1-800-676-3267 or the DOE Inspector General Hotline at 1-800-541-1625.

- (2) Although Employee Concerns may be reported anonymously, the investigation into the Employee Concern may be limited if insufficient information is provided when submitting the Employee Concern. Those who submit Employee Concerns anonymously will not receive a direct response.
- (d) Seller shall cooperate with and assist Company in (1) assessments of Seller’s ECP Program, and (2) the processing of Seller Employee Concerns that are submitted to Company or the DOE ECP. This includes, but is not limited to, responding to the allegations in the Employee Concern, and making pertinent information, including relevant documentation, available to Company as necessary to address the submitted concern.
- (e) Seller’s resolution of Employee Concerns must be in a manner that protects the health and safety of both employees and the public and ensures effective and efficient operation of the DOE-related activities under Seller’s or Company’s jurisdiction. Assessments of Seller’s ECP program may be used to verify it acted to minimize, correct, or prevent

recurrence of the situation that precipitated a concern.

- (f) Seller shall implement corrective actions as directed by the Company Procurement Representative.
- (g) Seller shall notify Company when it becomes aware that a Seller employee filed a formal complaint of Retaliation/Reprisal, including a complaint submitted pursuant to 10 CFR 708, DOE Contractor Employee Protection Program; 41 USC § 4712, Enhancement of Contractor Protection from Reprisal for Disclosure of Certain Information; or a complaint filed with the U.S. Department of Labor under 29 CFR 24, Procedures for Handling Retaliation Complaints.
- (h) At least every six (6) months, or more frequently if requested by the Company Procurement Representative, Seller shall provide to Company a summary of Employee Concerns activity data with respect to Seller's ECP.
- (i) As a means of establishing an effective program, Seller's ECP should utilize ECP best practices, which may include, but are not limited to:
 - (1) Ensuring that there is an ECP Manager who reports to a designated executive in Seller's management chain;
 - (2) Establishing a case-file system of documentation and records for Employee Concerns;
 - (3) Establishing a process that provides anonymity and confidentiality for Seller Employees who raise Employee Concerns unless Seller is legally compelled to disclose such information;
 - (4) Providing avenues for informal resolution of concerns;
 - (5) Allowing for the use of alternate dispute resolution;
 - (6) Referring Employee Concerns to other appropriate organizations to investigate an Employee concern; and
 - (7) Documenting acceptance of dismissal of a concerns, including "closure" of a concern after an investigation into its merits.
- (j) Flowdown — Requirements of this Article, including paragraph (j), shall be flowed down to all lower-tier subcontracts.

9. PUBLIC RELEASE OF INFORMATION [Apr 2021]

- (a) Seller shall not publicly disclose information concerning any aspect of the materials or services relating to this Agreement without the prior written approval of the Procurement Representative unless specifically required by law.
- (b) The interest of Company in this Agreement may not be used in advertising or publicity without advance written approval of the Procurement Representative.
- (c) Flowdown — Requirements of this Article, including paragraph (c), shall be flowed down to all lower-tier subcontracts.

10. CONFIDENTIALITY OF INFORMATION [Apr 2021]

- (a) To the extent that work under this Agreement requires that Seller be given access to confidential or proprietary business, technical, or financial information belonging to the Government, Company, or other parties, Seller shall after receipt thereof, treat such information as confidential and agrees not to appropriate such information to its own use or to disclose such information to third parties during or after the term of this Agreement unless specifically authorized by Company in writing. The foregoing obligations, however, shall not apply to (1) information which, at the time of receipt by Seller is in public domain; (2) information which is published after receipt thereof by Seller or otherwise becomes part of the public domain through no fault of Seller; (3) information which Seller can demonstrate was in its possession at time of receipt thereof and was not acquired directly or indirectly from Government or Company; (4) information which Seller can demonstrate was received by it from a third party who did not require Seller to hold it in confidence.
- (b) Seller agrees, if requested by Company or DOE, to sign an agreement identical, in all material respects, to the provisions of this Article, with each company supplying information to Seller under this Agreement, and to supply a copy of such agreement to Company.
- (c) Seller agrees that upon request by Company or DOE, it will execute a DOE-approved agreement with any party whose facilities or proprietary data it is given access to or is furnished, restricting use and disclosure of the data or the information obtained from the facilities.
- (d) Flowdown — Requirements of this Article, including paragraph (d), shall be flowed down to all lower-tier subcontracts

11. COMPLIANCE WITH LAWS [Apr 2021]

- (a) In performing work under this Agreement, Seller shall comply with the requirements of applicable Federal, State, and local laws and regulations, unless relief has been granted in writing by the appropriate regulatory agency.
- (b) Except as otherwise directed by Company, Seller shall procure all necessary permits or licenses required for the performance of work under this Agreement.
- (c) Regardless of the performer of the work, Seller is responsible for compliance with requirements of this Article. Seller is responsible for flowing down the requirements of this Article to all subcontracts at any tier to the extent necessary to ensure Seller's compliance with the requirements.

12. DOE SECURITY BADGES AND CLEARANCE REQUIREMENTS [Aug 2021]

- (a) Security badges issued by Company to Seller employees and Seller's lower-tier subcontractor employees are Government property. Seller must ensure that badges issued to its employees and employees of its subcontractors at all tiers are returned to Company. Employees must return badges upon expiration of this Agreement, termination of employment, or when access to the Y-12 National Security Complex or Pantex Plant is no longer needed. Employees holding an L or Q clearance must attend a security termination debriefing conducted by Company when returning badges. When possible, Seller must notify the STR three business days before an employee holding an L or Q clearance will be returning a badge so that debriefings may be scheduled. However, in all cases, the Personnel Security Clearance Office should be notified by Seller within one working day of a termination of employment or need for access to the Complex if the employee holds an L or Q clearance in order to provide notification to DOE/NNSA within two business days. DOE/NNSA directives require the termination of an employee security clearance within two business days of termination of employment or need for access to the Sites.
- (b) Seller must immediately notify the Procurement Representative in writing when a badge of its employee or the employee of a lower-tier subcontractor is lost or stolen. These employees must report in person to the Badging Office (or contact PSS after hours/weekends) to complete an affidavit concerning the loss or theft and to obtain replacement badges.
- (c) Seller must immediately notify the Procurement Representative in writing whenever any employee of Seller or a lower-tier subcontractor who has been badged or holds a security clearance under this Agreement terminates employment or no longer needs access to the Sites.
- (d) Seller must ensure that its employees and its lower-tier subcontractors' employees complete the *Subcontractor Personnel Exit Checklist*, Form UCN-4452S, before exiting the site for the final time. The employee must take the completed Checklist and badge to the Badging Office. If the Badging Office is closed (hours of operation are Monday-Thursday 6:00 a.m. to 4:30 p.m.) the employee may leave the Checklist and badge with the STR. (In such cases alternate debriefing arrangements will be made for employees holding an L or Q clearance.) The Checklist, signed by the STR or an authorized representative of Personnel Security, is acceptable proof to Company that a badge has been returned.
- (e) Seller's payment may be withheld until all requirements of this Article have been met. Failure by employees of Seller and its lower-tier subcontractors to promptly return badges will result in a charge of \$1,000 per badge, to be withheld from payment or billed to Seller. In addition, failure to return a badge may result in the denial of future access to the Sites for the individual. This \$1,000 charge will not be assessed against badges that are lost or stolen during performance if replacement badges are issued to allow Seller or lower-tier subcontractor employees to return to work.
- (f) For Y-12 only — On the last Thursday of each month, Seller shall submit to Company the Subcontract Badge/Clearance Status Report (UCN-21709). Seller must ensure that all security badges issued to its employees and employees of its subcontractors at all tiers are recorded monthly.

13. WORKPLACE SUBSTANCE ABUSE PROGRAM (WSAP) [Apr 2021]

- (a) Applies to — This Article applies to subcontracts \$25,000 or greater and which involve: (1) access to or handling of classified information or special nuclear materials; (2) high risk of danger to life, the environment, public health and safety, or national security; (3) transportation of hazardous materials to or from a DOE site, (4) employees who are required to have L or Q clearances to perform work under this Agreement, or (5) on-site construction activities.
- (b) WSAP Covered Work — For purposes of this Article, "WSAP covered work" means both on-site work, and work that is not on-site but that is performed by subcontractor employees with Q or L clearances at facilities that have Limited Areas (security areas designated by DOE for the protection of classified matter). Facilities that are not DOE-owned or — leased or Company-owned or — leased but that have Limited Areas within them are known as "possessing facilities."
- (c) Subtier contractors to Seller — Seller shall include this requirement in its subcontracts with applicable lower tier subcontractors, and will require those subcontractors to include this requirement in their subcontracts, if the applicability standards listed in the "Applies to" section above are met. References to "Seller" include all lower tier subcontractors falling within the "Applies to" criteria listed in paragraph (a) above.
- (d) Company approval of Seller Program.
 - (1) All work falling within the "Applies to" criteria above is subject to 10 CFR 707, "Workplace Substance Abuse Programs at DOE Sites." This Article highlights certain provisions of 10 CFR Part 707, but Seller is directed to the entire provision to ensure compliance. Seller shall develop and implement a workplace substance abuse program that complies with the requirements of 10 CFR Part 707. In accordance with 10 CFR 707.5(d), Seller's WSAP requires Company approval. Seller's proposed WSAP must be submitted to the Procurement Representative and approved before the start of work.
 - (2) Seller shall also submit applicable lower-tier subcontractor WSAPs for Company approval. Seller may either include

employees of some or all subcontractors in its WSAP, or include this Article in subcontracts for WSAP covered work and require subcontractors to submit WSAPs for Company approval.

- (e) General Workplace Substance Abuse Program Requirements.
- (1) Seller's WSAP shall be consistent with the baseline elements in 10 CFR Part 707 and the guidelines of the U.S. Department of Health and Human Services found at: <http://www.samhsa.gov/>.
 - (2) For all WSAP covered work, Seller's WSAP must provide for pre-employment testing for illegal drugs before final selection of applicants for employment, regardless of whether such applicants will fill testing designated positions (TDPs) as described in paragraph (f) below. Pre-employment testing must comply with all applicable provisions of 10 CFR 707.
 - (3) Seller must notify the Procurement Representative in writing, as soon as possible, or at the latest by the next business day, after Seller receives notice—
 - of an employee's conviction under a criminal drug statute, or
 - for employees in TDPs (defined below), of a drug related arrest or conviction or a receipt of a positive drug test result.
 - (4) Seller shall maintain files of chain-of-custody records required by 10 CFR 707.12(a) and 10 CFR 707.16(d) and submit copies to Company upon request. Seller and lower-tier subcontractors shall require that laboratory records relating to positive drug test results be maintained in the manner and for the periods required by 10 CFR 707.16(c).

14. AUTHORIZATION AND CONSENT (Ref. 52.227-1) [Apr 2021]

- (a) The Government authorizes and consents to all use and manufacture, in performing this Agreement or any subcontract at any tier, of any invention described in and covered by a United States patent (1) embodied in the structure or composition of any Article the delivery of which is accepted by Company under this Agreement or (2) used in machinery, tools, or methods whose use necessarily results from compliance by Seller or a subcontractor with (i) specifications or written provisions forming a part of this Agreement or (ii) specific written instructions given by Company directing the manner of performance. The entire liability to the Government or Company for infringement of a patent of the United States shall be determined solely by the provisions of the indemnity clause, if any, included in this Agreement or any subcontract hereunder (including any lower-tier subcontract), and the Government assumes liability for all other infringement to the extent of the authorization and consent hereinabove granted.
- (b) Seller shall include the substance of this Article, including this paragraph (b), in all subcontracts that are expected to exceed the simplified acquisition threshold. However, omission of this Article from any subcontract, including those at or below the simplified acquisition threshold, does not affect this authorization and consent.

15. PATENT INDEMNITY [Apr 2021]

- (a) Seller shall indemnify Company and the Government and their officers, agents, and employees against liability, including costs, for infringement of any United States patent (except a patent issued upon an application that is now or may hereafter be withheld from issue pursuant to a Secrecy Order under 35 U.S.C. 181) arising out of the manufacture or delivery of supplies, the performance of services, or the construction, alteration, modification, or repair of real property (hereinafter referred to as "construction work") under this Agreement, or out of the use or disposal by or for the account of Company or the Government of such supplies or construction work.
- (b) This indemnity shall not apply unless Seller shall have been informed as soon as practicable by Company or Government of the suit or action alleging such infringement and shall have been given such opportunity as is afforded by applicable laws, rules, or regulations to participate in its defense. Further, this indemnity shall not apply to—
 - (1) An infringement resulting from compliance with specific written instructions of Company directing a change in the supplies to be delivered or in the materials or equipment to be used, or directing a manner of performance of the Agreement not normally used by Seller;
 - (2) An infringement resulting from addition to or change in supplies or components furnished or construction work performed that was made subsequent to delivery or performance; or
 - (3) A claimed infringement that is unreasonably settled without the consent of Seller, unless required by final decree of a court of competent jurisdiction.

16. TAXES — FEDERAL, STATE AND LOCAL TAXES [Apr 2021]

- (a) Definitions. As used throughout this Article, the following terms shall have the meaning set forth below:
 - (1) The term "direct tax" means any tax or duty directly applicable to the completed supplies or services covered by this Agreement, or any other tax or duty from which Seller or this transaction is exempt. The term includes any tax or duty directly applicable to the importation, production, processing, manufacture, construction, sale, or use of such supplies or services; it also includes any tax levied on, with respect to, or measured by sales, receipt from sales, or

use of the supplies or services covered by this Agreement. The term does not include transportation taxes, unemployment compensation taxes, social security taxes, income taxes, excess-profits taxes, capital stock taxes, property taxes, and such other taxes as are not within the definition of the term “direct tax” as set forth herein.

- (2) The term “agreement date” means the effective date of this agreement if it is a negotiated agreement, or the date set for the opening of bids if it is an agreement entered into as a result of sealed bidding.
- (b) Federal Taxes. Except as may be otherwise provided in this agreement, the agreement price includes all applicable Federal taxes in effect on the agreement date.
- (c) State or Local Taxes. Except as may be otherwise provided in this agreement, the agreement price does not include any State or local direct tax in effect on the agreement date. For sellers providing and installing tangible personal property, which becomes part of real property, the agreement price should include all state and local direct taxes on such installed tangible personal property.
- (d) Evidence of Exemption. Company agrees, upon request of Seller, to furnish a tax exemption certificate or other similar evidence of exemption with respect to any direct tax not included in the agreement price pursuant to this Article; and Seller agrees, in the event of the refusal of the applicable taxing authority to accept such evidence of exemption, (1) promptly to notify Company of such refusal, (2) to cause the tax in question to be paid in such manner as to preserve all rights to refund thereof, and (3) if so directed by Company to take all necessary action, in cooperation with and for the benefit of Government, to secure a refund of such tax (in which event Company agrees to reimburse Seller for any and all reasonable expenses incurred at its direction)
- (e) Price Adjustment. If, after the agreement date, the Federal Government or any State or local Government either (1) imposes or increases (or removes an exemption with respect to) any direct tax, or any tax directly applicable to the materials or components used in the manufacture of furnishing of the completed supplies or services covered by this agreement, or (2) refuses to accept the evidence of exemption, furnished under paragraph (d) hereof, with respect to any direct tax excluded from the agreement price, and if under either (1) or (2) Seller is obliged to and does pay or bear the burden of any such tax (and does not secure a refund thereof), the agreement price shall be correspondingly increased. If, after the agreement date, Seller is relieved in whole or in part from the payment or the burden of any direct tax included in the agreement price, or any tax directly applicable to the materials or components used in the manufacture or furnishing of the completed supplies or services covered by this agreement, Seller agrees promptly to notify Company of such relief, and the agreement price shall be correspondingly decreased or the amount of such relief paid over to Company for the benefit of the Government. Invoices or vouchers covering any increase or decrease in the agreement price pursuant to the provisions of this paragraph shall state the amount thereof, as a separate added or deducted item, and shall identify the particular tax imposed, increased, eliminated, or decreased.
- (f) Refund or Drawback. If any tax or duty has been included in the agreement price or the price as adjusted under paragraph (e) of this Article, and if Seller is entitled to a refund or drawback by reason of the export or re-export of supplies covered by this agreement, or of materials or components used in the manufacture or furnishing of the completed supplies or services covered by this agreement, Seller agrees that he will promptly notify Company thereof and that the amount of any such refund or drawback obtained will be paid over to Company for the benefit of the Government or credited against amounts due from Company under this agreement: Provided, however, that Seller shall not be required to apply for such refund or drawback unless so requested by Company.

17. TRAVEL REIMBURSEMENT [Apr 2021]

If travel is a line item of the Agreement, Seller will be reimbursed for travel expenses in accordance with Company “Travel Reimbursement Policy” Article, which is incorporated by reference, up to the amount allowed by the Article or any ceiling amount specified in the line item of the Agreement, whichever is less.

18. RESOLUTION OF DISPUTES [Apr 2021]

- (a) Seller and Company agree to make good-faith efforts to settle any dispute or Claim that arises under this Agreement through discussion and negotiation. If such efforts fail to result in a mutually agreeable resolution, the parties shall consider the use of Alternative Dispute Resolution (ADR). Whether meditation or binding arbitration is voluntarily agreed to or court ordered, the site of the proceedings shall be Oak Ridge, Tennessee (for Agreements related to Y-12) or Amarillo, TX (for Agreements related to Pantex); the parties shall share the cost of obtaining the mediator or arbiter, and each party shall bear its discretionary costs.
- (b) “Claim,” as used in this Article, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of Agreement terms, or other relief arising from or relating to this Agreement, or its breach. However, a written demand or written assertion by Seller seeking the payment of money is not a Claim until certified, if certification is required by paragraph (d) below. A request

for payment (e.g., a voucher, invoice, or other routine request for payment, a termination settlement proposal, or a request for an adjustment or equitable adjustment) that is not in dispute when submitted is not a Claim. An initially undisputed request for payment may be converted to a Claim by Seller by complying with the submission and applicable certification requirements in paragraphs (c) and (d) below.

- (c) A Claim by Seller shall be made in writing, cite this Article, and be submitted to Company's Director, Procurement Operations and Business Management with a request for a Final Decision.
- (d) Seller and any lower-tier subcontractors whose portion of the Claim exceeds \$50,000 shall certify its portion of the Claim; provided however, if Seller cannot certify the lower-tier subcontractor's portion of Seller's Claim, Seller shall explain in writing why it cannot certify that portion.
 - (1) Company shall not be liable for, and shall not pay, any Claim originated by Seller if that Claim exceeds \$50,000 unless Seller's Claim is accompanied by the below certification from Seller.
 - (2) Company shall not be liable for, and shall not pay, any Claim of a lower-tier subcontractor to Seller if that Claim, without mark-ups by a higher-tier subcontractor or Seller, exceeds \$50,000 unless that Claim is accompanied by the below certification from the lower-tier subcontractor that originated the Claim.
 - (3) The aggregate amount of both increased and decreased costs shall be used in determining when the dollar threshold requiring certification is met.
 - (4) If Seller certified its costs under the Adjustments Article, Seller is not required to certify under this Article as a Claim, unless Seller certified more than 180 calendar days before Seller submits its Claim or the Claim amount exceeds the prior certified amount by more than \$50,000.

CERTIFICATION

I acknowledge the expectation that any payment by Company for this requested contract adjustment will be reimbursed by funds of the Federal Government, and, under penalty of law, I certify that this Claim request is made in good faith, that the supporting data are accurate and complete to the best of my knowledge and belief, that the amount requested accurately reflects the contract adjustment for which Seller and I believe Company is liable, and that I am duly authorized to certify the request on behalf of [Seller or lower-tier subcontractor, as appropriate]

- (e) (1) A Claim from Seller shall be deemed denied if the Director, Procurement Operations and Business Management does not issue a written Final Decision (i) by the date the Director, Procurement Operations and Business Management notified Seller that the decision would be issued, or (ii) within 60 calendar days after receipt of the Claim if the Director, Procurement Operations and Business Management did not notify Seller of a date by which the Final Decision would be issued. The Director, Procurement Operations and Business Management may, but is not required to issue a written Final Decision after a Claim is deemed denied.
- (2) The Director, Procurement Operations and Business Management's written Final Decision on any Seller Claim shall be final and conclusive between the parties with no right of judicial review, provided however, that the Final Decision shall not be final and binding against either party, and shall be given no evidentiary weight by the trier of fact, if Seller files suit within 90 calendar days of the written Final Decision in the appropriate court as provided for in paragraph (f) below.
- (3) Seller shall have no right to file suit prior to the date of the written Final Decision or 60 calendar days from the Director, Procurement Operations and Business Management's receipt of the Claim, whichever occurs earlier.
- (f) (1) State Agency. Where Seller is a State agency, such as an Educational Institution, the applicable constitutional provisions or statutes that govern sovereign immunity shall dictate the appropriate forum and law governing substantive issues.
- (2) Seller not a State Agency. (i) Any litigation for an Agreement related to the Y-12 site shall be brought and prosecuted exclusively in Federal District Court, with venue in the United States Court for the Eastern District of Tennessee, Northern Division; any litigation for an Agreement related to the Pantex site shall be brought and prosecuted exclusively in the United States District Court for the Northern District of Texas, Amarillo Division. (ii) In the event the requirements for jurisdiction in Federal District Court are not present, such litigation (if for an Agreement related to Y-12 site) shall be brought in either Anderson, Knox, or Roane County, Tennessee, in the Circuit or Chancery Court, as appropriate. In the event requirements for jurisdiction in Federal District Court are not present for an Agreement related to the Pantex site, such litigation shall be brought in Carson County, TX or, in the event that such court lacks jurisdiction, in the highest trial court in the state of Texas having jurisdiction.
- (3) THE PARTIES AGREE TO TRIAL BY JUDGE ALONE AND HEREBY WAIVE ANY RIGHT TO DEMAND A TRIAL BY JURY.

- (4) If a court awards interest of any kind (e.g., late payment, prejudgment, or post judgment), interest shall be simple interest at the applicable rate established by the Secretary of the Treasury under Section 12 of the Contract Disputes Act of 1978 (Public Law 95-563) and the date from which interest shall accrue shall be the date a Claim is received by the Director, Procurement Operations and Business Management or the date an undisputed request for payment is converted to a Claim.
- (5) If a court awards interest of any kind, interest shall be simple interest at the applicable rate established by the Secretary of the Treasury under Section 12 of the Contract Disputes Act of 1978 (Public Law 95-563). If a court awards prejudgment interest, interest shall accrue from no earlier than the date a Claim is received by the Director, Procurement Operations and Business Management.
- (g) Subject to (f)(1), the resolution, of all issues arising from or relating to this Agreement shall be governed to the maximum extent practicable by the common law of federal contracts; provided, however, that (1) the “Christian Doctrine” shall not apply, meaning that federal procurement clauses (e.g., the FAR, including agency supplements) or portions thereof not appearing in this Agreement shall not be read into this Agreement, and (2) where the language of any clause, provision or term herein differs from the language of a federal procurement clause, provision or term, the differing language of this Agreement shall control. Where the common law of federal contracts does not apply, then subject to (f)(1), resolution shall be governed by the laws of the State of Tennessee, without regard to the Conflicts of Laws rules.
- (h) There shall be no interruption in the performance of the work, and Seller shall proceed diligently with the performance of this Agreement pending final resolution of any dispute arising under or related to this Agreement between the parties or between Seller and its sub-tier subcontractors.
- (i) The contractual remedies in this Article shall not be deemed to waive, postpone the running of, extend, or otherwise affect any statute of limitation applicable to any request for payment or Claim.

19. HOLD HARMLESS [Apr 2021]

Seller shall be solely responsible for all liability and related expenses resulting from injury, death, damage to, or loss of property which is in any way connected with seller’s negligent performance of work under this agreement. Seller shall also be responsible for all materials and work until acceptance by company. Seller’s responsibility shall apply to activities of seller, its agents, lower-tier subcontractors, or employees and such responsibility includes the obligation to indemnify, defend, and hold harmless the government and company. However, such liability and indemnity does not apply to injury, death, or damage to property to the extent of company fault or negligence.

20. LIABILITY FOR FINES AND PENALTIES [Apr 2021]

Seller shall be responsible, at no expense to Company, for the payment of fines, penalties, and other assessments imposed as a result of Seller’s performance. If the fine, penalty, or other assessment results in part from actions or failures to act of Company or its employees, Company will be responsible for its *pro rata* share. If Company is required to pay a fine, penalty, or other assessment for which Seller is liable under this Article, Seller shall reimburse Company the amount of such fine, penalty, or other assessment.

21. INVOICING [Apr 2021]

- (a) Seller shall be paid monthly, upon submission of an invoice in an approved form, the consideration stipulated herein less deductions, if any.
- (b) Invoices shall be submitted using Company Form UCN-06573, “Subcontractor’s Invoice for Travel and/or Services.” Company forms are available on the “Procurement” link at <http://www.y12.doe.gov>.
- (c) Applicable IRS forms must accompany Seller’s initial invoice submission. For U. S. citizens and resident aliens, IRS Form W-9, “Request for Taxpayer Identification Number and Certification” is required. IRS forms are available at: <http://www.irs.gov/formspubs/lists/0,,id=97817,00.html>.
- (d) Company may withhold payment hereunder until requirements of this Article are fulfilled.

22. SEVERABILITY [Apr 2021]

The obligations set forth in this Agreement are severable and divisible, and no article or portion thereof which is not enforceable shall cause the remainder of such Article or other obligations contained herein to be unenforceable.

23. ENFORCEMENT [Oct 2017]

Failure on the part of either party (the “first party”) to insist on strict compliance by the other with any provisions of this Agreement shall not constitute a waiver of the other party’s obligations in respect thereof, or of the first party’s right hereunder to require strict compliance therewith in the future.

24. STANDARDS OF CONDUCT [Apr 2021]

- (a) It is the policy of Company that its acquisition and retention of business be conducted in accordance with the highest standards of honesty and integrity. Sales of its products and services must be free from even a perception that favorable treatment was sought or received, or that questionable activities were engaged in or condoned. Purchases of products and services must be conducted with the same high standards. Severe criminal and civil penalties may be imposed on the individuals involved for violation of federal and state laws that affect the conduct of our business.
- (b) By execution of this Agreement, Seller represents and certifies that he or she has not been convicted or has not pleaded guilty to a federal offense involving fraud, corruption or moral turpitude and is not now listed by any federal agency as debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for federal procurement programs. Seller shall provide immediate notice to Company in the event of being suspended, debarred, or declared ineligible by any Department or other Federal Agency, or upon receipt of a notice of proposed debarment from any Department or Agency, during the performance of this Agreement.
- (c) By execution of this Agreement, Seller hereby certifies that he or she is familiar with and will comply with all federal laws and regulations relating to federal conflict of interest (“Revolving Door”) concerns, particularly of 41 U.S.C. Section 2104 (Procurement Integrity) and 18 U.S.C. 207. Seller further represents and warrants that the services to be performed under this Agreement, whether by itself, its employees, or its associates, shall not be in violation of said statutes or regulations.
- (d) By execution of this Agreement, Seller agrees that, unless such effort is specifically called out in the Statement of Work of this Agreement, he or she will not engage in any effort on behalf of Company to lobby (i.e., to influence or attempt to influence) Congress, any Federal agency, any Member of Congress, any Federal Officer, or any Federal Agency employee or employee of a Member of Congress.
- (e) Public Law 101-121 (Byrd Amendment) places restrictions on activities of Sellers in connection with specific contract actions. By execution of this Agreement, Seller agrees that, unless such effort is specifically called out in the Statement of Work of this Agreement, he or she will not influence or attempt to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding, extension, renewal, or modification of any federal contract for Company.
- (f) Federal Acquisition Regulation Subpart 9.5 establishes policy relating to conflict of interest standards for those who provide services to the Government and to its contractors. “Marketing Seller” is defined as “an independent contractor who furnishes advice, information, direction, or assistance to an offeror or any other contractor in support of the preparation or submission of an offer for a Government contract by that offeror. An independent contractor is not a marketing Seller when rendering advisory and assistance services such as:
 - (1) Routine engineering and technical services such as installation, operation or maintenance of systems, equipment, software, components, or facilities;
 - (2) Routine legal, actuarial, auditing, and accounting services;
 - (3) Training services.
 By execution of this Agreement, Seller represents and agrees that performance of consulting work under this Agreement does not constitute a conflict of interest and that Seller will not provide any unfair competitive advantage to Company in the performance of such work. Where Company is notified that it is the apparent successful offeror for any federal acquisition, any marketing Seller engaged in connection with that acquisition may be required to further certify to the Government that Seller has provided no unfair competitive advantage to Company with respect to the services rendered or to be rendered in connection with the solicitation, or that any unfair competitive advantage that does or may exist has been disclosed. Seller agrees to provide that certificate promptly upon request by Company.
- (g) By execution of this Agreement, Seller represents that Seller has and will make full disclosure during the terms of this Agreement of each instance where Seller is currently providing a supplier, customer, or competitor of Company services similar to those provided for hereunder or has provided such services during a period of twelve months prior to the date of any certification. Seller further represents that he or she will make disclosure to Company prior to entering into any such arrangements in the future and will provide current certifications as may be requested by Company in order to facilitate its compliance with applicable laws and regulations.
- (h) By execution of this Agreement, Seller agrees that it shall not attempt to obtain, or receive any information that is security classified or procurement sensitive, directly or indirectly, from the U.S. Government or any other source where it is clear that release is unauthorized or in circumstances where there is reason to believe that such information cannot lawfully be in Company’s possession. The same prohibitions apply to information of another company that is business confidential or proprietary. For the purpose of this Agreement, the term “information” includes documents, video and audio materials, oral transmissions, electronic data, and any other method or means by which information might be conveyed.
- (i) By execution of this Agreement, Seller certifies that, to the best of his or her knowledge and belief, he or she is not prohibited by law from performing such services.

25. CONFLICTS OF INTEREST [Apr 2021]

- (a) Purpose. The purpose of this Article is to ensure that Seller (1) is not biased because of its financial, contractual, organizational, or other interests which relate to the work under this Agreement, and (2) does not obtain any unfair competitive advantage over other parties by virtue of its performance of this Agreement.
- (b) Scope. The restrictions described herein shall apply to performance or participation by Seller and any of its affiliates or their successors in interest (hereinafter collectively referred to as “Seller”) in the activities covered by this Article as a prime contractor, subcontractor, cosponsor, joint venture, Seller, or in any similar capacity. For the purpose of this Article, affiliation occurs when a business concern is controlled by or has the power to control another or when a third party has the power to control both.
 - (1) Use of Seller’s Work Product. (i) Seller shall be ineligible to participate in any capacity in Department contracts, subcontracts, or proposals therefore (solicited and unsolicited) which stem directly from Seller’s performance of work under this Agreement for a period of five years after the completion of this Agreement. Furthermore, unless so directed in writing by the Procurement Representative, Seller shall not perform any advisory and assistance services work under this Agreement on any of its products or services or the products or services of another firm if Seller is or has been substantially involved in their development or marketing. Nothing in this subparagraph shall preclude Seller from competing for follow-on Agreements for advisory and assistance services.
 - (i) If, under this Agreement, Seller prepares a complete or essentially complete statement of work or specifications to be used in competitive acquisitions, Seller shall be ineligible to perform or participate in any capacity in any contractual effort which is based on such statement of work or specifications. Seller shall not incorporate its products or services in such statement of work or specifications unless so directed in writing by the Procurement Representative, in which case the restriction in this subparagraph shall not apply.
 - (ii) Nothing in this paragraph shall preclude Seller from offering or selling its standard and commercial items to Company or the Government.
 - (2) Access to and use of information. (i) If Seller, in the performance of this Agreement, obtains access to information, such as Company or DOE plans, policies, reports, studies, financial plans, internal data protected by the Privacy Act of 1974 (5 U.S.C. 552a), or data which has not been released or otherwise made available to the public, Seller agrees that without prior written approval of the Procurement Representative it shall not:
 - (A) use such information for any private purpose unless the information has been released or otherwise made available to the public;
 - (B) compete for work for Company or DOE based on such information for a period of six months after either the completion of this Agreement or until such information is released or otherwise made available to the public, whichever is first;
 - (C) submit an unsolicited proposal to DOE which is based on such information until one year after such information is released or otherwise made available to the public; and
 - (D) release such information unless such information has previously been released or otherwise made available to the public by Company or DOE.
 - (i) In addition, Seller agrees that to the extent it receives or is given access to proprietary data, data protected by the Privacy Act of 1974 (5 U.S.C. 552a), or other confidential or privileged technical, business, or financial information under this Agreement, it shall treat such information in accordance with any restrictions imposed on such information.
 - (ii) Seller may use technical data it first produces under this Agreement for its private purposes consistent with paragraphs (b) (2) (i) (A) and (D) of this Article and the patent, rights-in-data, and security provisions of this Agreement.
- (c) Disclosure after award. (1) Seller agrees that, if changes, including additions, to the facts disclosed by it prior to award of this Agreement, occur during the performance of this Agreement, it shall make an immediate and full disclosure of such changes in writing to the Procurement Representative. Such disclosure may include a description of any action which Seller has taken or proposes to take to avoid, neutralize, or mitigate any resulting conflict of interest. Company may, however, terminate the Agreement for convenience if it deems such termination to be in the best interest of the Government. (2) If Seller was aware of facts required to be disclosed or the existence of an actual or potential organizational conflict of interest and did not disclose such facts or such conflict of interest to the Procurement Representative, Company may terminate this Agreement for default.
- (d) Remedies. For breach of any of the above restrictions or for nondisclosure or misrepresentation of any facts required to be disclosed concerning this Agreement, including the existence of an actual or potential organizational conflict of interest at

the time of or after award, Company may terminate the Agreement for default, disqualify Seller from subsequent related contractual efforts, and pursue such other remedies as may be permitted by law or this Agreement.

- (e) Waiver. Requests for waiver under this Article shall be directed in writing to the Procurement Representative and shall include a full description of the requested waiver and the reasons in support thereof. If it is determined to be in the best interests of the Government, Company may grant such a waiver in writing.
- (f) Subcontracts. (1) Seller shall include a clause, substantially similar to this Article, including this paragraph (f), in subcontracts involving the performance of advisory and assistance services as that term is defined at FAR 37.201. (2) Before the award of any such subcontracts for advisory and assistance services, Seller shall obtain from the proposed subcontractor the disclosure required by DEAR 909.507-1 and shall determine in writing whether the interests disclosed present an actual or significant potential for an organizational conflict of interest. Where an actual or significant potential organizational conflict of interest is identified, Seller shall take actions to avoid, neutralize, or mitigate the organizational conflict to the satisfaction of Seller. If the conflict cannot be avoided or neutralized, Seller must obtain the approval of the Procurement Representative before entering into the subcontract.

26. CONSIDERATION [Apr 2021]

Company shall pay Seller the specified hourly or daily rate for such time as Seller actually performs services hereunder at the request of Company, not to exceed dates or time-periods set forth in the Agreement period of performance. A day means a period consisting of eight hours or more in any one calendar day. For each two-hour period or fraction of such period, one quarter of said rate of compensation shall be payable. Nothing in this paragraph authorizes payment of more than the specified daily rate for any one calendar day. Except as otherwise provided herein, no portion of the daily rate will be payable (i) for time spent in travel for Seller's convenience during an assignment or (ii) if travel begins after 6 p.m. one day and ends before 8 a.m. the next day (local time zone) and no work was actually performed under the Agreement during these hours.

27. ASSIGNMENT [Apr 2021]

- (a) Except as provided in (b), Seller shall not assign rights or obligations to third parties without the prior written consent of the Procurement Representative. Seller shall submit the documentation prescribed at FAR 42.1200 when requesting Company acceptance of Seller's successor in interest or to recognize Seller's change of name.
- (b) Seller may assign rights to be paid amounts due or to become due to a bank, trust company, or other financing institution, including a Federal lending agency, if the Procurement Representative is promptly furnished written notice and a signed copy of such assignment, provided that any assignment of monies shall be subject to (1) proper setoffs in favor of Company and (2) any deductions provided for in this Agreement. The assignee under such an assignment may thereafter further assign or reassign its right under the original assignment to any type of financing institution described in the preceding sentence. Unless otherwise stated in this Agreement, payments to an assignee of any amounts due or to become due under this Agreement shall not be subject to reduction or setoff.
- (c) Any assignment or reassignment authorized under this Article shall cover all unpaid amounts payable under this Agreement, and shall not be made to more than one party, except that an assignment or reassignment may be made to one party as agent or trustee for two or more parties participating in the financing of this Agreement.
- (d) Seller shall not furnish or disclose to any assignee under this Agreement any classified document (including this Agreement) or information related to work under this Agreement until the Procurement Representative authorizes such action in writing.

28. AUTHORIZED REPRESENTATIVES AND NOTICE [Oct 2017]

Unless otherwise specified, all notices and communications in accordance with or related to this Agreement shall be between authorized representatives designated in writing by the parties. Notices shall be in writing and may be served either personally on the authorized representative of the receiving party, by facsimile, by courier or express delivery, or by certified mail to the facsimile number or address shown on the face of this Agreement or such address as directed by notice.

29. TERMINATION [Apr 2021]

- (a) Company may terminate this Agreement for any reason in its sole discretion upon ten (10) calendar days' advance written notice to Seller. Upon receipt of a notice of termination Seller shall terminate efforts in an orderly fashion as promptly as possible. Upon any termination, Seller shall within thirty calendar days thereafter be paid the compensation due through the effective date of termination.
- (b) This Agreement may be terminated without further liability or obligation on the part of Company should Seller incur cost by Company under this Agreement in excess of the total amount otherwise authorized or should Seller breach any of the covenants of this Agreement.

30. SURVIVAL [Apr 2021]

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

31. CLAUSES INCORPORATED BY REFERENCE [Apr 2021]

- (a) The clauses in the table below are incorporated by reference. The texts of FAR clauses and DEAR clauses are available at a variety of Internet Sites including URL: www.acquisition.gov and the texts of Company clauses are available on the “Procurement” link at: <https://www.y12.doe.gov/suppliers/procurement/subcontracting/subcontract-provisions>. Except as provided in (b) below, in FAR and DEAR clauses incorporated by reference, “Contractor” means Seller, “Government” means Company, “Contract” means this Agreement, and “Contracting Officer” means Procurement Representative.
- (b) “Government” retains its meaning in:
- (1) The phrases “Government property” and Government-furnished property;” and
 - (2) Paragraph (a) of FAR 52.203-12, Limitation on Payments to Influence Certain Federal Transactions;
 - (3) DEAR 970.5227-5, Notice and Assistance Regarding Patent and Copyright Infringement;
 - (4) Exhibit 9 – Technical Data;
 - (5) Exhibit 7 – Classified Inventions; and
 - (6) DEAR 970.5208-1, Printing.

THE FOLLOWING CLAUSES ARE INCORPORATED INTO THIS AGREEMENT:		
Clause Number	Title and Date	Instructions
FAR 52.204-23	Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and other Covered Entities (JUL 2018)	None.
FAR 52.204-25	Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment (AUG 2019)	None.
FAR 52.204-27	Prohibition on a ByteDance Covered Application (JUN 2023)	None.
FAR 52.222-50	Combating Trafficking in Persons (FEB 2009)	The FEB 2009 clause requires the substance of this clause to be included in all subcontracts.
FAR 52.224-2	Privacy Act (APR 1984)	Applies to scope of work for system of records on individuals.
FAR 52.225-8	Duty-Free Entry (OCT 2010)	The Contractor shall include the substance of this clause in any subcontract if— (1) Supplies identified in the Schedule to be accorded duty-free entry will be imported into the customs territory of the United States; or 2) Other foreign supplies in excess of \$15,000 may be imported into the customs territory of the United States.
FAR 52.225-13	Restrictions on Certain Foreign Purchases (JUN 2008)	None.
FAR 52.232-39	Unenforceability of Unauthorized Obligations (JUN 2013)	None.
FAR 52.244-6	Subcontracts for Commercial Products and Commercial Services (JUN 2023)	None.
DEAR 952.204-71	Sensitive Foreign Nations Controls (MAR 2011)	None.
DEAR 952.204-77	Computer Security (AUG 2006)	Applies if Seller may have access to computers owned, leased or operated on behalf of the Department of Energy.
DEAR 970.5204-3	Access to and ownership of records (OCT 2014)	Applicability instruction modeled after subsection (g).

UCN-22414	Identification and Protection of UCNI/OUO Information (APR 2018) (Company)	None.
UCN-22427	Travel Reimbursement Policy (SEP 2022) (Company)	Applies to all cost-reimbursement, time-and materials, and labor-hour Agreements. It also applies to fixed-price Agreements that have travel as a separate pay line item, but its applicability in such cases is only to that line item.
UCN-22480	Hazardous Material Identification and Material Safety Data (JUL 2014) (Company)	None.
UCN-22509	Exhibit 9, Technical Data (JUL 2014) (Company)	None.

THE FOLLOWING CLAUSES ARE INCORPORATED IF THIS AGREEMENT EXCEEDS \$2,500:

Clause Number	Title and Date	Instructions
FAR 52.222-41	Service Contract Labor Standards (AUG 2018)	None.
FAR 52.222-42	Statement of Equivalent Rates for Federal Hires (MAY 2014)	None.
FAR 52.222-43	Fair Labor Standards Act & Service Contract Labor Standards-Price Adjustment (Multi-Year & Option Contracts) (AUG 2018)	None.
FAR 52.222-44	Fair Labor Standards Act and Service Contract Labor Standards – Price Adjustment (MAY 2014)	None.
FAR 52.222-55	Minimum Wages Under Executive Order 13658 (DEC 2015)	Applies if this Agreement exceeds \$2,500 or a portion of the work identified is covered by the Service Contract Act.
FAR 52.222-62	Paid Sick Leave Under Executive Order 13706 (JAN 2022)	Applies if this Agreement will be performed wholly or partially in the United States, exceeds \$2,500, and a portion of the work identified is covered by the Service Contract Labor Standards.

THE FOLLOWING CLAUSES IS INCORPORATED IF THIS AGREEMENT EXCEEDS \$3,500:

Clause Number	Title and Date	Instructions
FAR 52.222-54	Employment Eligibility Verification (OCT 2015)	Not applicable to COTS (as COTS is defined by the FAR).

THE FOLLOWING CLAUSES ARE INCORPORATED IF THIS AGREEMENT EXCEEDS \$10,000:

Clause Number	Title and Date	Instructions
FAR 52.222-3	Convict Labor (JUN 2003)	None.
FAR 52.222-26	Equal Opportunity (MAR 2007)	Applies if twelve (12) month aggregate value of Seller's federal contracts and subcontracts exceeds \$10,000, unless exempted per FAR Subpart 22.807. The required poster is available at: http://www.dol.gov/ofccp/regs/compliance/posters/ccpost.htm

THE FOLLOWING CLAUSES ARE INCORPORATED IF THIS AGREEMENT EXCEEDS \$15,000:

Clause Number	Title and Date	Instructions
FAR 52.222-20	Contracts for Materials, Supplies, Articles, and Equipment (JUN 2020)	None.
FAR 52.222-36	Equal Opportunity for Workers with Disabilities (JUL 2014)	Applies if Agreement exceeds or is expected to exceed \$15,000.

THE FOLLOWING CLAUSE IS INCORPORATED IF THIS AGREEMENT EXCEEDS \$30,000:		
Clause Number	Title and Date	Instructions
FAR 52.204-10	Reporting Executive Compensation and First-Tier Subcontract Awards (OCT 2016)	None.

THE FOLLOWING CLAUSE IS INCORPORATED IF THIS AGREEMENT EXCEEDS \$35,000:		
Clause Number	Title and Date	Instructions
FAR 52.209-6	Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (OCT 2015)	None.

THE FOLLOWING CLAUSE IS INCORPORATED IF THIS AGREEMENT EXCEEDS \$100,000:		
Clause Number	Title and Date	Instructions
DEAR 970.5227-5	Notice and Assistance Regarding Patent and Copyright Infringement (AUG 2002)	"Government" shall mean the "United States Government" and "Contracting Officer" shall mean the "DOE/NNSA Contracting Officer for Prime Contract DE-NA0001942" with Company. With respect to each notice or claim of, or suit against Company on account of, any alleged patent or copyright infringement based on the performance of the Agreement, Company shall be entitled to the same notices, cooperation, and assistance as is afforded the Government under this clause.

THE FOLLOWING CLAUSES ARE INCORPORATED IF THIS AGREEMENT EXCEEDS \$150,000:		
Clause Number	Title and Date	Instructions
FAR 52.203-7	Anti-Kickback Procedures (OCT 2010), except paragraph (c)(1)	None.
FAR 52.203-12	Limitation on Payments to Influence Certain Federal Transactions (OCT 2010)	"Government" retains its meaning in paragraph (a).
FAR 52.222-35	Equal Opportunity for Veterans (Oct 2015)	Applies if Agreement equals or exceeds \$150,000.

THE FOLLOWING CLAUSES ARE INCORPORATED IF THIS AGREEMENT EXCEEDS \$250,000:		
Clause Number	Title and Date	Instructions
FAR 52.203-6	Restrictions on Subcontractor Sales to the Government (SEP 2006)	None.
FAR 52.203-17	Contractor Employee Whistleblower Rights and Requirements to Inform Employees of Whistleblower Rights (APR 2014)	None.
FAR 52.204-14	Service Contract Reporting Requirements (OCT 2016)	Applies if this Agreement has an estimated total value above the simplified acquisition threshold (\$250,000), except for indefinite-delivery Agreements.
FAR 52.204-15	Service Contract Reporting Requirements for Indefinite-Delivery Contracts (OCT 2016)	Applies to indefinite-delivery Agreements that have an estimated total value above \$250,000.
FAR 52.219-8	Utilization of Small Business Concerns (JUL 2013)	Applies if Agreement amount is expected to exceed \$250,000 unless performed entirely outside of the United States and its outlying areas.
FAR 52.242-13	Bankruptcy (JUL 1995)	None.
FAR 52.247-63	Preference for U.S. Flag Air Carriers (JUN 2003)	Applies if the Agreement involves international air transportation.

THE FOLLOWING CLAUSES ARE INCORPORATED WHEN THE WORK INVOLVES ACCESS TO CLASSIFIED INFORMATION OR SPECIAL NUCLEAR MATERIAL OR THE WORK REASONABLY MIGHT RESULT IN A PATENT APPLICATION THAT CONTAINS CLASSIFIED SUBJECT MATTER:

Clause Number	Title and Date	Instructions
DEAR 952.204-2	Security (AUG 2016)	None.
DEAR 952.204-70	Classification/Declassification (SEP 1997)	None.
DEAR 970.5204-1	Counterintelligence (DEC 2010)	None.
UCN-22381	Civil Penalties for Classified Information Security Violations (JUL 2014) (Company)	None.
UCN-22508	Exhibit 7 - Classified Inventions (MAY 2017) (Company)	“Government” retains its meaning.

THE FOLLOWING CLAUSE IS INCORPORATED IF THIS AGREEMENT REQUIRES PRINTING (AS DEFINED IN TITLE I, DEFINITIONS OF THE U.S. GOVERNMENT PRINTING AND BINDING REGULATIONS):

Clause Number	Title and Date	Instructions
DEAR 970.5208-1	Printing (DEC 2000)	“Government” retains its meaning.