TC-00050 COTS Revision 4
Effective with solicitations issued on or after 11/04/2024.

GENERAL TERMS AND CONDITIONS FOR COMMERCIALLY AVAILABLE OFF-THE-SHELF (COTS) UNDER

NATIONAL NUCLEAR SECURITY ADMINISTRATION CONTRACT NO. DE-AC09-08SR22470 SAVANNAH RIVER NUCLEAR SOLUTIONS, LLC SAVANNAH RIVER SITE, AIKEN, SC 29808

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1.0 DEFINITIONS

A. "Company" shall mean Savannah River Nuclear Solutions, LLC (SRNS), Management and Operating Contractor for the Savannah River Site (SRS) under Prime Contract DE-AC09-0SR22470 (Prime or Prime Contract).

B. "Contracting Officer" shall mean Government official executing Prime Contract between Company and Government. Contracting Officer is Government official who is authorized to execute, administer, and terminate the contract, and includes the authorized representatives thereof, when such individuals are acting within the limits of their authority as delegated by Contracting Officer.

C. "DEAR" shall mean Department of Energy Acquisition Regulation.

D. "DOE" shall mean the United States Department of Energy or any duly authorized representative thereof, including any successor or predecessor agency thereof, including Contracting Officer.

E. "FAR" shall mean Federal Acquisition Regulation.

F. "Government" shall mean the United States of America and includes the U.S. DOE, the National Nuclear Security Administration (NNSA), and/or any duly authorized representative thereof.

G. "Head of the Agency" or "Secretary" shall mean the Secretary, the Under Secretary, and Assistant Secretary, or any other head or assistant head of the executive or military department or other Federal agency.

H. "Lower-Tier Subcontract" shall mean a purchase order, subcontract, agreement, price agreement, basic ordering agreement, task order, or modification thereof between a higher-tiered Subcontractor and a lower-tiered Subcontractor.

I. "Lower-Tier Subcontractor" shall mean a Subcontractor to furnish Supplies or Services for performance to a prime contractor or a Subcontractor.

J. "NNSA" shall mean the United States National Nuclear Security Administration or any duly authorized representative thereof, including any successor or predecessor agency thereof, including Contracting Officer.

K. "Parties" shall mean Company and Subcontractor, together; individually to be referred to as "Party".

L. "Procurement Representative" shall mean applicable Company individual(s) authorized to execute and/or administer Subcontracts for Company.

M. "Services" shall mean labor, direction of labor, production of technical information, consulting services or any other services furnished by Subcontractor under Subcontract.

N. "Subcontract" shall mean purchase order, order, subcontract, agreement, price agreement, basic ordering agreement, task order, or modification of any of the foregoing.

O. "Subcontract Data" shall mean all information, data, and documentation to be provided by Subcontractor and its Lower-Tier Subcontractor(s) of any tier under Subcontract.

P. "Subcontractor" shall also mean the person or organization entering Subcontract with Company.

Q. "Supplies" shall mean items, goods, equipment, components, parts, and materials to be provided by Subcontractor and its Lower-Tier Subcontract of any tier pursuant to Subcontract.

R. "Work" shall mean all the stated or implied activities to be performed by Subcontractor as required by Subcontract, including the furnishing and supervision of all technical personnel and labor, and the supply of

equipment, items, materials, and Supplies necessary to perform Subcontract.

2.0 ORDER OF PRECEDENCE

A. Any inconsistencies shall be resolved in accordance with the following descending order of precedence:
   (1) Negotiated Terms and Conditions
   (2) Terms and Conditions
   (3) Clauses Incorporated by Reference
   (4) Statement of Work or other description of Supplies

3.0 ASSIGNMENT FOR THE BENEFIT OF GOVERNMENT

A. Assignment by Company. Subcontract may be unilaterally assigned by Company to Government or Government's designee, with subsequent written electronic notice of such assignment to Subcontractor. Following such transfer and assignment, Company shall have no further responsibilities hereunder.

B. Assignment by Subcontractor. Unless permitted in paragraph C of this Article, Subcontractor shall not assign Subcontract, including any rights or obligations thereunder, wholly or in part, voluntarily, by operational of law, or otherwise without the prior written electronic consent of Company. Any assignment of Subcontract in violation of the foregoing shall, at the unilateral option of Company, be void. Subcontractor shall submit the documentation prescribed in FAR 42.12 when requesting Company acceptance of Subcontractor's successor in interest or to recognize Subcontractor's change of name.

C. Assignment of Rights to be Paid. Subcontractor 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 any assignment of monies shall be subject to (1) proper setoffs in favor of Company and (2) any deductions provided for in Subcontract.

D. Funding. Unless at the unilateral discretion of Company, Company shall make all payments under Subcontract from Government funds advanced and agreed to be advanced by Government, and not from its own funds. In almost all circumstances, funds recovered by Company from Subcontractor are Government funds.

E. Right to Recovery. If Company seeks recovery from Subcontractor, Subcontractor agrees it shall not plead, assert, or raise in any manner a defense Company has no right to recover (1) because Company, itself, rather than Government, has suffered no damages on account of the cost-reimbursable nature of Company's Prime Contract with Government, or (2) because Government has accepted the project or task performed under Subcontract.

4.0 ACCEPTANCE OF TERMS AND CONDITIONS

A. Subcontractor, by signing Subcontract or delivering the Supplies identified herein, agrees to comply with all the terms and conditions, specifications and other Subcontract documents incorporated by reference or attachment. Subcontractor shall be solely responsible for requesting instructions and interpretations and shall be solely liable for costs and expenses arising from Subcontractor's failure to do so. All rights and obligations shall survive final performance of Subcontract.

B. Subcontract sets forth the entire agreement between Parties concerning the subject matter of Subcontract. To avoid any doubt, Subcontract 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 Subcontractor proposal, quote, acknowledgement, or invoice, all of which are hereby objected to and expressly rejected.

5.0 AUTHORIZED REPRESENTATIVES AND NOTICE

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

6.0 INDEPENDENT CONTRACTOR

A. Subcontractor shall act in performance of Subcontract as an independent contractor and not as an agent for Company or Government, maintaining complete control over its employees and all Lower-Tier Subcontractor(s). Nothing contained in Subcontract, or any Lower-Tier Subcontract(s) shall create any contractual relationship between any such Lower-Tier Subcontractor(s) and Government or Company. Subcontractor is solely responsible for the actions of itself and its Lower-Tier Subcontractors, agents, and employees.

B. Subcontractor shall not utilize or propose individuals for Work previously terminated for cause from Company.

7.0 LOWER-TIER SUBCONTRACTORS

A. The requirements of this Article shall be flowed down to all Lower-Tier Subcontractors.

B. When the use of a Lower-Tier Subcontractor is determined to be necessary, the Higher-Tier Subcontractor shall flow down those terms and conditions applicable for the activities within its defined scope of Work, in accordance with referenced codes/standards/material specifications and any other requirements included within Subcontract.

C. The Higher-Tier Subcontractor shall flow down all commercial terms and conditions, including Articles incorporated by reference, to Lower-Tier Subcontractor(s), including verification Lower-Tier Subcontractor(s) has been appropriately qualified to perform activities required to satisfy Subcontract. The Higher-Tier Subcontractor shall maintain objective evidence of the successful flow down of the referenced requirements and provide such evidence to Company upon request. This flow down is also required at all levels if the Lower-Tier Subcontractor to the Higher-Tier Subcontractor deems it necessary to subcontract further its parts of Subcontract.

8.0 CHANGES

Company reserves the right to make changes within the general scope of Subcontract by issuance of a unilateral change order or by bilateral modification to Subcontract. Such changes may include, without limitation, changes in (1) description of Supplies; (2) quantities of Supplies ordered; (3) method of shipment or packaging, and (4) time or place of delivery, inspection, and/or acceptance. Subcontractor shall promptly comply with any such change made by Company. If any change affects the cost of or the time required for performance, an equitable adjustment to the price and/or delivery requirements and other affected terms and conditions of Subcontract shall be made by Parties in a bilateral modification to Subcontract. For any change, whether directed or constructive, Subcontractor must assert any request for equitable adjustment under this Article in writing, together with such supporting information as Company may require, electronically and within thirty days from the date of Subcontractor's first knowledge of the change, or Subcontractor's right to assert such request for equitable adjustment shall be waived.

9.0 PUBLICITY

A. Subcontractor shall not publicly disclose information concerning any aspect of Supplies relating to Subcontract without prior written electronic approval of Procurement Representative unless specifically required by law.

B. The interest of Company or Government in Subcontract may not be used in advertising or publicity without advance written approval of the Procurement Representative.

C. The requirements of this Article, including paragraph (c), shall be flowed down to all Lower-Tier Subcontracts.

10.0 DISPUTES

A. Subcontractor and Company agree to make good-faith efforts to settle any dispute or claim arising under Subcontract through discussion and negotiation. If such efforts fail to result in a mutually agreeable resolution, Parties shall consider the use of Alternative Dispute Resolution (ADR). Whether meditation or binding arbitration is voluntarily agreed or court ordered, the site of the proceedings shall be Aiken, South Carolina; Parties shall share the cost of obtaining 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 Party seeking, as a matter of right, payment of money in a sum certain, adjustment or interpretation of Subcontract terms, or other relief arising from or relating to Subcontract, or its breach. However, a written demand or written assertion by Subcontractor 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., voucher, invoice, or other routine request for payment, a termination settlement proposal, or a request for adjustment or equitable adjustment) not in dispute when submitted is not a Claim. An initially undisputed request for payment may be converted to a Claim by Subcontractor by complying with the submission and applicable certification requirements in paragraphs (c) and (d) below.

C. A Claim by Subcontractor shall be made in writing, citing this Article, and submitted to Procurement Representative with a request for Final Decision.

Certification

I certify under penalty of law: this Claim is made in good faith; the supporting data is accurate and complete to the best of my knowledge and belief; the amount requested accurately reflects Subcontract adjustment for which Subcontractor believes Company is liable; and I am duly authorized to certify Claim on behalf of [[Subcontractor or Lower-Tier Subcontractor, as appropriate]].

I further acknowledge Company is a prime contractor to the Government, and this Claim, if accepted by Company, will be paid for with Government funds and therefore be paid by Government through a letter of credit arrangement with Company, and a false or fraudulent claim may subject me and/or Subcontractor to penalties, including, but not limited to, those under the False Claims Act, 31 U.S.C. 3729-3733.

D. Subcontractor and any Lower-Tier Subcontractors whose portion of Claim exceeds $50,000 shall certify each portion of Claim; provided however, if Subcontractor cannot certify Lower-Tier Subcontractor's portion of Subcontractor's Claim, Subcontractor shall explain in writing why it cannot certify Lower-Tier Subcontractor's portion.
   (1) Company shall not be liable for, and shall not pay, any Claim originated by Subcontractor if Claim exceeds $50,000 unless Subcontractor's Claim is accompanied by the below certification from Subcontractor.
   (2) Company shall not be liable for, and shall not pay, any Claim of a Lower-Tier Subcontractor to Subcontractor if Lower-Tier Subcontractor Claim, without mark-ups by a Higher-Tier Subcontractor or Subcontractor, exceeds $50,000 unless Lower-Tier Subcontractor Claim is accompanied by the below certification from the Lower-Tier Subcontractor originating Claim.
   (3) The aggregate amount of both increased and decreased costs shall be used in determining when the dollar threshold requiring certification is met.

E.

   (1) A Claim from Subcontractor shall be deemed denied if Procurement Representative does not issue a written Final Decision (i) by the date Final Decision would be issued as notified by Procurement Representative to Subcontractor, or (ii) within sixty (60) calendar days after receipt of Claim if Procurement Representative did not

notify Subcontractor of the date Final Decision would be issued. Procurement Representative may, but is not required to, issue a written Final Decision after Claim is deemed denied.

(2) Procurement Representative's Final Decision on any Subcontractor Claim shall be final and conclusive between Parties with no right of judicial review, provided however, Final Decision shall not be final and binding against either Party, and shall be given no evidentiary weight by the trier of fact, if Subcontractor files suit within ninety (90) calendar days of the written Final Decision in the appropriate court as provided for in paragraph (f) below.

(3) Subcontractor shall have no right to file suit prior to the date of the written Final Decision or sixty (60) calendar days from Procurement Representative's receipt of Claim, whichever occurs earlier.

F.

(1) State Agency. Where Subcontractor is a State agency, such as an educational institution, the applicable constitutional provisions or statutes governing sovereign immunity shall dictate the appropriate forum and law governing substantive issues.

(2) Seller not a State Agency.

a. Any litigation shall be brought and prosecuted exclusively in Federal District Court, with venue in the United States Court for the District of South Carolina, Aiken Division.

b. In the event requirements for jurisdiction in Federal District Court are not present, such litigation shall be brought in either Aiken, Barnwell, or Allendale County, South Carolina.

(3) 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, 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 Procurement Representative.

G. Subject to (F)(1), the resolution of all issues arising from or relating to Subcontract shall be governed to the maximum extent practicable by the common law of federal contracts; provided, however, (i) the "Christian Doctrine" shall not apply, meaning Government procurement clauses (e.g., FAR and DEAR) or portions thereof not appearing in Subcontract shall not be read into Subcontract, and (ii) where the language of any article, terms and conditions herein differs from the language of a Government procurement clause, provision or term, the differing language of Subcontract 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 South Carolina, without regard to its Conflicts of Laws rules.

H. There shall be no interruption in the performance of Work, and Subcontractor shall proceed diligently with the performance of Subcontract pending final resolution of any dispute arising under or related to Subcontract between Parties or between Subcontractor and its Lower-Tier Subcontractor(s).

I. 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.

11.0 TERMINATION FOR DEFAULT

A. Company may terminate Subcontract, in whole or in part, if Subcontractor: (1) fails to supply enough proper materials or equipment so as to endanger performance of Subcontract; (2) fails to make payment to Lower-Tier Subcontractors for materials in accordance with the respective Subcontracts between Subcontractor and the Lower-Tier Subcontractors; (3) disregards applicable laws, ordinances, rules, regulations, directives, or orders, or instructions of Company; (4) fails to adhere to the time specified in Subcontract for delivery of Supplies; or (5) otherwise fails to comply with any material terms of Subcontract. Company's right to terminate Subcontract may be exercised if Subcontractor does not cure such failure within ten (10) days after receipt of notice from Company specifying the failure.

B. Company may take possession and use any Supplies, and the construction facilities and premises and finish Work by whatever method Company deems expedient at Subcontractor's expense which includes any increased cost incurred which exceeds Subcontract price.

C. Subcontractor will not be deemed to be in default for failure to perform caused by the failure of a Lower-Tier Subcontractor if the failure was beyond the control of both Subcontractor and Lower-Tier Subcontractor and without the fault or negligence of either.

D. The rights and remedies of Company are in addition to any other rights and remedies provided by law or under Subcontract.

12.0 TERMINATION AT COMPANY'S OPTION

A. Company shall have the right at any time, with or without cause, to terminate further performance Work, by written notice to Subcontractor, specifying date of termination. On the date of such termination stated in said notice, Subcontractor shall discontinue performance of Work, and shall preserve work in progress and completed work, pending Company's instructions, and shall turn over such work in accordance with Company's instructions.

B. If Subcontractor has fully and completely performed all obligations under Subcontract up to the date of termination, Subcontractor shall recover from Company as complete and full settlement for such termination: (a) for work to be performed for a lump sum contract price under Subcontract, the actual costs of all such work satisfactorily executed to the date of termination, plus overhead and profit on such costs based on the percentage agreed to in the original schedule of values. (b) actual cost incurred by Subcontractor to return Subcontractor's field tools and equipment, if any, to its or its Lower-Tier Subcontractors' premises and to turn over Work in progress and completed work in accordance with Company's instructions; plus, (c) actual substantiated cost necessarily incurred in effecting termination; less, (d) all amounts previously paid to Subcontractor for Work. This is more fully delineated in FAR 31.205-42, set forth in its entirety in Part 4.

C. All claims under any of the foregoing terms and conditions of this Article shall be supported by Subcontractor's accounting records or other such documentation satisfactory in form and content to Company and verified by Company. In no event shall Subcontractor be entitled to any consequential damages, including but not limited to prospective profits, loss of future business, loss of production and impairment of credit, and any other such perspective damages because of the termination. All payments made pursuant to Termination at Company's Option will be subject to audit. If Company elects to audit Subcontractor's claims for termination for convenience costs, no payments will be made to Subcontractor, including any outstanding pre-termination costs, until the audit has been completed. The warranty obligations in Subcontract will survive the termination.

13.0 EXCUSABLE DELAYS

A. Subcontractor shall not be liable to Company if its nonperformance is caused by an occurrence beyond the reasonable control of Subcontractor and without its fault or negligence, such as acts of God or the public enemy, acts of Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. However, if Subcontractor's failure to perform Work is caused by the failure of its Lower-Tier Subcontractor to perform or make progress, and if the cause of such failure was beyond the reasonable control of both Subcontractor and the Lower-Tier Subcontractor(s) and without the fault or negligence of either, then Subcontractor shall not be deemed to be in default, unless the Supplies were timely obtainable from other sources. Subcontractor shall notify Procurement Representative in writing as soon as possible after any excusable delay period begins and ends.

B. Company shall not be liable to Subcontractor if Company's nonperformance is caused by an occurrence beyond the reasonable control of Company and without its fault or negligence, such as acts of God or the public enemy, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. Subcontractor's sole remedy shall be a schedule extension to Subcontract if the facts support the extension requested by Subcontractor. Procurement Representative shall notify Subcontractor in writing as soon as reasonably possible after an excusable delay period begins and ends.

14.0 PAYMENT BY ELECTRONIC FUNDS TRANSFER

A. Methods of Payment
   (1) Payments by Company under Subcontract shall be made by EFT except as provided in paragraph A(2) of this Article. As used in this Article, the term "EFT" refers to funds transfer and may also include payment information transfer.
   (2) In the event Company is unable to release one or more payments by EFT, Subcontractor agrees to either:
      a. Accept payments by check or some other mutually agreeable method of payment; or
      b. Request Company to extend payment due dates until such time as Company makes payment by EFT.

15.0 PAYMENT

A. Unless otherwise provided, terms of payment shall be Net-30 days from delivery of Supplies and shall be payable by Company upon receipt and acceptance of Supplies and receipt, by Company, of correct invoices.

B. Subcontractor shall electronically issue all invoices directly to Accounts Payable via SRNS-ACCTSPAY@srs.gov email account. Subcontractor shall include banking information on each invoice submitted to facilitate proper Electronic Funds Transfer (EFT). Subcontractor invoices shall include Subcontractor name; invoice date; Subcontract number; Subcontractor invoice number, account number, and/or any other identifying number agreed to by Subcontract; description (including, for example, Subcontract line/subline number); unit price and quantity of Supplies; Subcontract name (where practicable), title and telephone number; other substantiating documentation or information required by Subcontract.

C. Any offered discount shall be taken if payment is made within the discount period Subcontractor's invoice indicates. Credit and discount periods shall be computed from dates such invoices are payable to dates Company's check is mailed or, for EFT, specified payment dates. Unless freight and other charges are itemized, discounts will be taken on full invoice amounts.

D. Dates of payment shall, subject to contrary terms on the face hereof, be computed from Company's receipt of acceptable invoices. Drafts will not be honored. If there are invoice discrepancies, Company will reject invoices and relay to Subcontractor invoice deficiencies within ten (10) days of receipt of invoices. Such invoices will not be acted upon. Receipt of corrected invoices will re-initiate aging of invoices for payment purposes.

E. For Supplies subject to inspection or testing as condition of acceptance, Company may, in its sole discretion, pay invoices prior to acceptance subject to repayment if Supplies are not accepted. Payment for Supplies, either wholly or in part, shall not be deemed or construed as acceptance.

F. If Subcontractor becomes aware of duplicate invoice payments or Company has otherwise overpaid on invoice payments, Subcontractor shall immediately notify Company and request instructions for disposition of overpayments.

16.0 COMPLIANCE WITH LAWS

A. Subcontractor shall comply with all applicable federal, state, and local laws and ordinances and all pertinent lawful orders, rules, and regulations unless relief has been granted in writing by the appropriate regulatory agency. Except as otherwise directed by Company, Subcontractor shall procure, without additional expense to Company, all necessary permits and/or licenses.

B. Requirements of this Article, including paragraph (b), shall be flowed down to all Lower-Tier Subcontractors.

17.0 BANKRUPTCY

If Subcontractor enters into any proceeding relating to bankruptcy, it shall give written notice via certified mail to Company's Procurement Representative responsible for administering Subcontract within five (5) calendar days of initiation of the proceedings. The notification shall include the date on which the proceeding was filed, the identity and location of the court and a listing of Company Subcontract numbers for which final payment has not been made.

18.0 TAXES

To the extent possible, Subcontractor will use its best efforts to obtain Supplies furnished under Subcontract as tax exempt by sharing the exemption certificate which is an [[Reference to Company certificate from SC]]. Subcontractor shall determine at the time of providing quotations/proposals for Subcontract and all subsequent modifications to Subcontract if it is able to procure tax exempt Supplies. If the exemption certificate is not accepted, then Subcontract price shall include all applicable Federal, State, and local taxes and duties.

19.0 WARRANTY

A. Subcontractor warrants Supplies shall be free from error and defects. If Company identifies a non-conformity, Company shall notify Subcontractor of the same and Subcontractor shall promptly correct such error or defect at no additional cost to Company.

B. Subcontractor warrants Work provided hereunder shall not infringe any other party's intellectual property rights or interests.

C. Subcontractor warrants any Supplies furnished shall comply with all requirements of the Occupational Safety and Health Act of 1970, as the same may be amended from time to time and including all regulations adopted pursuant to such Act, and shall comply with all requirements of any applicable health or safety statute or regulation of any state or local government agency having jurisdiction in the location to which Supplies are to be shipped or Work is to be performed pursuant to Subcontract.

D. Subcontractor warrants every chemical substance delivered under Subcontract shall, at the time of sale, transfer, or delivery, be on the list of chemical substances compiled and published by the Administrator of the Environmental Protection Agency pursuant to Section 8(b) of the Toxic Substances Control Act (Public Law 94-469).

E. In the case of software furnished under Subcontract, Licensor of such software warrants for a period of one (1) year following the date of Subcontract the software is free of defects and is fit for the purposes intended by Company and the Licensor shall provide Company with correction of errors found in the original software. Such corrections shall be provided at no cost to Company. If Licensor is called upon by Company to undertake error exploration or correction, and such error is found to be caused by Company supplied data, modification of software by Company, compiler or operating system characteristics, or any other cause not inherent in the original software, Licensor may submit a proposal for adjustment in the order price for such services at the Licensor's standard rate then in effect.

20.0 INSPECTION/ACCEPTANCE

A. Unless otherwise specified in Subcontract, Subcontractor shall be responsible for all quality assurance measures necessary to ensure only Supplies conforming to requirements of Subcontract are tendered to Company for acceptance. This shall include such testing, in process inspections and other verification measures as are customary in the industry to ensure Supplies furnished by Lower-Tier Subcontractors of Company's Subcontractor, and incorporated into end Supplies furnished to Company are not counterfeit or of suspect quality.

B. Company reserves the right to inspect and test all Supplies having been tendered for acceptance. Company has the right to reject nonconforming Supplies with or without disposition instructions from Subcontractor; the right to require their correction, replacement, reperformance; the right to accept nonconforming Supplies and reduce Subcontract amount to reflect the reduced value of the nonconformance(s); or the right to terminate Subcontract.

C. Company exercises its post-acceptance rights (1) within a reasonable time after the defect was discovered or should have been discovered; and (2) before any substantial change occurs in the conditions of the item unless the change is due to the defect in Supplies.

D. Company shall not be obligated to inspect the Supplies, and neither the inspection nor the lack of inspection by Company shall relieve Subcontractor of its responsibility for providing the Supplies in accordance with terms of

Subcontract. The inspection or use of or payment for Supplies under Subcontract, either wholly or in part, shall not be construed as acceptance.

21.0 SUSPECT/COUNTERFEIT PARTS

A. Subcontractor warrants all Supplies provided to Company are genuine and meet requirements of 18 U.S.C. 2320 Trafficking in counterfeit goods or services, as more fully described Statement of Work. Subcontractor's warranty also extends to labels and or trademark logos affixed or designed to be affixed to Supplies delivered to Company. In addition, falsification of information or documentation may constitute criminal conduct; Company may reject or retain such information at no cost, and identify, segregate, and report such information to Government officials.

B. Subcontractor shall compensate Company, its agent and third Parties, specifically including Government, for any financial loss, injury, or property damage resulting directly or indirectly from suspect or counterfeit Supplies which have been provided under false pretenses and Supplies which are altered, deteriorated or the use of which results in failure of other components.

C. Types of Supplies known to have been misrepresented, include, but are not limited to, fasteners, hoisting rigging, and lifting equipment, cranes, valves, pipe fittings, electrical components, and structural items.

22.0 DEFECT IDENTIFICATION AND REPORTING

A. In the event Subcontractor becomes aware of any latent defect(s) in any Supplies furnished under Subcontract, Subcontractor shall promptly notify Procurement Representative. Such notice shall provide at a minimum the following information:
   (1) Name and address of the person making the notification,
   (2) Nature of defect(s) and any substantial safety hazard possibly resulting, if known,
   (3) Full description of Supplies,
   (4) Manufacturer, model and/or part number,
   (5) Complete description of latent defect(s),
   (6) Impact of defect(s) on the operation of Supplies,
   (7) Action(s) to be taken by Company relative to return, re-fit, repair, etc.,
   (8) Date of purchase by Company,
   (9) Applicable Subcontract number,
   (10) Actions taken or are being planned to correct the defective Supplies including designation of the organization responsible for implementing the corrective actions and schedule for completion,
   (11) Additional pertinent information.

B. In the event the report submitted is only preliminary, a written follow-up report shall be made each forty-eight (48) hours thereafter until a final written report can be made. The final written report shall be submitted to Company as soon as possible, considering magnitude of defect(s), but in no event shall final written report be provided later than thirty (30) days following discovery of defect(s). The final written report should be comprehensive in terms of addressing defect(s) and any remedial actions required to overcome the fact defective Supplies were provided.

C. The responsibility for identifying and reporting defective Supplies shall extend to all levels and individuals of Subcontractor. Subcontractor shall include this Article in all Lower-Tier Subcontracts entered into under Subcontract.

23.0 GOVERNMENT PROPERTY AND RISK OF LOSS

A. Unless otherwise provided in Subcontract, title to the Supplies purchased under Subcontract shall pass directly to the Government upon, and the risk of loss or damage to the Supplies shall remain with Subcontractor until and shall pass to Company upon:
   (1) If F.O.B. Shipping point Completion of delivery to the carrier and any loading by Subcontractor.
   (2) If F.O.B. Destination: Completion of delivery or commencement of unloading by Company at the delivery

point.

B. However; (1) if Subcontract provides for formal acceptance of any Supplies by Company, then title to such Supplies shall pass directly to the Government upon such formal acceptance; and (2) the title and risk of loss or damage to nonconforming Supplies shall remain with Subcontractor until acceptance of the Supplies by Company as conforming.

24.0 UNCLASSIFIED CONTROLLED NUCLEAR INFORMATION (UCNI)

A. Subcontractor shall ensure access to Unclassified Controlled Nuclear Information (UCNI) is provided to only those individuals authorized for routing or special access (see DOE Order 471.1B). Subcontractor may provide access to material or data containing UCNI utilized in the performance of Subcontractor only to Subcontractor employees who are citizens of the United States and possess a need-to-know UCNI to perform official duties or other Subcontractor authorized activities.

B. Subcontractor shall ensure matters identified as UCNI is protected in accordance with the instructions contained in DOE Order 471.1B. Any material or data containing UCNI, which is stored on computer systems, must be protected, and the protective measures and/or policies must be specified in a Computer Protection Plan approved by Company Computer Security organization. Adherence to the Plan is required during the performance of Subcontract.
   (1) Subcontractor shall implement all recommended requirements contained in NIST SP 800-171. If Subcontractor is not NIST SP 800-171 compliant prior to Subcontract award, Subcontractor shall provide an NIST SP 800-171 Implementation Plan, complete with milestones, to ensure full compliance is achieved within 180 days.

C. Material or data containing UCNI shall be disposed of in a manner as described DOE Order 471.1B. At a minimum, UCNI matter must be destroyed by using strip cut shredders which result in particles of no more than ¼-inch-wide and 2-inch-long strips. Documents containing UCNI may also be disposed of in the same authorized manner for Subcontractor disposition of other classified material or data. If the above disposal methods are not available to Subcontractor, Subcontractor may return the UCNI matter to Subcontractor's Technical Representative (STR) for disposition, with the prior approval of the STR.

D. Subcontractor shall report to Company's Security Office and Procurement Representative any incidents involving the unauthorized disclosure of UCNI.

E. If Work under Subcontractor results in the generation of unclassified documents which contain UCNI, Subcontractor shall have enough trained UCNI review personnel to ensure the prompt and proper review of generated material or data to provide for the identification, marking, and proper handling of material or data determined to contain UCNI. Subcontractor Reviewing Officials shall apply or authorize the application of UCNI markings to any unclassified matter containing UCNI, in accordance with the instructions contained in DOE Manual 471.1-1, Chapter I Part C.

F. If Subcontractor has a formally designated Classification Officer, the Classification Officer: (1) Serves as a Reviewing Official for information under their cognizance; (2) Trains and designates other Reviewing Officials in their organization, subordinate organizations, and Lower-Tier Subcontractors and maintains a current list of all Reviewing Officials; and (3) may overrule UCNI determinations made by Reviewing Officials under their cognizance.

G. If Subcontractor has no formally designated Classification Officer, Subcontractor shall submit a request for the designation of Reviewing Officials to the local Government Classification Officer in accordance with the instructions contained in DOE Manual 471.1-1, Chapter I, and Part B. C.

25.0 COUNTERINTELLIGENCE

A. Subcontractor shall take all reasonable precautions in Work under Subcontract to protect Company/Government programs, facilities, technology, personnel, unclassified sensitive information and classified matter from foreign intelligence threats and activities conducted for governmental or industrial purposes, in accordance with DOE Order

475-1, Counterintelligence Program; Executive Order 12333, U.S. Intelligence Activities; and other pertinent national and Departmental Counterintelligence requirements.

B. Subcontractor shall comply with requirements established by the DOE-SR Counterintelligence Officer. The DOE-SR Counterintelligence Officer will be responsible for conducting defensive Counterintelligence briefings and debriefings of Subcontractor employees traveling to foreign countries or interacting with foreign nationals. Subcontractor shall be responsible for requesting defensive Counterintelligence briefings and debriefings of Subcontractor employees who have traveled to foreign countries or interacted with foreign nationals. Subcontractor shall coordinate Counterintelligence Awareness training activities with Company Procurement Representative. Subcontractor shall immediately report targeting, suspicious activity and other Counterintelligence concerns to Company Procurement Representative and provide assistance to other elements of the U.S. Intelligence Community as stated in the aforementioned Executive Order, the DOE Counterintelligence Order, and other pertinent national and Departmental Counterintelligence requirements.

26.0 INDEMNIFICATION AND LIABILITY

A. Subcontractor shall indemnify, defend and hold Company and its customer harmless from and against any and all damages, losses, liabilities and expenses (including reasonable attorneys' fees) arising out of or relating to any claims, causes of action, lawsuits or other proceedings, regardless of legal theory, resulting, in whole or in part, from Subcontractors, or any of their Lower-Tier Subcontractors, employees, agents or representatives: (i) intentional misconduct, negligence, or fraud, (ii) breach of any representation, warranty or covenant made herein, (iii) Supplies, without limitation, any claims such Supplies infringe any United States patent, copyright, trademark, trade secret or any other proprietary right of any third party, (iv) unauthorized disclosure of information, by any of its directors, officers, employees, agents, Subcontractors, Lower-Tier Subcontractors or permitted assigns.

B. Subcontract is subject to the Buy American Act – Supplies and Trade Agreements clauses as stated in the Article titled "Clauses Incorporated by Reference" and "FAR Clause applicable as prescribed on PF-312 in Solicitation." Subcontractor is solely responsible for compliance with such clause and agrees to indemnify and hold harmless Company from all direct, indirect, or consequential expenses or other damages relating to or arising out of the failure of Subcontractor or its Lower-Tier Subcontractors to comply with said clauses.

C. Subcontractor shall indemnify, defend and hold harmless Company and Government and their respective officers, employees and agents against liability, including all damages and costs, for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark or copyright, arising out of the performance of Subcontract, provided Subcontractor is reasonably notified of such claims and proceedings by Company and/or Government.

D. Subcontractor is liable to Company for all fines and penalties assessed by any governmental entity against Company or Government as a result of Subcontractor's failure to perform its work under Subcontract in compliance with the requirements of Subcontract.

27.0 ES&H REQUIREMENTS

DOE O 442 Differing Professional Opinions for Technical Issues Involving Environmental, Safety, and Health Technical Concerns (10/4/2016 Chg. 1)

28.0 NON-ES&H REQUIREMENTS

DOE O 221.2A Cooperation with the Office of Inspector General (2/25/2008)

29.0 EXPORT CONTROL

A. Export-controlled Supplies, technical data, software, or services furnished by Company in connection with Subcontract is supplied for use in the United State (U.S.), only. Subcontractor shall comply and is solely responsible for its compliance, with all U.S. export control laws and regulations, including, but not limited to, the International Traffic in Arms Regulations (ITAR), 22 CFR Parts 120 through 130, Export Administration Regulations (EAR), 15 CFR Parts 730 through 774, and Atomic Energy Act of 1954 (Public Law 83-703),

Nuclear Regulatory Commission 10 CFR Part 110, and Department of Energy 10 CFR Part 810, in the performance of Subcontract.

B. In the absence of available export license exemptions or exceptions, Subcontractor shall obtain appropriate licenses or other approvals, if required, for exports of hardware, technical data, and software, or for the provision of technical assistance. Subcontractor shall obtain export licenses, if required, before using foreign persons in the performance of Subcontract, where the foreign person will have access to export-controlled technical data or software.

C. Subcontractor is solely responsible for all regulatory record-keeping requirements associated with the use of export licenses and export license exemptions and exceptions.

D. Subcontractor shall provide immediate written notification to Procurement Representative if:
   (1) Subcontractor is, or becomes, listed in any Denied Parties List (e.g., Denied Persons List, Entity List, Unverified List, Military End User List, AECA Debarred List, Consolidated Screening List, etc.) or if Subcontractor's export privileges are otherwise denied, suspended, or revoked in whole, or in part, by any U.S. Government entity or agency; or
   (2) Subcontractor transfers any export-controlled Supplies, technical data, software, or services under Subcontract to a foreign person and/or to a foreign nation without an export license, if required.

E. Subcontractor shall include this clause, including this paragraph (e), in all Lower-Tier Subcontracts hereunder.

30.0 PACKAGING AND SHIPPING INSTRUCTIONS – IDENTIFICATION REQUIREMENTS

The following requirements apply to all Company Subcontracts. Read and implement these instructions before shipment. Failure to do so may result in payment delays or return of Supplies.

A. Items should be packaged in sturdy containers to prevent damage during shipment, and to withstand multiple handling.

B. Subcontractor shall limit the amount of packaging materials needed for reasonable protection of Supplies during shipment. Subcontractor shall utilize environmentally favorable (i.e., biodegradable, recyclable, etc.) materials whenever and wherever practical.

C. Supplies which can be palletized should be shipped on sturdy 4’ x 4’ wooden pallets which are not broken or missing boards and must be of appropriate strength and construction for the material it bears. Pallets must include at least 3 wooden 2” x 4” support runners. Material must not be stacked over 48” high. Palletized material on broken or weak pallets may be rejected.

D. Subcontractor must clearly show Subcontract and line-item number(s) on the outside of every box. Failure to list the purchase order number and all necessary information on the outside of the package or container may result in the material being returned to Subcontractor. Radiological and nuclear Subcontract numbers will begin with “RAD” and “NUC” respectively all shipments to Company having a Subcontract number that contains a “RAD” or “NUC” prefix must be shipped segregated from non-RAD/NUC materials. At no time should they be shipped palletized with non-RAD/NUC Supplies. If Subcontract is for radiological or nuclear Supplies, confirm with Procurement Representative an understanding of the above requirements before shipment.

E. A packing list identifying Supplies in the box must be accessible on the outside of packages.

F. The Packing list must describe quantities and Supplies exactly as they are described on Subcontract. (i.e., do not describe the material using a part number when Subcontract describes the material by description.) The part number on the packing list must match the part number on Subcontract and the material in the box. Also, list the same number of units on the packing slip as listed on Subcontract.

G. Subcontractor must not over ship. Overages will be returned at Subcontractor’s expense.

H. Subcontractor must package and group together materials with the same Subcontract number. Packing lists must not include multiple Subcontract numbers for material shipped.

31.0 RECEIVING INSTRUCTIONS

A. Unless stated differently in Subcontract, Company Receiving address is:

U.S Department of Energy (DOE)
c/o SRNS
Building 731-1N
Att. Receiving Operations PO#_____
Aiken, SC 29808

B. Normal receiving hours for Company delivery warehouse (Building 731-1N) are Monday through Thursday, 9AM-3PM, SRS local time. Delivery vehicles attempting to deliver Company procured material or equipment outside of the normal receiving hours will be delayed or turned away unless prior arrangements have been made. No Friday deliveries will be accepted at the 731-1N receiving location.

C. Safety and production related materials may require receipt inspection as specified in Subcontract prior to receipt and acceptance. Failure to pass receipt inspection may result in material being returned to Subcontractor.

D. Documentation submittals as specified in Subcontract must be submitted in PDF format to QA-Electronic-Documents@srs.gov.

32.0 TRACEABILITY AND SHELF LIFE

Certain Supplies may require certifications necessary to satisfy traceability requirements as stated in Subcontract. Failure to supply the required certifications may result in material being returned to Subcontractor.

If shelf life is a performance criterion for Supplies, Subcontractor must provide documentation of compliance with the shelf-life requirement in the Order and ship with the Supplies.

33.0 SECURITY & ACCESS REQUIREMENTS

A. All delivery personnel must be United States Citizens to gain access to the SRS. Delays and/or costs associated with the use of non-U.S. citizen drivers will be borne by Subcontractor.

B. All delivery vehicles shall access SRS at the Aiken Barricade located on South Carolina State Highway 19, located approximately one mile south of SC Highway 278. Subcontractors are cautioned delivery vehicles must be at the Aiken Barricade for site access during the receiving hours stated in Article 2.B above, unless prior arrangements have been made. Allowance must be made for badging of unbadged drivers as set forth in Article 4. C below.

C. Unbadged delivery personnel. Unbadged drivers shall report to Company Badging Office located in Building 703-46A at SRS Road 1, approximately two miles east of SC Highway 125 in Jackson, SC to obtain a temporary badge (Ref. General Terms and Conditions Article titled “Badging Requirements”). Events and point of entry (POE) process for access to SRS:

(1) Bill of Lading (including Subcontract number) shall be validated by Company Representative at the Badging Office.
(2) Company Representative provides “Visitor/Subcontractor Safety Briefing.”
(3) Company issues temporary badges (OSR 142).
(4) After obtaining temporary badge (OSR 142) driver can proceed to the Aiken Barricade for site access.
(5) Centerra Group, LLC (Centerra) perimeter guard performs security inspection. Delivery personnel must have access to all compartments of the delivery vehicle and allow security personnel to search the vehicle. Delivery personnel must maintain a valid driver’s license, current registration, and proof of insurance at all times while on site at SRS and must be able to produce the aforementioned documentation upon request by Centerra.

(6) Centerra calls for Area Escort (Company Assigned Competent Person (ACP)) or provides escort to the delivery location.
(7) ACP briefs driver on any applicable focused observation checklist(s) and obtains signature.
(8) After delivery is completed, the assigned escort will escort Subcontractor back to Aiken Barricade

D. Photo Badged delivery personnel. If delivery personnel have a current SRS photo badge:
(1) Delivery vehicles can go directly to the Aiken Barricade for site access.
(2) Centerra perimeter guard performs security inspection. Delivery personnel must have access to all compartments of the delivery vehicle and allow security personnel to search the vehicle. Delivery personnel must maintain a valid driver's license, current registration, and proof of insurance at all times while on site at SRS and must be able to produce the aforementioned documentation upon request by Centerra.
(3) After clearance by Centerra, driver can proceed directly to delivery location. If escort is required, Centerra calls for Area Escort (Company Assigned Competent Person (ACP)) or provides escort to the delivery location.
(4) Subcontractor shall ensure any/all SRS-issued site security badges are returned to the Badge Office (703-46A) within 10 calendar days after badge expiration date (or Subcontract/Subcontractor employee termination date, whichever occurs first). Failure to do so may result in withholding of invoice payments until such time badge(s) is returned.

34.0 SPECIAL INSTRUCTIONS WHICH APPLY TO DELIVERY OF SELF-PROPELLED MEDIUM OR HEAVY CONSTRUCTION EQUIPMENT

Prior to performing any activity involving the loading, unloading, and transporting of self-propelled medium or heavy construction equipment on the SRS, Subcontractor shall read and complete the "Self-Propelled Equipment Loading, Unloading and Transport Safety Review Checklist", and provide a copy of the completed checklist to the Portable Equipment Commodity Management Center (PECMC) Representative on delivery of the equipment to SRS. A copy of the checklist can be found on Company Internet Home Page at ***http://www.srs.gov/general/busiops/PMMD/SRNS_general_provisions.htm***, or a copy can be provided by Procurement Representative on request.

35.0 DELIVERY OF BULK MATERIALS (SAFETY REQUIREMENTS)

A. Subcontractors making material deliveries using their own vehicles/trucks to areas on site other than Central Receiving (731-1N), involving the performance of manual work by Subcontractor's delivery personnel, shall submit to Procurement Representative their latest revision of Subcontractor's WPP – Worker's Protection Plan and a Certificate of Insurance which also includes an Endorsement Page. At a minimum Subcontractor shall address in their WPP or on their Letterhead the following safety elements listed below. The Safety documents submitted by Subcontractor shall be reviewed and accepted by Company's Health and Safety Programs before deliveries can be made to SRS. In addition, the Certificate of Insurance and the Endorsement page shall be on file before deliveries can be made to SRS.

Safety Elements

(1) Acknowledge all drivers have been informed of the safety requirements to include expectations and controls to ensure compliance when working at Company.
(2) Unloading Procedures addresses specific precautions and personal protective equipment to include eye, foot, head, hand, face, and hearing protection.
(3) Fitness for Duty addresses driver's health, substance abuse and the ability to perform assigned tasks free of impairments.
(4) Fall protection, prevention and precautions while climbing/working from a ladder or on elevated surfaces.
(5) Proper lifting techniques addresses how to lift safely to avoid injuries.
(6) Heat stress addresses signs/symptoms and prevention.
(7) Incident/injury protocol addresses reporting to Company Subcontract Technical Representative (STR)/End User, preserving the scene, follow-up, and medical treatment when appropriate and participating in the investigation when requested.

(8) Authority for driver/employees to call a "Time O–t - Stop Work" when unsafe conditions are observed and/or employee actions are likely to cause injury to themselves, other personnel, or cause damage to SRS property.
(9) Hazardous communications to include Safety Data Sheets (SDS) on each chemical, methods and training used to inform employees of the hazards and the precautionary methods.
(10) Motor vehicle/related equipment (i.e., forklift) safety to include vehicle maintenance, before use inspections, safe operation, and the use of safety devices such as mirrors, flagman and signals.
(11) Focused Observation Safety Checklists - Identify, complete, sign and submit Focus Observation Checklist(s) applicable to Work performed during the unloading operations. Focused Observation Checklists are available for review by downloading from Company Internet Homepage at http://www.srs.gov/general/busiops/PMMD/SRNS_general_provisions.htm
(12) Statement of Injuries/Incidents - Include a summary of all injuries/incidents involving similar delivery tasks over the last three years to include brief description and corrective action plan to prevent reoccurrence.
(13) Point of Contact - Include a name of a point of contact (POC) - An individual who will be responsible for addressing injuries/incidents or safety issues which may arise.

B. Third Party Carrier: Third party carrier is defined as a vehicle not owned by Subcontractor and is Subcontracted by Subcontractor to another entity for the delivery of Subcontractor's product. If Subcontractor intends to utilize a third party carrier for the delivery of their material to SRS, to a location other than 731-1N and the delivery has been determined to be manual by SRS safety, Subcontractor shall:
(1) Confirm in writing flow down of Subcontractor's safety requirements and SRS requirements as defined in Article 8A of this document to the third party carrier. Subcontractor will also confirm in writing the third party carrier meets or exceeds the safety performance of the Department of Transportation/Federal Motor Carrier Safety Association (DOT/FMCSA). Subcontractor shall confirm in writing Subcontractor is satisfied with the third party carrier's safety performance. Subcontractor may use the following template to provide the required information:
(a) Template Example: Subcontractor Company letter to Company Procurement Representative:
(i) We (Subcontractor) understand the driver safety, employee safety and the use of safe equipment remains top priority at the SRS. As such, any carrier(s) Subcontractor uses must share the same management values.
(ii) We confirm the flow down of safety requirements identified in Article 9A of the Packaging, Shipping, and Receiving Instructions have been communicated and implemented by the selected carrier. A review of (third party carrier's name) safety performance indicates ____ (has or has not had a serious/non-compliance/incident cited by the DOT/FMCSA in the past three years based on the local or regional performance. As a result of this review, we are satisfied with (third party's name) safety performance.
(b) Some examples of serious/non-compliance are:
(i) Fatalities
(ii) Crashes – where driver and/or company are cited
(iii) Faulty equipment such as leaks or poor vehicle maintenance.
(2) Attach a copy of the third-party carrier's unloading plan/procedure which identifies the hazards, precautions and required personal protective equipment. This document shall be reviewed and accepted by SRS's Health and Safety Program's representative before delivery can be authorized. Once this document has been accepted, Company Procurement Representative shall submit to the STR/End User; and have the responsibility to have informed the third-party carrier(s) of the associated hazards involving the materials the carrier is delivering to SRS. The driver of the third-party carrier shall instruct the STR/End User of any potential hazards to site personnel near or in close proximity involving their Loading/unloading activities before work begins and the driver shall ensure appropriate controls and safeguards (within the driver's control) will be implemented to reduce the potential for injury.

36.0 SUPPLEMENTAL DEFINITIONS FOR FAR AND DEAR CLAUSES INCORPORATED BY REFERENCE

A. "Contract" means Subcontract (except in instances when it is not applicable or appropriate) and includes changes and modifications to Subcontract.

B. “Contractor” means the party to whom Subcontract is awarded (except in instances when it is not applicable or appropriate).

C. “Government” means Company (except in instances when it is not applicable or appropriate).

D. “Contracting Officer” means Procurement Representative of Company.

E. “Lower-Tier Subcontractor” means any party entering into an agreement with Subcontractor or any Lower-Tier Subcontractor for the furnishing of Supplies required for performance of Subcontract.

37.0 CLAUSES INCORPORATED BY REFERENCE

Subcontract incorporates certain clauses by reference. These clauses apply as if they were incorporated in their entirety.

FAR Clauses

52.203-6	Restrictions on Subcontractor Sales to the Government (JUL 1995)
52.203-7	Anti-Kickback Procedures (JUL 1995)
52.203–13	Contractor Code of Business Ethics and Conduct (NOV 2021)
52.203-17	Contractor Employee Whistleblower Rights and Requirements to Inform Employees of Whistleblower Rights
52.203–19	Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (JAN 2017).
52.204–21	Basic Safeguarding of Covered Contractor Information Systems (NOV 2021)
52.204–23	Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (NOV 2021)
52.204–25	Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. (NOV 2021)
52.204–27	Prohibition on a ByteDance Covered Application (JUN 2023)
52.208-8	Required Sources for Helium and Helium Usage Data (APR 2002)
52.211-5	New Materials (AUG 2000)
52.215-2	Audit and Records-Negotiations (Alt I) (MAR 2009)
52.219–8	Utilization of Small Business Concerns (OCT 2022)
52.222–21	Prohibition of Segregated Facilities (APR 2015)
52.222–26	Equal Opportunity (APR 2002)
52.222–35	Equal Opportunity for Veterans (DEC 2001)
52.222–36	Affirmative Action for Workers with Disabilities (JUN 1998)
52.222–37	Employment Reports on Veterans (Jun 2020)
52.222-39	Notification of Employee Rights Concerning Payment of Union Dues or Fees ((DEC 2004)
52.222–40	Notification of Employee Rights Under the National Labor Relations Act (DEC 2010)
52.222-41	Service Contract Act of 1965 as Amended (NOV 2007)
52.222-42	Statement of Equivalent Rates for Federal Hires (MAY 1989)
52.222-43	Fair Labor Standards Act and Service Contract Act – Multiple Year and Option Contracts (NOV 2006)
52.222–50	Combating Trafficking in Persons (NOV 2021)
52.222-54	Employment Eligibility Verification (JAN 2009)
52.222–55	Minimum Wages for Contractor Workers under Executive Order 14026 (JAN 2022)
52.222–62	Paid Sick Leave Under Executive Order 13706 (JAN 2022)
52.223-2	Affirmative Procurement of Biobased Products under Service and Construction Contracts
52.223-15	Energy Efficiency in Energy-Consuming Products
52.223-16	IEEE Standard for Environmental Assessment of Personal Computer Products
52.223-17	Affirmative Procurement of EPA Designated Items in Service and Construction Contracts
52.223-19	Compliance with Environmental Management Systems
52.224–3	Privacy Training (JAN 2017)
52.225-13	Restrictions on Certain Foreign Purchases (FEB 2021)
52.225–26	Contractors Performing Private Security Functions Outside the United States (OCT 2016)

52.227-10 Filing of Patent Applications-Classified Subject Matter (APR 1984)
52.227-14 Rights in Data (JUN 1987)
52.232-22 Limitation of Funds (APR 1984)
52.232–40 Providing Accelerated Payments to Small Business Subcontractors (MAR 2023)
52.242-15 Stop Work (AUG 1989)
52.245-1 Government Property (SEP 2021)
52.247–64 Preference for Privately Owned U.S.-Flag Commercial Vessels (NOV 2021)

FAR Clause applicable as prescribed on PF-312 in Solicitation

52.225-1 Buy American- Supplies (FEB 2021)
52.225-5 Trade Agreements (OCT 2019)
52.225-9 Buy American – Construction Materials (NOV 2021)
52.225-11 Buy American – Construction Materials Under Trade Agreements (NOV 2021)

DEAR Clauses

952.204-2 Security Requirements (JUN 2009)
952.204-70 Classification/Declassification (SEP 1997)
952.204-71 Sensitive Foreign Nations Controls (MAR 2011)
952.247-70 Foreign Travel (DEC 2000)
952.250-70 Nuclear Hazards Indemnity Agreement (OCT 2005)
970.5204-3 Access to and Ownership of Records (OCT 2014)
970.5223-1 Integration of Environment, Safety and Health into Work Planning and Execution
970.5223-3 Accounts, Records, and Inspections (DEC 2000)- Deviation Acquisition Letter 2005-04 (11-02-2004)
970.5227-4 Authorization and Consent (AUG 2002)
970-5227-6 Patent Indemnity-Subcontracts (DEC 2000)

38.0 FAR AND DEAR CLAUSES INCORPORATED IN FULL TEXT

H-7 CONFIDENTIALITY OF INFORMATION

A. To the extent Work under this Contract requires the Contractor to be given access to confidential or proprietary business, technical, or financial information belonging to Government or other companies, the Contractor 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 unless specifically authorized by the CO in writing. The foregoing obligations, however, shall not apply to:

(1) Information which, at the time of receipt by the Contractor, is in public domain;
(2) Information which is published after receipt thereof by the Contractor or otherwise becomes part of the public domain through no fault of the Contractor;
(3) Information which the Contractor can demonstrate was in its possession at the time of receipt thereof and was not acquired directly or indirectly from Government or other companies; or
(4) Information which the Contractor can demonstrate was received from a third-party which did not require the Contractor to hold it in confidence.

B. The Contractor shall obtain the written agreement, in a form satisfactory to the CO, of each employee permitted access, whereby the employee agrees they will not discuss, divulge, or disclose any such information or data to any person or entity except those persons within the Contractor's organization directly concerned with the performance of the Contract.

C. The Contractor agrees, if requested by Government, to sign an agreement identical, in all material respects, to the terms and conditions of this clause, with each company supplying information to the Contractor under this Contract, and to supply a copy of such agreement to the CO.

D. The Contractor agrees upon request by Government, it will execute a Government-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. Upon request by Government, such an agreement shall also be signed by Contractor personnel.

E. This clause shall flow down to all Subcontracts.

F. Technical data is addressed in Section I, DEAR 970.5227-2 – Rights in Data- Technology Transfer (DEC 2000) (DEVIATION).

FAR 52.225-8 Duty Free Entry (FEB 2000)

Applicable to Supplies identified in the Schedule to be accorded duty-free entry will be imported into the customs territory of the United States; or other foreign supplies in excess of $10,000 may be imported into the customs territory of the United States.

A. *Definition*. "Customs territory of the United States" means the States, the District of Columbia, and Puerto Rico.

B. Except as otherwise approved by Company, Subcontractor shall not include in the contract price any amount for duties on supplies specifically identified in the Schedule to be accorded duty-free entry.

C. Except as provided in paragraph (D) of this clause or elsewhere in Subcontract, the following procedures apply to supplies not identified in the Schedule to be accorded duty-free entry:
   (1) Subcontractor shall notify the Procurement Representative in writing of any purchase of foreign supplies (including, without limitation, raw materials, components, and intermediate assemblies) in excess of $10,000which are to be imported into the customs territory of the United States for delivery to Company under this contract, either as end products or for incorporation into end products. Subcontractor shall furnish the notice to Procurement Representative at least 30 calendar days before the importation. The notice shall identify the:
      (a) Foreign supplies;
      (b) Estimated amount of duty; and
      (c) Country of origin.
   (2) The Procurement Representative will determine whether any of these supplies should be accorded duty-free entry and will notify Subcontractor within 10 calendar days after receipt of Subcontractor's notification.
   (3) Except as otherwise approved by Procurement Representative, the contract price shall be reduced by (or the allowable cost shall not include) the amount of duty which would be payable if the supplies were not entered duty-free.

D. Subcontractor is not required to provide the notification under paragraph (C) of this clause for purchases of foreign supplies if:
   (1) The supplies are identical in nature to items purchased by Subcontractor or any Lower-Tier Subcontractor in connection with its commercial business; and
   (2) Segregation of these supplies to ensure use only on Company Subcontracts containing duty-free entry provisions is not economical or feasible.

E. Subcontractor shall claim duty-free entry only for supplies to be delivered to Company under Subcontract, either as end products or incorporated into end products, and shall pay duty on supplies, or any portion of them, other than scrap, salvage, or competitive sale authorized by the PR, diverted to nongovernmental use.

F. Government will execute any required duty-free entry certificates for supplies to be accorded duty-free entry and will assist Parties in obtaining duty-free entry for these supplies.

G. Shipping documents for supplies to be accorded duty-free entry shall consign the shipments to Company in care of Subcontractor and shall include the:

(1) Delivery address of Subcontractor (or prime contracting agency, if appropriate);
(2) Company Subcontract number and Company Prime Contract number;
(3) Identification of carrier;
(4) Notation "UNITED STATES GOVERNMENT, _____ [*DOE or NNSA*] _____, Duty-free entry to be claimed pursuant to Item No(s) _____ [*from Tariff Schedules*] _____, Harmonized Tariff Schedules of the United States. Upon arrival of shipment at port of entry, District Director of Customs, please release shipment under 19 CFR Part 142 and notify Company for execution of Customs Forms 7501 and 7501-A and any required duty-free entry certificates.";
(5) Gross weight in pounds (if freight is based on space tonnage, state cubic feet in addition to gross shipping weight); and
(6) Estimated value in United States dollars.

H. Subcontractor shall instruct the foreign Subcontractor to:
(1) Consign the shipment as specified in paragraph (G) of this clause;
(2) Mark all packages with the words "UNITED STATES GOVERNMENT" and Savannah River Nuclear Solutions, LLC; and
(3) Include with the shipment at least two copies of the bill of lading (or other shipping document) for use by the District Director of Customs at the port of entry.

I. Subcontractor shall provide written notice to the cognizant contract administration office immediately after notification by the PR duty-free entry will be accorded foreign supplies or, for duty-free supplies identified in Subcontract, upon award by Subcontractor to the overseas Subcontractor. The notice shall identify the:
(1) Foreign Supplies;
(2) Country of origin;
(3) Company Subcontract number and Company Prime Contract Number; and
(4) Scheduled delivery date(s).

J. Subcontractor shall include and flow down the substance of this clause to their Lower-Tier Subcontractors.