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GENERAL TERMS AND CONDITIONS FOR TIME AND MATERIAL/LABOR HOUR SUBCONTRACTS UNDER

NATIONAL NUCLEAR SECURITY ADMINISTRATION PRIME 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 -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

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

(1) Negotiated Terms and Conditions
(2) Terms and Conditions
(3) Articles Incorporated by Reference

(4) Statement of Work or other description of Services or Supplies

3.0 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 the items; (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 provisions 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.

4.0 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's 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 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.

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 PUBLICITY

A. Subcontractor shall not publicly disclose information concerning any respect of the Supplies or Services 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 Procurement Representative.

C. Requirements of this article, including this paragraph, shall be flowed down to Lower-tier Subcontracts.

7.0 APPROVALS

Approval by Company of designs, Work drawings, specifications, reports, or any other data submitted by Subcontractor hereunder shall not affect or relieve Subcontractor from any responsibility to furnish said Supplies in full conformance with

requirements of Subcontract.

8.0 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 to, 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.
   (1) 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 notified Subcontractor the decision would be issued, or (ii) within sixty (60) calendar days after receipt of Claim if Procurement Representative did not notify Subcontractor of a date by which the 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, 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 Subcontractor files suit within ninety (90) calendar days of the written Final Decision in the appropriate court as provided for in paragraph (E) 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.

D. Subcontractor and any Lower-Tier Subcontractor(s) whose portion of Claim exceeds $50,000 shall certify its portion of the 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 a Claim exceeds $50,000 unless Subcontractor's Claim is accompanied by the certification below 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 a Claim is accompanied by the below certification from Lower-Tier Subcontractor originating the Claim.
   (3) The aggregate amount of both increased and decreased costs shall be used to determine when the dollar threshold requiring certification is met.

   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 the Subcontract adjustment for which Subcontractor believes Company is liable; and I am duly authorized to certify the claim on behalf of [[Subcontractor or Lower-Tier Subcontractor, as appropriate]].

   I further acknowledge Company is a prime contractor to 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.

E.
   (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.

F. Subject to (E)(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, provision or term 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 (E)(1), resolution shall be governed by the laws of the State of South Carolina, without regard to its Conflicts of Laws rules.

G. 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).

H. 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.

9.0 TERMINATION AT COMPANY'S OPTION

A. Company shall have the right at any time, with or without cause, to terminate further performance of 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' 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 the Work. This is more fully delineated in FAR 31.205-42, which is set forth in its entirety in Part 4.

C. All claims under any of the foregoing provisions 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.

10.0 TERMINATION FOR DEFAULT

A. Company may terminate Subcontract, in whole or in part, if Subcontractor: (1) fails to supply enough properly skilled workers or proper materials or equipment so as to endanger performance of Subcontract; (2) fails to make payment to Lower-Tier Subcontractors for materials or labor in accordance with the respective Subcontracts between Subcontractor and 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 performance of Services or delivery of Supplies or Services.; 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 materials, tools, equipment, and the construction facilities and premises and finish the Work by whatever method Company deems expedient at Subcontractor's expense which includes any increased cost incurred exceeding 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 in this Article are in addition to any other rights and remedies provided by law or under Subcontract.

11.0 LIMITATION OF FUNDS

This is applicable only if Subcontract is partially funded.

A. Parties estimate the performance of Subcontract will not cost Company more than the negotiated price specified. Subcontractor agrees to use its best efforts to perform Work and all obligations under Subcontract within the negotiated price.

B. The Funding Schedule specifies the amount presently available for payment by Company and allotted by Subcontract, the items covered, and the period of performance it is estimated the allotted amount will cover. Company will allot additional funds incrementally to Subcontract up to the full negotiated price specified in the Funding Schedule. Subcontractor agrees to perform, or has performed, Work on Subcontract up to the point at which the total amount paid and payable under Subcontract approximates but does not exceed the total amount in Subcontract.

C. Subcontractor shall notify Company sixty (60) days before the end of the period specified in the Funding Schedule in writing, electronically, whenever it has reason to believe the value it expects to incur under Subcontract, when added to all prices previously incurred, will exceed 75 percent of the total amount allotted to Subcontract. The notice shall state the estimated amount of additional funds required to continue performance for the period specified in Funding Schedule.

D. If, after notification, additional funds are not allotted by the end of the period specified in Funding Schedule or another agreed-upon date, upon Subcontractor's written electronic request, Company will terminate Subcontract on the date in accordance with the provisions of the "Termination" Article. If the Subcontractor estimates the funds available will allow it to continue to discharge its obligations beyond the date, it may specify a later date in its request, and Company may terminate Subcontract on the later date.

E. Except as required by other provisions of Subcontract, specifically citing, and stated to be an exception to this Article:
   (1) Company is not obligated to reimburse Subcontractor for costs incurred in excess of the total amount allotted by Company to Subcontract; and
   (2) Subcontractor is not obligated to continue performance under Subcontract (including actions under the Termination Article of this Contract) or otherwise incur costs in excess of the amount then allotted to Subcontract by Company until Company notifies Subcontractor in writing, electronically, the amount allotted by Subcontractor has been increased and specifies an increased amount, which shall then constitute the total amount allotted by Company to Subcontract.

F. The negotiated price shall be increased to the extent the amount allotted by Company, exceeds the negotiated price specified in Funding Schedule.

G. No notice, communication, or representation in any form other than the specified in subparagraph (F)(2) above, or from any person other than cognizant Company Procurement Representative t, shall affect the amount allotted by Company to Subcontract. In the absence of the specified notice, Company is not obligated to reimburse Subcontractor for any costs in excess of total amount allotted by Company to Subcontract, whether incurred during the course of Subcontract or as a result of termination.

H. When and to the extent the amount allotted Company to Subcontract is increased, any costs Subcontractor incurs before the increase in excess of the amount previously allotted by Company shall be allowable to the same extent as if incurred afterward, unless Company issues a termination or other notice and directs the increase is solely to cover termination or other specified expenses.

I. Changes to Subcontract shall not be considered an authorization to exceed the amount allotted by Company specified in Funding Schedule, unless they contain a statement increasing the amount allotted.

J. Nothing in this Article shall affect the right of Company to terminate Subcontract. If Subcontract is terminated, Company and Subcontractor shall negotiate an equitable distribution of all property produced or purchased under Subcontract, based upon the share of costs incurred by each.

K. If Company does not allot sufficient funds to allow completion of the Work, Subcontractor is entitled to a percentage of the fee specified in Funding Schedule equaling the percentage of completion of Work contemplated by Subcontract.

12.0 ALLOWABLE COST AND PAYMENT

A. Invoicing. Company shall make payments to Subcontractor when requested as Work progresses, but not more often than once every 2 weeks, except for small business concerns, in amounts determined to be allowable by Company in accordance with FAR 31.2 and, as supplemented, DEAR 931.2 in effect on the date of Subcontract and the terms of Subcontract. Subcontractor may submit to Company, in such form and reasonable detail as Company may require, invoices supported by statements of claimed allowable costs for performing Subcontract. Reasonable details of costs may include, but are not limited to:
   (1) Labor Categories
   (2) Hours Expended per Category
   (3) Direct Labor Rate(s) per Category
   (4) General & Administrative or Material Handling (if applicable)
   (5) Travel Costs (number of trips, number of days in a travel status, location of travel)
   (6) Material Costs and Other Direct Costs (with identification of large purchases)

B. Final Indirect Cost Rates
   (1) Final annual indirect cost rates and appropriate bases shall be established in accordance with FAR 42.7 and DEAR 942.7, in effect for the period covered by indirect cost rate proposal.
   (2) Subcontractor shall, within ninety (90) days, after its expiration of each of fiscal years, or by later dates approved by Company, submit to cognizant Contracting Officer responsible for negotiating its final indirect costs rates and, if required by Government procedures, to the cognizant audit activity, proposed final indirect cost rates for the period and supporting cost data specifying Subcontract and/or Lower-Tier Subcontract to which the rates apply. The proposed rates shall be based on Subcontractor's actual cost experience for the period. The appropriate Government representative and Subcontractor shall establish the final indirect cost rates as promptly as practical after receipt of Subcontractor's proposal.
   (3) Subcontractor and appropriate Government representative shall execute written electronic understanding setting forth final indirect cost rates. Understanding shall specify:
      a. Agreed-upon final annual indirect cost rates,
      b. Bases of rates applicability,
      c. Periods of rates applicability,
      d. Specific indirect cost items treated as direct costs in the settlement; and
      e. Affected Subcontract and/or Lower-Tier Subcontract, identifying any with advance agreements or special terms and applicable rates. The understanding shall not change any monetary ceiling, contract obligation, or specific cost allowance or disallowance provided for in Subcontract. The understanding is incorporated into Subcontract upon execution.
   (4) Failure by Parties to agree on final annual indirect cost rates shall be a dispute within the meaning of the "Disputes" article of Subcontract.

C. Billing Rates. Until final annual indirect cost rates are established for any period, Company shall reimburse Subcontractor at billing rates approved by the Government or by an authorized representative (the cognizant auditor), subject to adjustment when final rates are established. These billing rates:
   (1) Shall be anticipated final rates; and
   (2) May be prospectively or retroactively revised by mutual agreement, at either party's request, to prevent substantial overpayment or underpayment.

D. Quick-Closeout Procedures. When Parties agree, quick-closeout procedures of FAR 42.7 may be used.

E. Audit. At any time or times before final payment, Company may audit, or have audited, Subcontractor's invoices or vouchers and statements of cost. Any payment may be:
   (1) Reduced by amounts found by Company not to constitute allowable costs or
   (2) Adjusted for prior overpayments or underpayments.

F. Final Payment
   (1) Subcontractor shall submit a completion invoice, designated as such, promptly upon completion of Work, but no later than one (1) year (or longer, as Company may approve in writing electronically) from completion date. Upon approval of completion invoice, and upon Subcontractor's compliance with terms of Subcontract, Company shall promptly pay any balance of allowable costs and part of fee (if any) not previously paid.
   (2) Subcontractor shall pay to Company any refunds, rebates, credits, or other amounts (including interest, if any) accruing to or received by Subcontractor or any assignee under Subcontract, to the extent those amounts are properly allocable to costs for which Subcontractor has been reimbursed by Company. Reasonable expenses incurred by Subcontractor for securing refunds, rebates, credits, or other amounts shall be allowable costs if approved by Company. Before final payment under Subcontract, Subcontractor, and each assignee with assignment in effect at the time of final payment shall execute and deliver:
      a. An assignment to Company, in form and substance satisfactory to Company, of refunds, rebates, credits, or other amounts (including interest, if any) properly allocable to costs for which Subcontractor has been reimbursed by Company under Subcontract; and
      b. A release discharging Company, the Government, and their officers, agents, employees, and assigns from all liabilities, obligations, and claims arising out of or under Subcontract, except:
         (i) Specified claims stated in exact amounts or in estimated amounts when exact amounts are not known,
         (ii) Claims (including reasonable incidental expenses) based upon liabilities of Subcontractor to third parties arising out of performance of Subcontract; provided claims are not known to Subcontractor on date of execution of release, and Subcontractor gives notice of claims in writing, electronically, to Company within six (6) years following release date or notice of final payment date, whichever is earlier; and
         (iii) Claims for reimbursement of costs, including reasonable incidental expenses, incurred by Subcontractor under patent articles of Subcontract, excluding, however, any expenses arising from Subcontractor's indemnification of Company or the Government against patent liability.

13.0 TAXES

To the extent possible, Subcontractor will use its best efforts to obtain tax exempt Supplies and Services furnished under Subcontract as tax exempt by sharing the exemption certificate. 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 and Services, . If the exemption certificate is not accepted, then Subcontract price shall include all applicable Federal, State, and local taxes and duties.

14.0 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.

15.0 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 Subcontractors. Nothing contained in Subcontract, or any Lower-Tier Subcontract(s) shall create any contractual relationship between any such Lower-Tier Subcontractor and Government or Company. Subcontractor is solely responsible for its actions and its Lower-Tier Subcontractors, gents, and employees.

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

16.0 SUBCONTRACTING

A. Subcontractors are required to be registered in the System for Award Management (SAM) and maintain an active Unique Entity Identifier (UEI). Subcontractors shall maintain registration in SAM during subcontract performance and through final payment of any subcontract, basic agreement, basic order agreement, or blanket purchasing agreement, in compliance with FAR 52.204-7 and FAR 42.12. In addition, Subcontractor Information Form (SIF) must be completed and submitted with Subcontractor's solicitation response.

B. Fees for Site required training classes will be absorbed by Company and Subcontractor's attendance time will be compensated for the initial attendance. If Subcontractor's employee does not successfully pass the course, Subcontractor's attendance time for a second pass and beyond will not be reimbursed; however, the class fees will continue to be absorbed by Company. The same scenario applies for substance abuse testing.

C. Subcontractor shall not subcontract all or substantially Work without prior written electronic approval of Company. This provision shall not apply to purchases of standard commercial Supplies on which Subcontractor shall perform further Work.

D. Subcontractor shall select Lower-Tier Subcontractors(s) on a competitive basis to the maximum practicable extent consistent with the objectives and requirements of Subcontract.

17.0 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-Tiered Subcontractor is determined to be necessary, the Higher-Tiered 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. Higher-Tiered Subcontractors shall flow down all commercial terms and conditions, including Articles incorporated by reference, to all Lower-Tiered Subcontractor(s), which includes verification the Lower-tiered Subcontractor has been appropriately qualified to perform the activities required to satisfy this procurement. The Higher-Tiered 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-tiered Subcontractor to the Higher-Tiered Subcontractor deems it necessary to Subcontract further its parts of the Contract.

18.0 ACCEPTANCE OF TERMS AND CONDITIONS

A. Subcontractor, by signing Subcontract, delivering the Supplies, or completing the Services identified herein, agrees to comply with the terms and conditions and all specifications and 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 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.

19.0 PAYMENT

A. Unless otherwise provided, terms of payment shall be Net-30 days from delivery of Supplies or completion of Services and shall be payable by Company upon receipt and acceptance of Supplies or completion of Services 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, Services rendered per specific line item and line item sub-total cost; 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. The 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, at 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.

20.0 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.

21.0 WAIVER OF BENEFITS (STAFF AUGMENTATION SUBCONTRACTS ONLY)

Prior to performance, Subcontractor shall obtain signed acknowledgement an waiver of Company salary and benefits programs, in a form satisfactory to Company, from each Subcontractor employee and submit to Company whereby Subcontractor employees agree and understand they are an employee of Subcontractor and not of Company or Government and Subcontractor employees receive all compensation (salary and benefits) from Subcontractor and are not eligible for any salary or benefits programs provided by Company, including but not limited to, base salaries, health and welfare plans, pension plans, and 401(k) investment savings programs. Staff Augmentation Service Providers Waiver Acknowledgement Procurement Form (PF-245) is available on website.

22.0 INSPECTION/ACCEPTANCE

A. Unless otherwise specified in Subcontract, Subcontractor shall be responsible for all quality assurance measures necessary to ensure only Supplies and Services 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 parts, components, and materials furnished by Lower-Tier Subcontractors of Subcontractor and incorporated into end Supplies furnished to Company are not counterfeit or of suspect quality.

B. Notwithstanding Subcontractor's responsibility for all quality assurance measures as described in above paragraph, Company has the right to conduct process inspections if Subcontract is for Services. If conducted, such inspections shall be performed in a manner not unduly delaying Work, and Subcontractor shall provide all reasonable facilities and assistance for the safe and convenient performance of such inspections without additional charges.

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

D. Company shall not be obligated to inspect Supplies or Services, and neither the inspection nor the lack of inspection by Company shall relieve Subcontractor of its responsibility for providing the Supplies or Services in accordance with the terms of Subcontract. The inspection or use of payment under Subcontract, either wholly or in part, shall not be construed as acceptance.

23.0 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 or Supplies description. 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 counterfeit materials provided under false pretenses, and altered, deteriorated, or whose use results in the failure of other Supplies.

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 Supplies.

24.0 DEFECT IDENTIFICATION AND REPORTING

A. In the event Subcontractor becomes aware of any latent defect(s) in any Supplies(s) 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, and
   (9) Applicable Subcontract number.
   (10) Actions taken or are being planned to correct the defective Supplies or Services, 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 every 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 and/or Service(s) were provided.

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

25.0 WARRANTY

A. Subcontractor warrants Supplies shall be free from defects in material and workmanship, of the most suitable grade of their respective kinds for the purpose and comply with requirements set forth in Subcontract, until one year after first placed into service by Company, or three years after acceptance, whichever occurs first. Subcontractor shall correct any nonconformity with this warranty at its sole expense, as directed by Company, by promptly: (i) repairing or replacing the nonconforming Supplies specified (and correcting any plans, specifications, or drawings affected); (ii) furnishing Company any materials, parts, and instructions necessary to correct or have corrected the nonconformity, or (iii) paying to Company a portion of Subcontract price as is equitable under circumstances.

B. Subcontractor warrants Services shall reflect industry standards of professional knowledge and judgment, shall be free from defects in workmanship, and shall be compliant with all requirements of Subcontract, until one (1) year from the completion of Services. Subcontractor shall correct any nonconformity with this warranty at its sole expense, as directed by Company, by promptly (i) re-performing the nonconforming Services or (ii) paying to Company a portion of Subcontract price as is equitable under the circumstances.

C. If Subcontractor fails to perform its obligations promptly under this Article, Company may perform, or have performed; such obligations and Subcontractor shall pay Company all charges occasioned thereby.

D. The warranty with respect to corrected Supplies or Services shall be subject to the same terms as the warranty provided for in paragraphs A and B of this Article. The warranty for other than corrected or replaced Supplies or Services shall continue until the expiration of such a period equal to the time elapsed between the discovery of the nonconformity and its correction.

E. Unless installation is an element of Work, Subcontractor shall not be obligated under this Article for costs of removal or reinstallation of any Supplies furnished or serviced hereunder from the location of their installation, or for costs of removal or reinstallation of structural Supplies not furnished by Subcontractor hereunder. Subcontractor shall in any event bear all packing, packaging, and shipping costs from the place of delivery to Subcontractor's plant and return to the place of delivery and shall bear all risk of loss or damage for the Supplies upon which Services have performed or Supplies while in transit.

F. Unless decontamination is an element of Work, in the event Subcontractor's costs in correcting any nonconformity under this Article are increased solely because Supplies are furnished or specified in the definition of "radiation area" in 10 CFR 20.202, Subcontract price shall be equitably adjusted to reflect such additional costs after prompt written electronic notification thereof by Subcontractor to Company.

G. The provision of this Article shall apply notwithstanding inspection, acceptance, or any other Article of Subcontract and shall not limit any other rights and remedies of Company.

H. In the event Subcontractor becomes aware of any latent defect(s) in any Supplies furnished under Subcontract, Subcontractor shall promptly notify Procurement Representative. This notice shall provide at a minimum the following information:
   (1) Full description of the item(s),
   (2) Manufacturer, model and/or part number,
   (3) Complete description of latent defect(s),
   (4) Impact of defect(s) on the operation of the Supplies,
   (5) Action(s) to be taken by Company relative to return, re-fit, repair, etc.,
   (6) Date of purchase by Company; and
   (7) Applicable Subcontract number.

26.0 COMPLIANCE WITH EMPLOYEE CONCERNS

A. Subcontractors shall ensure Subcontractor's employees are aware of the SRS and Company Employee Concerns Programs (ECP) and how to use the program by performing the following:
   (1) Ensure employees are provided with information on the SRS and Company ECP during initial orientation and annual training.
   (2) Ensure posters identifying the SRS and Company's ECP telephone "hotline" numbers are displayed in conspicuous locations throughout the worksite. Company will provide posters, as necessary.
   (3) Inform Subcontractor employees of the availability of the SRS ECP in case of dissatisfaction or lack of confidence with other reporting systems.
   (4) Ensure managers and supervisors are aware of the prohibition of any reprisal against employees who have or are believed to have raised or reported concerns.

B. Subcontractors must immediately notify the STR or Procurement Representative of any employee concern involving:
   (1) A condition which constitutes an imminent threat to the health and safety of site personnel or to the general public.
   (2) Circumstances which would cause adverse public reaction or receive local media attention.
   (3) Allegations of reprisal.

C. Subcontractors shall investigate any employee concern referred by STR and inform STR of investigation results within 7 days of receipt of concern. Inform STR in writing (electronically) if an extension to this 7-day timeframe is required, along with status of investigation to date and actions pending to closure. The investigation shall be conducted to the satisfaction of Procurement Representative.

27.0 RIGHT OF FIRST REFUSAL OF EMPLOYMENT

The scope of Work described herein as currently being performed by Procurement Representative (Company) employees and award of a Subcontract may displace these workers. Consistent with section 3161 of the National Defense Authorization Act (PL 102-484), if Subcontractor needs to hire additional employees beyond those already part of its existing work force as of the date of this solicitation in Subcontract to satisfy the performance requirements set forth by the scope of Work Subcontractor

must first consider the employment of qualified displaced Government contractor employees who meet the 3161 Job Attachment Test prior to using other avenues to fill employment need. At the time of award of Subcontract, Procurement Representative shall make available to Subcontractor a list of displaced employees with sufficient information to allow for contact. This requirement shall be included in the resultant Subcontract and be in effect from the date of award of Subcontract.

28.0 SECURITY & ACCESS REQUIREMENTS

A. All delivery personnel must be United States Citizens to gain access to the Savannah River Site 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. 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 paragraph below.

C. 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 Provisions/Terms and Conditions Article titled "Badging Requirements"). Events and points 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 invoice payments until the badge(s) is returned.

29.0 WORK ON SRS, GOVERNMENT OR OTHER PREMISES/INSURANCE REQUIREMENTS

A. As to Work to be done or performed by Subcontractor on premises owned or controlled by SRS, Government, or premises of other SRS Subcontractors, Subcontractor assumes the entire responsibility and liability for losses, expenses, damages, demands, and claims in connection with or arising out of any injury including death, or damage to property, sustained in connection with or to have arisen out of the negligent acts or omissions of Subcontractor or its Lower-Tier Subcontractors, agents, or employees. Subcontractor shall indemnify and hold harmless Government and Company from and against any and all claims, demands, actions, causes of action including those brought by an employee of Subcontractor or a State Industrial Insurance Subcontractor under a Workers/ Workmen's Compensation Act or statute, suits, damages, expenses including attorney fees and liabilities whatsoever resulting from or arising in any manner on account of or by reason of any injury to or death of any person or any damage to or loss of property attributable directly or indirectly to the negligent acts or omissions of Subcontractor or its Subcontractor's, agents, or employees arising out of, or in any way connected with the performance of Subcontract, whether or not caused in any way by some act or omission, negligence or otherwise, of Company or Government; provided however, Subcontractor's duty to indemnify shall not arise if such injury, death, destruction or loss is caused by the negligence of Company or Government. Nothing in the foregoing shall be construed to require Subcontractor to indemnify and save harmless Government and Company from any liability arising out of or resulting from a nuclear incident. To the extent necessary to execute the foregoing indemnification and as permitted by law,

Subcontractor specifically waives all immunity provided by any industrial insurance or Workers/Workmen's Compensation Act or statute.

B. When Subcontractor shall perform any part of Work on the premises, or remotely/virtually of the SRS or Government during the performance of this Subcontract, Subcontractor shall have in force and effect, policies of insurance conforming to the terms set forth in Paragraph C of this Article.

C. All personnel operating motor vehicles at SRS must have a valid driver's license, vehicle registration and proof of insurance (regardless of state of origin). Anyone not having these documents is subject to being denied access to SRS and, if in violation of a law, being cited for the violation.

D.

(1) Subcontractor shall procure and thereafter maintain at its own expense the following insurance:
   a. Workers' Compensation and Employer's Liability.
   b. Limits of Liability: Worker's Compensation: Statutory limits in the jurisdiction wherein the Work is to be performed.
      i. Employer's Liability: A minimum of $1,000,000.
   c. Comprehensive general liability including Bodily Injury and Property Damage.
      i. Limits of Liability: A minimum of $1,000,000 Combined Single Limit.
      ii. Endorsements: Company and the Government to be endorsed as Additional Insured.
      iii. Contractual Liability including all coverage endorsed on the basic policy.
   d. Automobile Liability including Bodily Injury and Property Damage including All Owned, Non-Owned and Hired.
   e. Limits of Liability: $1,000,000 Combined Single Limit

(2) Certificates of insurance evidencing the requirements of this Article have been met shall be furnished to Company before Work is commenced under Subcontract, (Ref. OSR 1-183). In addition, a copy of the policy endorsement for Comprehensive General Liability insurance (Ref. paragraph C. (1)(ii) above), naming Company and the Government as "Additional Insured", shall be submitted with the certificate of insurance. Provisions shall be made for thirty days' advance notice by mail to Company's Procurement Representative of change in or cancellation of such insurance. Certificates shall be issued by insurance carriers satisfactory to Company.

(3) In the event Subcontractor fails to furnish such Certifications of Insurance, as required in Paragraph 2 herein above, prior to commencement of Work or to continue to maintain such insurance during the performance of Subcontract, Company shall have the right to stop Work and/or to withhold any payments or partial payments required to be made under Subcontract; and shall have the right to continue withholding any or all of said payments so long as Subcontractor has not complied with the requirements of this Article.

(4) For Subcontracts involving blasting or other hazardous operations, Subcontractor's insurance shall specifically state all blasting or such other hazardous operations are fully covered.

E. Subcontractor agrees to comply with and require its Subcontractors to comply with all applicable laws, rules, and regulations with respect to state industrial insurance or Workers/Workmen's Compensation, occupational disease, occupational safety, and health, or withholding and payment of social security and federal and state income taxes. Subcontractor further agrees to indemnify Company and Government against, and to save and hold harmless Company and Government from, any and all liability and expense with respect to claims against Company or Government which may result from the failure or alleged failure of Subcontractor or of any of its Subcontractors to comply therewith.

F. If Subcontract requires on-site Work, Subcontractor will be required to meet the "On-Site Requirements" listed on Company website: SRS - SRNS General Provisions and Related Documents

30.0 SUBCONTRACTORS LIABILITY FOR FINES AND PENALTIES

A. Subcontractor is liable to Company for 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.

B. Subcontractor shall indemnify, defend, and hold harmless Company and Government from and against any and all claims, demands, actions, causes of action, suits, damages, expenses, including attorney's fees, and liabilities whatsoever resulting from or arising in any manner on account of the assessment of said fines and penalties against Company or Government.

31.0 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, result, 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) products or Services including, without limitation, any claims such products or Services 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, or (v) any Subcontractor or Lower-Tier subcontractor employee, agent, or representative is alleged or found to be co-employed by Company.

B. Subcontractor is solely responsible for compliance with prescribed clause on PF-312 provided in solicitation 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 prescribed Buy American Supplies or Trade Agreement clause(s).

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 resulting from Subcontractor's failure to perform its Work under Subcontract in compliance with the requirements of Subcontract.

32.0 BANKRUPTCY

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

33.0 RIGHTS TO PROPOSAL DATA

Except for the technical data contained on those pages of Subcontractor's proposal which are specifically identified in Subcontract with specific reference to this article and asserted by Subcontractor as being proprietary data, it is agreed, as a condition of the award of Subcontract and notwithstanding the provisions of any notice appearing on the proposal or elsewhere, Company and Government shall have the right to use, duplicate, disclose and have others do so for any purpose whatsoever, the technical data contained in the proposal upon which Subcontract is based.

34.0 REPORTING OF ROYALTIES

If any royalty payments are directly involved in Subcontract or are reflected in Subcontract price, Subcontractor agrees to report in writing (electronically) to Company during the performance of Subcontract and prior to its completion or final settlement the amount of any royalties or other payments paid or to be paid by it directly to others in connection with the performance of Subcontract together with the names and addresses of licensors to whom such payments are made and either the patent numbers involved or such other information as will permit identification of the patents or other basis on which the royalties are to be paid. The approval of Government or Company of any individual payments or royalties shall not preclude Government or Company at any time from contesting the enforceability, validity, or scope of, or title to, any patent under which a royalty or payment is made. The provision of this article shall be included in all Subcontracts expected to exceed $25,000. The approval of Government or Company of any individual payments or royalties shall not preclude Government or Company at any time from contesting the enforceability, validity, or scope of, or title to, any patent under which a royalty or payment is made. The provision of this article shall be included in all Subcontracts expected to exceed $25,000.

35.0 JOINT INTELLECTUAL PROPERTY RIGHTS

A. "Joint Intellectual Property Rights" shall mean any Work under Subcontract:
   (1) Resulting from the involvement of at least one employee/participant from each Party; and
   (2) The subject matter of which is capable of protection under domestic or foreign law, including but not limited to, patents, copyrights, trademarks, or mask works.

B. As to Joint Intellectual Property Rights which Company has a joint ownership interest, Subcontractor agrees to negotiate in good faith with Company a Memorandum of Agreement to resolve issues of participation in protection and commercialization.

36.0 COPYRIGHTS FOR COMPANY DIRECTED TECHNICAL PERFORMANCE

Subcontractor shall cause its employee(s) to assign to Company all rights under the copyright in all Works of authorship prepared at the direction of Company during the term of Subcontract. Subcontractor shall include terms in its arrangements with its employee(s) to require such assignments to Company. To the extent such Works of authorship are considered to be Works made for hire for Subcontractor, Subcontractor agrees to assign and does hereby assign all of its rights under the copyrights in such Works to Company or Government.

37.0 COMPLIANCE WITH DIESEL EMISSION REDUCTION ACT (DERA)

SRS is implementing South Carolina State Transport Police (SCSTP) maximum idling regulation SCCL§56-35-10. All "self-propelled diesel motor vehicles licensed for use on a public roadway to transport passengers or property when the vehicle has a gross vehicle weight rating or gross combination weight rating of ten thousand and one pounds or more" shall be shut down if the idling period will exceed 10 consecutive minutes. Additional guidance on maximum idling time can be obtained at *www.scstp.org*

38.0 PUBLIC RELEASE OF INFORMATION

Information, data, photographs, sketches, advertising, announcements, denial, or confirmation of same, or items of a similar nature, relating to Subcontract, which Subcontractor desires to release or publish, shall be submitted to Company for approval eight (8) weeks prior to the desired release date. As part of the approval request, Subcontractor shall identify the specific media to be used as well as other pertinent details of the proposed release. All releases by Subcontractors shall have prior approval of Company. Subcontractor shall include all provisions of this Article including this sentence in all Subcontracts under Subcontract. Company's approval shall not be unreasonably withheld.

39.0 TECHNICAL DIRECTION

A. Performance of Work under Subcontract shall be subject to the technical direction of Company project manager or technical representative. The term "technical direction" is defined to include, without limitation:
   (1) Directions to Subcontractor which redirect Subcontractor's efforts, shift Work emphasis between Work areas or tasks, require pursuit of certain lines of inquiry, fill in details or otherwise serve to accomplish Work.
   (2) Provision of written electronic information to Subcontractor which assists in the interpretation of drawings, specifications, or technical portions of Work description.
   (3) Review, and where required by Subcontract, approval of technical reports, drawings, specifications, and technical information to be delivered by Subcontractor to Company under Subcontract.

B. Technical direction must be within the scope of Work stated in Subcontract. The project manager or technical representative does not have the authority to, and may not, issue any technical direction which:
   (1) Constitutes an assignment of additional Work outside the scope of Work;
   (2) Constitutes a change as defined in Article 4;
   (3) In any manner causes an increase or decrease in total estimated Subcontract cost, the fixed fee (if any), or the time required for Subcontract performance;
   (4) Changes any of the expressed terms, conditions, or specifications of Subcontract; or
   (5) Interferes with Subcontractor's right to perform the terms and conditions of Subcontract.

C. All technical directions shall be issued in writing (electronically) by project manager or technical representative.

D. Subcontractor shall proceed promptly with the performance of technical directions duly issued by the project manager or technical representative in the manner prescribed by this Article and within Subcontractor's authority under the provisions of this Article. If, in the opinion of Subcontractor, any instruction or direction by the project manager or technical representative falls within one of the categories defined in B(1) through (5) of this Article, Subcontractor shall not proceed. Rather Subcontractor shall notify Procurement Representative in writing, electronically, within five (5) working days after receipt of any such instruction or direction and shall request Procurement Representative to modify Subcontract accordingly. Upon receiving the notification from Subcontractor, Procurement Representative shall:
   (1) Advise Subcontractor in writing (electronically) within thirty (30) days after receipt of Subcontractor's letter the technical direction is within the scope of the Contract effort and does not constitute a change under the "Changes" Article;
   (2) Inform Subcontractor in writing (electronically) within thirty (30) days after receipt of Subcontractor's letter not to perform under the direction and to cancel the direction; or
   (3) Advise Subcontractor within a reasonable time Company will issue a written electronic Change Subcontract.

E. A failure of Subcontractor and Procurement Representative to agree the technical direction is within the scope of Work, or

a failure to agree upon the contract action to be taken with respect thereto shall be subject to provisions of the "Disputes" Article.

40.0 OCCUPATIONAL SAFETY AND HEALTH ACT

Subcontractor warrants Work performed on SRS and/or Supplies furnished shall comply with 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.

41.0 TOXIC SUBSTANCES CONTROL ACT OF 1976

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).

42.0 HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA

A. Subcontractor agrees to submit a Safety Data Sheet for all hazardous materials/chemicals to Procurement Representative/STR for approval before chemical is brought onto SRS. This obligation applies to all materials delivered under Subcontract which will involve exposure to hazardous materials/chemicals or Supplies containing these materials/chemicals.

B. All chemical containers shall be clearly labeled by OSHA standards. Chemicals not in the original container shall also be properly labeled with the product name and hazard markings per the Safety Data Sheet on file. Immediate use containers such as painter's pail, etc., are exempt from labeling requirements.

C. Neither the requirements of this article nor any act or failure to act by Company or Government shall relieve Subcontractor of any responsibility of liability for the safety of Company, Government, Subcontractor, or Subcontractor personnel or property.

D. Subcontractor shall comply with applicable Federal, state, and local laws, codes, ordinances, and regulations (including the acquisition of licenses and permits) in connection with hazardous materials/chemicals.

E. Government's and Company's rights in data furnished under Subcontract with respect to hazardous materials/chemicals are as follows:
   (1) To use, duplicate, and disclose any data to which this Article is applicable. The purposes of this right are to:
      a. Apprise personnel of the hazards to which they may be exposed in using, handling, packaging, transporting, or disposing of hazardous materials/chemicals;
      b. Obtain medical treatment for those affected by the material/chemical; and
      c. Have others use, duplicate, and disclose the data for Company and Government for these purposes.

   (2) To use, duplicate, and disclose data furnished under this Article in precedence over any other Article of Subcontract providing for rights in data.
   (3) Company and Government are not precluded from using similar or identical data acquired from other sources.
   (4) Data shall not be duplicated, disclosed, or released outside of Company or Government, in whole or in part for any acquisition or manufacturing purpose, if the following legend is marked on each piece of data to which this article applies:
   (5) The following legend shall be marked on any reproduction of this data, "This is furnished under United States Government Contract No., DE-AC09-96SR18500 and shall not be used, duplicated, or disclosed for any acquisition or manufacturing purpose without the permission of Company."
   (6) Subcontractor shall not place the legend or any other restrictive legend on any data which:
      a. Subcontractor or any Subcontractor previously delivered to Company or Government without limitations or
      b. Should otherwise be delivered without limitations.

F. Subcontractor shall insert this article, including this paragraph, with appropriate changes in the destination of Parties, in Subcontracts at any tier (including purchase designations or Subcontracts) under Subcontract involving hazardous materials/chemicals.

43.0 OZONE DEPLETING SUBSTANCE

Without limiting any of the other Articles herein, Subcontractor warrants all of the Supplies furnished under Subcontract have been completely and accurately labeled pursuant to the requirements of 40 CFR Part 82, "Protection of Stratospheric Ozone", or those such Supplies do not require such labeling.

44.0 COMPLIANCE WITH DIESEL EMISSION REDUCTION ACT (DERA)

A. All diesel-powered equipment bought on-site for ARRA Work is required to burn ultra-low sulfur diesel fuel (≤< 15 ppm). Fuel certification will be available for inspection upon request.

B. All pre-1996 model year non-road diesel engine equipment brought on-site for ARRA Work shall be retrofitted with EPA verified control equipment. Equipment certification will be submitted prior to commencement of Work.

C. SRS is implementing South Carolina State Transport Police (SCSTP) maximum idling regulation SCCL§56-35-10. All "self-propelled diesel motor vehicles licensed for use on a public roadway to transport passengers or property when the vehicle has a gross vehicle weight rating or gross combination weight rating of ten thousand and one pounds or more" shall be shut down if the idling period will exceed 10 consecutive minutes. Additional guidance on maximum idling time can be obtained at ***www.scstp.org***.

45.0 INSPECTION EXCEPTION FOR THORIATED TUNGSTEN ELECTRODES

SRS has determined thoriated tungsten electrodes will no longer be used in the manual gas tungsten arc welding (GTAW) process at SRS. This applies to the manual GTAW process only. For automatic GTAW the use of thoriated tungsten is allowed due to the dedicated grinding area and control of the process.

46.0 ES&H REQUIREMENTS

DOE O 442.2 Differing Professional Opinions for Technical Issues Involving Environmental, Safety and Health Technical Concerns (10/4/2016 Chg. 1)

DOE O 221.1B Reporting Fraud, Waste and Abuse to the Office of Inspector General (9/27/2016) (applies to subcontracts with a value of $5.5 million or more and with a period of performance of 120 days or longer)

47.0 NON-ES&H REQUIREMENTS

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

DOE O 486.1A Foreign Government Sponsored or Affiliated Activities (2/25/2008) (applies to Research & Development or Demonstration subcontracts, at any tier, to the extent necessary to ensure Subcontractor's or Lower-Tier Subcontractors' compliance with the requirements, where Subcontractor's/ or Lower-Tier Subcontractors' Work within the scope of Subcontract is performed on or at a Government site/facility, including Government leased space.

DOE O 544.1B Priorities and Allocations Program

48.0 GOVERNMENT PROPERTY

Subcontractor shall establish and maintain a property management system complying with criteria in 48 CFR 52.245-1, Government Property.

49.0 GOVERNMENT FURNISHED AND SUBCONTRACTOR-ACQUIRED PROPERTY

A. Company shall furnish to Subcontractor Government materials, equipment and Supplies listed elsewhere in Subcontract.

B. Purchase of equipment or other tangible personal property, which is not identified in Subcontractor's cost proposal and for which Subcontractor is entitled to be reimbursed as a direct item of cost under Subcontract, shall be approved in advance by Procurement Representative.

C. Government property furnished by Company or acquired by Subcontractor, as a direct cost under Subcontract, title to which vests in Government, shall be identified, controlled and protected as required by Article above. Disposition of such property upon completion of Subcontract shall be as directed by Procurement Representative.

D. If Company provides Subcontractor Government property marked as "high risk property" Subcontractor shall ensure adequate safeguards are in place and adhered to, for handling, controlling, and disposing of property in accordance with policies, practices and procedures for property management contained in the DOE Property Management Regulations (41 CFR 109-1.53). Title to all property marked as "high risk property" vests in Government.

50.0 FOREIGN NATIONALS

A. The term "Foreign National" is defined to be a person who was born outside the jurisdiction of the United States is a citizen of a foreign government and has not been naturalized under U.S. law. As used in this Article, the term "Dual Citizen" is defined as an individual who is a citizen of more than one country.

B. Subcontractor shall obtain the approval of Company, in writing (electronically) prior to any visit to a Government or Company facility by any Foreign National or Dual Citizen in connection with Work being performed under Subcontract. Visits are normally for the purpose of technical discussions, orientation, observation of projects or equipment, training, subcontract service Work, including delivery of Supplies, or for courtesy purposes. The term "access" also includes officially sponsored attendance at a Government or Company event off-site from Government/Company facility but does not include off-site events and activities open to general public. Subcontractors should be aware required forms and documents necessary for approval of visits by Foreign Nationals should be submitted to Procurement Representative at least four (4) to six (6) weeks prior to the visit. Forms can be obtained from Procurement Representative.

C. In addition, Subcontractor shall obtain the approval of Procurement Representative, in writing, electronically, prior to the employment of, or participation by, any Foreign National or Dual Citizen in the performance of Work under Subcontract or any Lower-tier Subcontract at off-site locations.

D. In the performance of off-site Work, Foreign Nationals only incidentally involved with a Company Subcontract, and who have no knowledge of their activities are associated with Company Subcontract Work, are exempt from above.

E. If the statement of Work is accompanied by an approved Exception from Foreign National Information Requirements form, Subcontract does not require Subcontractor to provide foreign national information which would otherwise be required.

F. In performance of Work, Country of Risk foreign nationals/dual citizens may be restricted from accessing technology, information, or certain areas.

51.0 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 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.

52.0 PASSAGE OF TITLE AND LIENS

A. Title to Supplies shall pass to Government at the place of delivery to Company. If purchased F.O.B. shipping point, delivery to the carrier shall be considered delivery to Company.

B. Subcontractor agrees to furnish Work free and clear of all liens, claims, and encumbrances. In the event a lien of any nature at any time, be filed against Work or Subcontractor or a Subcontractor facility by any person, firm, or corporation which has supplied equipment, Supplies, Services or data, Subcontractor agrees promptly, on demand of Company and at Subcontractor's expense, to take all action necessary to cause any such lien to be released or discharged therefrom. Subcontractor agrees to hold Company harmless from all liens, claims, or demands in connection with Work.

C. Except as otherwise provided in Subcontract,
   (1) Subcontractor shall be responsible for the loss or destruction of, or damage to, Supplies until delivered at the designated delivery point, regardless of the point of inspection;
   (2) After delivery to Company at the designated point and prior to acceptance or rejection by Company, Subcontractor shall be responsible for the loss or destruction of or damage to Supplies unless such loss, destruction, or damage results from negligence of the officers, agents, or employees of Company or Government acting within the scope of their employment; and
   (3) Subcontractor shall bear all risks as to rejected Supplies after rejection.

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

B. Subcontractor shall limit the amount of packaging Supplies needed for reasonable protection of Supplies during shipment. Subcontractor shall utilize environmentally favorable (i.e., biodegradable, recyclable, etc.) Supplies whenever 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 the seller. Radiological and nuclear subcontract numbers will begin with "RAD" and "NUC" respectively all shipments to Company having a Subcontract number containing 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 items. If Subcontract is for radiological or nuclear material, confirm with Procurement Representative an understanding of the above requirements before shipment.

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

F. The Packing list must describe quantities and material 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 Supplies with the same Subcontract number. Packing lists must not include multiple Subcontract numbers for Supplies shipped.

54.0 RECEIVING INSTRUCTIONS

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

The Government
c/o Savannah River Nuclear Solutions, LC

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 Supplies being returned to Subcontractor.

D. Documentation submittals as specified in Subcontract must be submitted in PDF format to QA_ReceiptInspection@srs.gov.

55.0 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 any specific item, Subcontractor must provide documentation of compliance with the shelf-life requirement in the Order and ship with the Supplies.

56.0 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/the Company_general_provisions.htm***, or a copy can be provided by the Procurement Representative on request.

57.0 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 Subcontract 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 Government authorized activities.

B. Subcontractor shall ensure matter identified as UCNI is protected in accordance with the instructions contained in DOE Subcontract 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.

C. Subcontractor shall implement all recommended requirements contained in latest 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.

D. Material or data containing UCNI shall be disposed of in a manner as described DOE Subcontract 471.1B. At a minimum, UCNI matter must be destroyed by using strip cut shredders resulting in Articles of no more than ¼-inch-wide and 2-inch-long strips. Documents containing UCNI may also be disposed of in the same manner authorized 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 the Subcontract Technical Representative (STR) for disposition, with the prior approval of the STR.

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

F. If Work under Subcontract results in the generation of unclassified documents containing 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.

G. 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.

H. 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.

58.0 SCIENTIFIC AND TECHNICAL INFORMATION

A. Written electronic submissions of technical reports will consist of two virus-free copies readable in the following formats:
   (1) Text will be submitted in native software (compatible with the suite of document creation software currently used at SRS) (fonts identified) or in RTF (rich text format).
   (2) Embedded objects and files linked to a document must be supplied as well, as follows:
      a. Raster images (for example, photographs) will be submitted as TIFF or EPS @ resolution>100 dpi.
      b. Vector art (for example, line art) will be submitted as EPS images.
      c. Data-driven displays (e.g., spreadsheet charts) must be accompanied by data set used to generate them.

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

B. Subcontractor shall comply with requirements established by the SR Counterintelligence Officer. SR Counterintelligence Officer will be responsible for conducting defensive Counterintelligence briefings and debriefings of Contractor 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. The contractor shall coordinate Counterintelligence Awareness training activities with the SR Counterintelligence Officer. The Subcontractor shall immediately report targeting, suspicious activity and other Counterintelligence concerns to the SR Counterintelligence Officer; and provide assistance to other elements of the U.S. Intelligence Community as stated in the aforementioned Executive Subcontract, DOE Counterintelligence Subcontract, and other pertinent national and Departmental Counterintelligence requirements.

60.0 NON-PROLIFERATION

If any item(s) provided under Subcontract are foreign made and will require importation into the United States to fulfill the requirements under Subcontract, Subcontractor represents the delivery of such items will not violate any non-proliferation laws, rules or regulations of the country or countries from which the materials are to be exported.

61.0 CONTROLLED UNCLASSIFIED INFORMATION

The following provisions shall be applicable if Subcontract scope includes, exhibits, necessitates, or requires the transmission of documentation with a Controlled Unclassified Information (CUI) marking:

A. Subcontractors shall ensure access to CUI is provided to only those individuals who are authorized for handling, routing, or special access. All authorized individuals shall take DOE mandatory CUI Training CUI-100DE. Subcontractor may provide access to material or data containing CUI utilized in the performance of Subcontract only to Subcontractor employees who are citizens of the United States and possess a need-to-know CUI to perform official duties or other Government authorized activities. Such access shall be in accordance with applicable laws, regulations, or government-wide policies (LRGWP) pursuant to Executive Order 13556, 32 CFR Part 2002, the CUI Registry, and DOE O 471.7.

B. Subcontractor shall ensure matters identified as CUI is protected in accordance with the instructions contained in DOE Order 471.7. Any material or data containing CUI, 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.

Subcontractor shall implement all recommended requirements contained in latest 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 CUI shall be disposed of in a manner as described in DOE Order 471.7. At a minimum, destruction of CUI, including paper copy or stored in any electronic form/ format (e.g., removable media, backup systems, cloud), must be accomplished according to a National Archives and Records Administration (NARA) approved records schedule, and if determined to be a temporary record, should be disposed of in a manner that makes it unreadable, indecipherable, and irrecoverable. When CUI Specified information is to be destroyed and the applicable LRGWP specifies destruction requirements, the LRGWP must be followed.
   (1) Electronic media must be destroyed in accordance with NIST SP 800-53, Security and Privacy Controls for Federal Information Systems and Organizations, or successor standard and NIST SP 800-88, or successor standard. It may also be destroyed through any method of destruction approved for Classified National Security Information (32 CFR 2001.47 or any implementing or successor guidance).
   (2) For paper destruction, one of two methods must be used: single-step paper destruction or multi-step paper destruction methods.
   (3) Documents containing CUI may also be disposed of in the same manner authorized for Subcontractor disposition of other classified material or data. If the above disposal methods are not available to Subcontractor, Subcontractor may return the CUI matter to the STR for disposition, with the prior approval of the STR.

D. Misuse or mishandling of CUI is subject to penalties established in applicable LRGWP. Subcontractor shall report any non-compliance with handling requirements to the disseminating office using methods approved by the Senior Agency Official (SAO) for CUI.

If Subcontract requires Subcontractor to receive or otherwise transmit CUI, Subcontractor will be required to meet the "Subcontractor CUI Requirements" listed on Company website: SRS - SRNS General Provisions and Related Documents.

E. If Work under Subcontract results in the generation of unclassified documents containing CUI, Subcontractor shall have enough trained CUI 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 CUI. Subcontractor Reviewing Officials shall apply or authorize the application of CUI markings to any unclassified matter containing CUI, in accordance with the instructions contained in DOE Manual 471.7, the CUI Registry, and other applicable LRWGP.

F. Requirements of this article, including this paragraph, shall be flowed down to Lower-Tier Subcontract(s).

62.0 SUPPLEMENTAL DEFINITIONS FOR FAR AND DEAR CLAUSES INCORPORATED BY REFERENCE

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

B. "Contractor" means the party to whom Subcontractor Order 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 the 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 or Services required for performance of Subcontract.

63.0 FAR AND DEAR CLAUSES BY REFERENCE

Subcontract incorporates the Clauses identified below by reference, with the same force and effect as if they were given in full text. These clauses apply as if they were incorporated in their entirety.

Clauses incorporated regardless of Subcontract Price

52.203-17 Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights (APR 2014)
52.204-9 Personal Identity Verification of Contractor Personnel (NOV 2006)
52.204-21 Basic Safeguarding of Covered Contractor Information Systems (NOV 2021)
52.208-8 Required Sources for Helium and Helium Usage Data (APR 2002)
52.209-4 First Article Approval – Testing (SEP 1989)
52.212-5 (Alternate II) Contract Terms and Conditions Required to Implement Statutes or Executive Orders— Commercial Items (MAR 2009)
52.214-26 (Alternate I) Audit and Records— Sealed Bidding (MAR 2009)
52.215-10 Price Reduction for Defective Cost or Pricing Data (OCT 1997)
52.215-11 Price Reduction for Defective Cost or Pricing Data—Modifications (OCT 1997)
52.215-15 Pension Adjustments and Asset Reversions (DEC 1998)
52.215-16 Facilities Capital Cost of Money (OCT 1997)
52.215-17 Waiver of Facilities Capital Cost of Money (OCT 1997)
52.215-18 Reversion or Adjustment of Plans for Post Retirement Benefits (PRB) Other Than Pensions (JUL 2005)
52.222-1 Notice of Labor Disputes (FEB 1997)
52.222-3 Convict Labor (JUN 2003)
52.222-26 Equal Opportunity (APR 2002)
52.222-41 Service Contract Act Of 1965 as Amended (NOV 2007)
52.222-42 Statement of Equivalent Rates for Federal Hires (MAY 1989)
52.222-62 Paid Sick Leave Under Executive Order 13706 (JAN 2022)
52.223-15 Energy Efficiency in Energy-Consuming Products
52.223-16 IEEE 1680 Standard for The Environmental Assessment of Personal Computer Products
52.223-17 Affirmative Procurement Of EPA-Designated Items in Service and Construction Contracts
52.224-1 Privacy Act Notification (APR 1984)
52.224-2 Privacy Act (APR 1984)
52.225-13 Restrictions on Certain Foreign Purchases (FEB 2021)
52.227-10 Filing of Patent Applications-Classified Subject Matter (APR 1984)
52.227-14 Rights in Data – General (JUN 1987) As Modified Pursuant to DEAR 927.409(A) (1)
52.227-14 Rights in Data - Alternate II (JUN 1987) As Modified Pursuant to DEAR 927.409(A) (1)
52.227-14 Rights in Data - Alternate III (JUN 1987) As Modified Pursuant to DEAR 927.409(A) (1)
52.227-16 Additional Data Requirements (JUN 1987)
52.229-10 State Of New Mexico Gross Receipts and Compensating Tax (APR 2003) As Modified by DEAR 970.2904-1
52.230-2 Cost Accounting Standards (Cas) (APR 1998)
52.230-3 Disclosure and Consistency of Cost Accounting Practices (APR 1998)
52.230-5 Cost Accounting Standards - Educational Institution (APR 1998) (Except Paragraph (B) Which Is Deleted)
52.230-6 Administration of Cost Accounting Standards (APR 2005)
52.232-17 Interest (JUN 1996)
52.242-1 Notice of Intent to Disallow Costs (APR 1984)
52.242-15 Stop Work Subcontract (AUG 1989)
52.244-6 Subcontracts for Commercial Items (FEB 2006)
52.245-1 Government Property (SEP 2021)
52.246-9 Inspection of Research and Development (Short Form) (APR 1984)
52.247-63 Preference for U.S.-Flag Air Carriers (JUN 2003)
52.249-14 Excusable Delays (APR 1984)
952.203-70 Whistleblower Protection for Contractor Employees (DEC 2000)
952.204-2 Security Requirements (JUN 2009)
952.204-70 Classification/ Declassification (SEP 1997)

952.204-71 Sensitive Foreign Nations Controls (MAR 2011)
952.209-72 Organizational Conflicts of Interest (Alt I) (JUN 1997)
952.217-70 Acquisition of Real Property (APR 1984)
952.227-11 Patent Rights - Retention by The Contractor (Short Form) (FEB 1995)
952.227-13 Patent Rights - Acquisition by The Government (SEP 1997)
952.235-71 Research Misconduct (JUL 2005)
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)
970.5208-1 Printing (DEC 2000)
970.5227-1 Rights in Data – Facilities
970.5223-1 Integration of Environment, Safety and Health into Work Planning and Execution (DEC 2000)
970.5223-6 Executive Order 13423, Strengthening Federal Environmental, Energy, And Transportation Management (OCT 2010)
970.5232-3 Accounts, Records and Inspections (DEC 2000) Deviation Acquisition Letter 2005-04, 11/02/2004 (Paragraphs (A) Through (H) Only)
970.5245-1 Property (DEC 2000)

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)

Clauses incorporated if the price of Subcontract exceeds $2,500

52.222-54 Employment Eligibility Verification (JAN 2009)

Clauses incorporated if the price of Subcontract exceeds $10,000

52.222-21 Prohibition of Segregated Facilities (FEB 1999)
52.222-36 Affirmative Action for Workers with Disabilities (JUN 1998)
52.227-3 Patent Indemnity (APR 1984)

Clauses incorporated if the price of Subcontract exceeds $25,000

52.209-6 Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, Or Proposed for Debarment (JAN 2005)
52.222-35 Equal Opportunity for Special Disabled Veterans, Veterans of The Vietnam Era, And Other Eligible Veterans (DEC 2001)
52.222-37 Employment Reports on Special Disabled Veterans, Veterans of The Vietnam Era, And Other Eligible Veterans (DEC 2001)

Clauses incorporated if the price of Subcontract exceeds $100,000

52.203-6 Restriction on Contractor Sales to The Government (JUL 1995)
52.203-7 Anti-Kickback Procedures (JUL 1995)
52.203-12 Limitation on Payments to Influence Certain Federal Transactions (SEP 2005)
52.215-14 Integrity of Unit Prices (OCT 1997)
52.219-8 Utilization of Small Business Concerns (MAY 2004)
52.222-2 Payment for Overtime Premiums (JUL 1990)
52.222-4 Contract Work Hours and Safety Standards Act Overtime Compensation (JUL 2005)
52.222-39 Notification of Employee Rights Concerning Payment of Union Dues or Fees (DEC 2004)
52.223-14 Toxic Chemical Release Reporting (AUG 2003)

52.227-1 Authorization and Consent (JUL 1995)

52.247-64 Preference for Privately-Owned U.S. Flag Commercial Vessels (FEB 2006)

952.223-78 Sustainable Acquisition Program (OCT 2010)

970.5227-5 Notice and Assistance Regarding Patent and Copyright Infringement (AUG 2002)

Clauses incorporated if the price of Subcontract exceeds $500,000

52.219-9 Small Business Subcontracting Plan (JUL 2005)

52.219-9 Small Business Subcontracting Plan Alternate II (OCT 2001)

52.219-9 Small Business Subcontracting Plan Alternate IV (Jan 2019) (Deviation 2-19-O0005) (JAN 2019)

952.226.74 Displaced Employee Hiring Preference (JUN 1997)

970.5226-2 Workforce Restructuring Under Section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (DEC 2000)

64.0 FAR AND DEAR CLAUSES INCORPORATED IN FULL TEXT

CONFIDENTIALITY OF INFORMATION

A. To the extent Work under this Contract requires Contractor 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 Contractor, is in public domain;
   (2) Information which is published after receipt thereof by Contractor or otherwise becomes part of the public domain through no fault of Contractor;
   (3) Information which 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 Contractor can demonstrate was received by it from a third party did not require Contractor to hold it in confidence.

B. 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 Contractor's organization directly concerned with the performance of the Contract.

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

D. 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. Article 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).

I.68 FAR 52.215-12 SUBCONTRACTOR CERTIFIED COST OR PRICING DATA (DEVIATION Jan 2026) ALTERNATE I-DEVIATION (DEVIATION Jan 2026)

A. Unless an exception under FAR 15.403-2 applies, the Contractor shall require the subcontractor to submit certified cost or pricing data (actually or by specific identification in writing), in accordance with FAR 15.408-2, Table 15-1 (to include any information reasonably required to explain the subcontractor's estimating process such as the judgmental factors applied and the mathematical or other methods used in the estimate, including those used in projecting from known data, and the nature and amount of any contingencies included in the price) before awarding any subcontract expected to exceed $2 million under any prime contract awarded before July 1, 2018.

B. The Contractor shall require the subcontractor to certify in substantially the form prescribed in FAR 15.403-4 that, to the best of its knowledge and belief, the data submitted under paragraph (a) of this clause were accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract modification.

C. In each subcontract that, when entered into, exceeds the threshold for submission of certified cost or pricing data in FAR 15.403-3(a), the Contractor shall insert either—
   (1) The substance of this clause, including this paragraph (c), if paragraph (a) of this clause requires submission of certified cost or pricing data for the subcontract; or
   (2) The substance of the clause at FAR 52.215-13, Subcontractor Certified Cost or Pricing Data—Modifications.

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 Procurement Representative in writing of any purchase of foreign Supplies (including, without limitation, raw materials, components, and intermediate assemblies) in excess of $10,000 which 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) 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 Procurement Representative, diverted to nongovernmental use.

F. The Government will execute any required duty-free entry certificates for Supplies to be accorded duty-free entry and will assist Company and Subcontractor 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 receiving notification from the Procurement Representative regarding duty-free entry for foreign Supplies or, for duty-free Supplies identified in Subcontract, upon Subcontractor’s award 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.