**GENERAL PROVISIONS**
**Rev. 4, July 23, 2026**

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## PREAMBLE

This Subcontract embodies the entire agreement between Subcontractor and Central Plateau Cleanup Company (Buyer) and supersedes all other writings. The parties shall not be bound by or be liable for any statement, representation, promise, or inducement or understanding not set forth herein.

## 1.0 DEFINITIONS

For the purposes of this Subcontract the following definitions shall apply unless specifically delineated otherwise in the body of the Subcontract.

1. The term **Buyer's Technical Representative (BTR)** refers to the person designated in the Subcontract who is responsible for monitoring and providing technical guidance for this Subcontract. The BTR does not possess any explicit, apparent or implied authority to modify the Contract.

2. The term "**Buyer**" refers directly to the Central Plateau Cleanup Company (CPCCo) and its authorized representatives acting in their professional capacities under Prime Contract No. 89303320DEM000030. CPCCo is the company or organization issuing this Subcontract with the Subcontractor.

3. **Contract Specialist** refers to the individual responsible for the issuance and administration of this contractual document at CPCCo. Any modification to the Subcontract or Subcontract terms must be performed by the Contract Specialist.

4. **Government** shall mean the United States of America and includes the U.S. Department of Energy (DOE) or any duly authorized representative thereof, including the Contracting Officer.

5. **Head of 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.

6. **Services** shall mean labor, direction of labor, production of technical information, consulting services or any other services furnished by Subcontractor and its lower-tier subcontractors under this Subcontract.

7. **Site** refers to the Hanford Nuclear reservation north of Richland, WA and all Department of Energy or Buyer owned, leased or controlled facilities in Richland, WA.

8. **Site Services Contractor (SSC)** refers to the DOE designated contractor responsible for providing mission support services, facilities, and infrastructure. This includes security, utilities, training, roadway maintenance and other services.

9. **Subcontract** shall mean this Subcontract between CPCCo and Subcontractor; also includes purchase order, task orders, releases, and other agreements.

10. **Subcontractor** shall mean any subcontractor or supplier of any tier, which supplies goods and/or services to Subcontractor in connection with Subcontractor's obligation under this Subcontract.

11. **Supplies** shall mean equipment, components, parts and materials to be provided by Subcontractor and its lower-tier subcontractors pursuant to this Subcontract.

12. **Vendor data** shall mean all information, data and documentation to be provided by Subcontractor and its lower-tier subcontractors under this Subcontract.

13. **Work** shall mean supplies, services, and vendor data provided by Subcontractor and its lower-tier subcontractors and all work performed with respect thereto pursuant to this Subcontract.

14. **Prime Contract** shall mean Buyer's contract with the Government, DOE Prime Contract No. 89303320DEM000030,

## 2.0 ORDER OF PRECEDENCE AND FLOWDOWN OF OBLIGATIONS

A. In the event of a discrepancy among any of the Subcontract terms, conditions, clauses, provisions, written direction and instructions, and documents (collectively, the 'Subcontract'), the following order of precedence shall govern resolution: (1) Buyer's written Subcontract modifications, direction, and instructions; (2) Written Subcontract, including all clauses incorporated by reference; (3) Technical instructions, including the Statement of Work (SOW), (a) engineering drawings, (b) exhibits and attachments, and (c) applicable standards; (4) Special Provisions; (5) General Provisions; and (6) other documents identified as being part of the Subcontract.

B. Nothing recited above shall be construed as superseding or deleting any applicable statute, rule, ordinance, or regulation (collectively, the 'laws'). In the event of a conflict with laws, the specific conflicting term of the Subcontract shall be considered null and without effect, and laws shall govern. All remaining terms unaffected by said laws should continue in force.

C. Subcontractor binds itself to Buyer under this Subcontract in the same manner as Buyer is bound to DOE under the Prime Contract for the purpose of effectuating flow down of obligations and rights under the Prime Contract, including provisions and clauses of the Federal Acquisition Regulation and/or supplemental agency regulations incorporated therein, to the extent necessary to give full effect to the same and preserve the rights of the Government under the Prime Contract. Subcontractor agrees that it shall so bind all lower-tier subcontractors. Subcontractor acknowledges that Buyer has made available all Prime Contract and Subcontract documents. Subcontractor shall make available to all lower-tier subcontractors all Subcontract and Prime Contract documents. In the event of a conflict between a provision or clause of this Subcontract and an obligation required to be flowed down to Subcontractor under the Prime Contract or other applicable law, the flowed-down obligation shall take precedence to the extent necessary to give full effect to the same and preserve the rights of the parties to the Prime Contract.

D. Subcontractor assumes toward Buyer all obligations and responsibilities which Buyer, under the Prime Contract, assumes toward the Government, insofar as applicable to this Subcontract. Buyer shall have the benefit of all contractual rights, remedies, and redress against Subcontractor that the Government, under the Prime Contract, has against the Buyer, insofar as applicable to this Subcontract.

## 3.0 WORK QUALITY STANDARDS

### 3.1 DOE-H-2053 WORKER SAFETY AND HEALTH PROGRAM IN ACCORDANCE WITH 10 CFR 851 (OCT 2014) (AMENDED)

A. Subcontractor shall comply with all applicable safety and health requirements set forth in 10 CFR 851, Worker Safety and Health Program, and any applicable DOE Directives incorporated into the Prime Contract. Subcontractor shall develop, implement, and maintain a written Worker Safety and Health Program (WSHP) which shall describe Subcontractor's method for complying with and implementing the applicable requirements of 10 CFR 851. The WSHP shall be submitted to and approved by DOE. The approved WSHP must be implemented prior to the start of work. In performance of the work, the Subcontractor shall provide a safe and healthful workplace and must comply with its approved WSHP and all applicable federal and state environment, health, and safety regulations.

B. Subcontractor shall take all reasonable precautions to protect the environment, health, and safety of its employees, Buyer personnel, DOE personnel, and members of the public. When more than one Subcontractor or DOE contractor works in a shared workplace, Subcontractor shall coordinate with the other Subcontractors and DOE contractors to ensure roles, responsibilities, and worker safety and health provisions are clearly delineated. Subcontractor shall participate in all emergency response drills and exercises related to Subcontractor's work, and interface with other DOE contractors and subcontractors.

C. Subcontractor shall take all necessary and reasonable steps to minimize the impact of its work on DOE functions and employees, and immediately report all job-related injuries and/or illnesses which occur in any DOE facility to Buyer and the Contracting Officer Representative (COR). Upon request, the Subcontractor shall provide to Buyer and/or the COR a copy of occupational safety and health self-assessments and/or inspections of work sites for job hazards for work performed at DOE facilities.

D. Buyer may notify Subcontractor, in writing, of any noncompliance with the terms of this clause, and the corrective action(s) to be taken. After receipt of such notice, Subcontractor shall immediately take such corrective action(s).

E. In the event that Subcontractor fails to comply with the terms and conditions of this clause, Buyer may, without prejudice to any other legal or contractual rights, issue a stop-work order halting all or any part of the work. Thereafter, Buyer may, at its discretion, cancel the stop-work order so that the performance of work may be resumed. Subcontractor shall not be entitled to an equitable adjustment of the Subcontract amount or extension of the performance schedule due to any stop-work order issued under this clause.

F. In the event of a conflict between the requirements of this clause and 10 CFR 851, the requirements of 10 CFR 851 shall take precedence.

Subcontractor shall flow down the requirements of this clause to all lower-tier subcontracts at any tier.

## 3.2 USED, RECONDITIONED OR RECYCLED PRODUCTS AND EQUIPMENT

Unless specifically authorized in the Subcontract, substitution of used, reconditioned, or recycled products or equipment requires prior written approval of Buyer and the Government Contracting Officer

## 3.3 INSPECTION, TESTING AND QUALITY CONTROL

A. Subcontractor shall inspect all materials, supplies, and equipment which are to be incorporated into the Work. In addition, Subcontractor shall conduct a continuous program of quality control for all Work. When requested by Buyer, Subcontractor's quality control program and inspection procedures for the foregoing shall be submitted in writing to Buyer for review and approval, in sufficient detail to delineate those items to be inspected and the manner in which they are to be inspected, and shall adequately describe all quality control activities contemplated, including provision for adequate documentation of Subcontractor's performance of such quality control and inspection.

B. Subcontractor shall, during the course of performance of the Work, without additional compensation, make or cause to be made all tests required by this Subcontract. Buyer may require additional inspections and tests. Subcontractor shall furnish Buyer with satisfactory documentation of the results of all inspections and tests. Buyer shall be given not less than five (5) working days' notice of any tests to be made by Subcontractor or Subcontractor's lower-tier subcontractors in order that Buyer may witness any such tests.

C. Buyer and the Government and their representatives, and others as may be required by applicable laws, ordinances, and regulations, shall have the right at all reasonable times to inspect the Work and all material, supplies and equipment for the Work. Subcontractor shall provide, or cause to be provided access and sufficient, safe, and proper facilities for such inspections. Neither the failure to make such inspection nor to discover defective workmanship, materials, or equipment, nor approval of or payment to Subcontractor for such work, materials or equipment shall prejudice the rights of Buyer or the Government.

D. If Subcontractor covers any portion of the Work prior to any inspection or test provided for in the specifications, inspection schedule, or as previously requested by Buyer, the cost of uncovering and covering the Work to allow for such inspection or test shall be borne by Subcontractor. Buyer may order reexamination of any Work. In the event of such reexamination, if any material, equipment, or any part of the Work is determined by Buyer to be defective, Subcontractor shall not be reimbursed for uncovering, repair, or corrective and restoration costs. If such Work is found to be in accordance with the Subcontract requirements upon such reexamination, Buyer will pay Subcontractor the cost of uncovering and restoration.

E. Rejection by Buyer of any or all parts of defective Work for failure to conform to this Subcontract shall be final and binding. Such rejected Work shall be promptly corrected or replaced by Subcontractor at Subcontractor's expense. If Subcontractor fails to commence and diligently continue correction or replacement of such rejected Work immediately after receipt of written notice from Buyer to correct or replace the rejected Work, Buyer may at its option remove and replace the rejected Work, and Subcontractor shall promptly reimburse Buyer for the costs of such removal and replacement of defective Work.

## 3.4 CONDITIONS AND RISKS OF WORK

Subcontractor represents that it has carefully examined the drawings and specifications for the Work and has fully acquainted itself with all other conditions relevant to the Work and its surroundings. Subcontractor assumes the risk of such conditions and will, regardless of such conditions, the expense, difficulty of performing the Work, , fully complete the Work for the stated Subcontract price without further recourse to Buyer. Information about the site of the Work and local conditions at such site furnished by Buyer in specifications, drawings or otherwise is not guaranteed by Buyer and is furnished only for the convenience of Subcontractor.

## 3.5 SHIPMENT SAFETY

Subcontractor shall ensure that all shipments made to the Hanford site in performance of this Subcontract are packaged and loaded for safe handling and unloading. Any person delivering to the Hanford site or to a Buyer-controlled facility should wear appropriate protective equipment and may be required by Buyer to wear specific personal protective equipment (hand, eye, head or foot protection). Deliveries to the Hanford site or Buyer-controlled facility may be refused and/or unloading of the deliveries stopped by any Buyer employee for unsafe conditions or practices.

## 3.6 SUBCONTRACTS AND PURCHASE ORDERS

A. Subcontractor shall not subcontract any on-site work and/or any significant aspects of off-site Subcontract performance without first identifying the proposed subcontractor and subcontract scope to Buyer and without advance written approval of the Subcontract scope by the Buyer. Subcontractor shall furnish Buyer a copy of the proposed Subcontract demonstrating that that all appropriate flow-down provisions and requirements are included and will be met. Buyer reserves the right to reject any proposed subcontract or subcontractor as incomplete or unsuitable. Failure of Subcontractor to notify Buyer in advance of subcontracting and obtaining advance written approval may be considered a material breach of these Subcontract terms.

B. Subcontractor is responsible for Subcontract performance and performance of its lower-tier subcontractors regardless of having notified Buyer of the intent to subcontract. On request of Buyer, any subcontractor not performing in accordance with the terms of this Subcontract shall be replaced at no additional cost to Buyer and shall not be employed again on the work.

C. Subcontractor shall require and include a provision in every subcontract at any tier authorizing assignment of such subcontract to Buyer or the Government without requiring consent from such subcontractor or supplier.

D. As used in paragraph A above, the term "subcontract" shall also include purchase orders and rental agreements for materials or equipment, and the term "subcontractor" shall also include vendors or suppliers of such material or equipment when significant to subcontract performance.

E. If Subcontractor is a small business, Subcontractor shall perform at least fifty percent (50%) of the total cost of the work to be performed under their Subcontract with its own organization, which shall not include any affiliate of Subcontractor, unless approved and authorized in advance by Buyer in writing. For the purpose of this Clause, affiliation occurs when a business concern is controlled by or has the power to control another or when a third party has the power to control both.

F. Subcontractor shall notify Buyer in writing whenever the amount of lower-tier subcontracted effort exceeds or is anticipated to exceed seventy percent (70%) of the total cost of the work to be performed under this Subcontract. Notification to Buyer shall include the revised cost of the Subcontract effort and shall include verification that there is added value as related to the work to be performed by the lower-tier subcontractor. All lower-tier subcontractors should ensure the amount of lower-tier subcontracted work is less than seventy percent (70%) of the total cost of the work to be performed. Lower-tier work exceeding the seventy percent (70%) figure will be required to be reported and authorized by Buyer and, if applicable, DOE.

## 3.7 STOP WORK

A. The Buyer may, at any time, by written order to the Subcontractor, require the Subcontractor to stop all, or any part, of the work called for by this subcontract for a period of ninety (90) days after the order is delivered to the Subcontractor, and for any further period to which the parties may agree. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Subcontractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of 90 days after a stop-work is delivered to the Subcontractor, or within any extension of that period to which the parties shall have agreed, the Buyer shall either—

1. Cancel the stop-work order; or
2. Terminate the work covered by the order as provided in the Default, or the Termination for Convenience of the Government, clause of this contract.

B. If a stop-work order issued under this clause is canceled or the period of the order or any extension thereof expires, the Subcontractor shall resume work. The Buyer shall make an equitable adjustment in the delivery schedule or subcontract price, or both, and the subcontract shall be modified, in writing, accordingly, if—

1. The stop-work order results in an increase in the time required for, or in the Subcontractor's cost properly allocable to, the performance of any part of this subcontract; and
2. The Subcontractor asserts its right to the adjustment within thirty (30) days after the end of the period of work stoppage; provided that, if the Buyer decides the facts justify the action, the Buyer may receive and act upon the claim submitted at any time before final payment under this subcontract.

C. If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the Government, the Buyer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.

D. If a stop-work order is not canceled and the work covered by the order is terminated for default, the Buyer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

## 3.8 DOE-H-2021 WORK STOPPAGE AND SHUTDOWN AUTHORIZATION (OCT 2014) (*AMENDED*)

A. Imminent Health and Safety Hazard is a given condition or situation, which if not immediately corrected, could result in serious injury or death, including exposure to radiation and toxic/hazardous chemicals. Imminent Danger in relation to the facility safety envelope is a condition, situation, or proposed activity which, if not terminated, could cause, prevent mitigation of, or seriously increase the risk of (1) nuclear criticality, (2) radiation exposure, (3) fire/explosion, and/or (4) toxic hazardous chemical exposure.

B. ***Work Stoppage***. In the event of an Imminent Health and Safety Hazard, identified by facility line management or operators or facility health and safety personnel overseeing facility operations, or other individuals, the individual or group identifying the imminent hazard situation shall immediately take actions to eliminate or mitigate the hazard (e.g., directing the operator/implementer of the activity or process causing the imminent hazard to stop work, initiating emergency response actions or other actions) to protect the health and safety of the workers and the public, and to protect DOE facilities and the environment. In the event an Imminent Health and Safety Hazard is identified, the individual or group identifying the hazard should coordinate with an appropriate Subcontractor official, who will direct the shutdown or other actions, as required.

1. Such mitigating action(s) should subsequently be coordinated with DOE and Buyer management. The suspension or stop-work order should be promptly confirmed in writing by Buyer's Representatives.

***C. Shutdown.*** In the event of an imminent danger in relation to the facility safety envelope or a non-Imminent Health and Safety Hazard identified by facility line managers, facility operators, health and safety personnel overseeing facility operations, or other individuals, the individual or group identifying the potential health and safety hazard may recommend facility shutdown in addition to any immediate actions needed to mitigate the situation. However, the recommendation must be coordinated with Subcontractor management, Buyer, and the DOE Site Manager. Any written direction to suspend operations shall be issued by Buyer's Representatives, pursuant to the stop work provisions of this Subcontract.

D. ***Facility Representatives.*** DOE personnel designated as Facility Representatives provide the technical/safety oversight of operations. The Facility Representative has the authority to "stop work," which applies to the shutdown of an entire plant, activity, or job. This stop-work authority will be used for an operation of a facility which is performing work the Facility Representative believes:

1. Poses an imminent danger to health and safety of workers or the public if allowed to continue;
2. Could adversely affect the safe operation of, or could cause serious damage to the facility if allowed to continue; or
3. Could result in the release of radiological or chemical hazards to the environment in excess of regulatory limits.

## 3.9 SUSPENSION OF WORK

A. The Buyer may order the Subcontractor, in writing, to suspend, delay, or interrupt all or any part of the work of this subcontract for the period of time that the Buyer determines appropriate for the convenience of the Buyer.

B. If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed, or interrupted (1) by an act of the Buyer in the administration of this subcontract, or (2) by the Buyer's failure to act within the time specified in this subcontract (or within a reasonable time if not specified), an adjustment shall be made for any increase in the cost of performance of this subcontract (excluding profit) necessarily caused by the unreasonable suspension, delay, or interruption, and the subcontract modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Subcontractor, or for which an equitable adjustment is provided for or excluded under any other term or condition of this subcontract.

C. A claim under this clause shall not be allowed—

1. For any costs incurred more than twenty (20) days before the Subcontractor shall have notified the Buyer in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from a suspension order); and
2. Unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the suspension, delay, or interruption, but not later than the date of final payment under the subcontract.

## 3.10 COUNTERFEIT FASTENERS AND COMPONENTS

Buyer reserves the right to question and/or require Subcontractor to certify and/or furnish proof regarding the quality, authenticity, application, or fitness for use of the items supplied by Subcontractor under this Subcontract. Any items furnished as part of this Subcontract and which have been previously found by Buyer, the Department of Energy, or the Department of Commerce to be counterfeit or which are listed by the Department of Commerce to be suspect will be deemed to be subject to the above requirement of further proof or certification. Buyer also reserves the right to question the related circumstances and make available a report of any such review to the Government. All costs associated with conducting inquiries into and reporting on fasteners and components determined to be counterfeit shall be recovered by Buyer from Subcontractor.

Suspect/counterfeit items pose potential threats to the safety of workers, the public and the environment, and may have a detrimental effect on security and operations at nuclear facilities. Therefore, any suspected counterfeit item identified by the Buyer or DOE will be retained by the Buyer. Buyer will not return any suspected/counterfeit items to the Subcontractor. In addition, the Buyer may notify the DOE Inspector General of the supplied suspect/counterfeit items for any further investigation deemed appropriate.

## 3.11 DELIVERABLES AND CORRESPONDENCE

Unless otherwise specified, all correspondence, reports and data deliverables provided to Buyer shall be legible, written in clear and concise English, identified with the date and/or unique identifier and if applicable the Subcontract number.

## 3.12 HAZARDOUS SUBSTANCE CONTROL

Subcontractor shall not, under any circumstances, cause or permit, in connection with the Work to be performed hereunder, the discharge, emission or release of any hazardous substance and/or waste, pollutant, contaminant or other substance in violation of any applicable laws, rules or regulations which are now or hereafter promulgated by any governmental authorities having jurisdiction over the Work. Subcontractor shall comply with all legal regulatory requirements applicable to the Work performed under this Subcontract and shall be responsible for compliance with all hazardous waste, health and safety, notice, training, and environmental protection laws, rules, regulations, and requirements. "Hazardous waste" includes all substances which are or may be identified as such in 40 CFR, Part 261 or other applicable laws or regulations. Subcontractor shall submit to Buyer material safety data sheets (OSHA form 20) as required by applicable regulation. As an inducement to award of this Subcontract, Subcontractor warrants full compliance and that it will adhere to all applicable project hazardous waste procedures and if necessary, obtain or arrange for at its expense all identification numbers, permits, applications and other things required in connection with the activities under this Subcontract. Subcontractor agrees that it will not store any hazardous wastes at the jobsite for periods in excess of ninety (90) days or in violation of the applicable jobsite storage limitations imposed by law, the Government or Buyer, whichever shall be more restrictive. Subcontractor further agrees that it will not permit any accumulation in excess of the small quantity generator exclusion of 40 CFR, Part 261, or other applicable laws, as amended. Subcontractors agrees to take, at its expense all actions necessary to protect third parties, including without limitation, employees and agents of the Government and Buyer from any exposure to, or hazards of, hazardous and/or toxic wastes or substances generated or utilized in Subcontractor's operations. Subcontractor agrees to report to the appropriate governmental agencies all discharges, releases, and spills of hazardous substances and/or wastes required to be reported by law and to immediately notify Buyer of the same.

## 4.0 WARRANTY

A. Subcontractor warrants that the Work shall comply strictly with the provisions of this Subcontract and all specifications, drawings and standards referred to in this Subcontract or thereafter furnished by Buyer, and that the Work shall be first-class in every particular and free from defects in materials and workmanship and in any design or engineering furnished by Subcontractor. Subcontractor further warrants that all materials, equipment and supplies furnished by Subcontractor for the Work shall be new, merchantable, of the most suitable grade and fit for their intended purposes unless specifically provided in this Subcontract. Without limitation of any other rights or remedies of Buyer, if any defect in the Work in violation of the foregoing warranties arises within the period set forth below, Subcontractor shall, upon receipt of written notice of such defect, promptly furnish, at no cost to Buyer, design and engineering, labor, equipment and materials necessary to correct such defect and cause the Work to comply fully with the foregoing warranties.

B. Subcontractor's warranties set forth in subparagraph A shall extend for twenty-four (24) months after the date of final written acceptance of the Work by Buyer, or eighteen (18) months after the start of regular operation or use of the Work by Buyer, whichever occurs first. Any period wherein the Work is not available for use due to defects in materials, workmanship or engineering furnished by Subcontractor shall extend the warranty period by an equal period of time.

C. Design and engineering, labor, equipment and materials furnished by Subcontractor pursuant to subparagraph A to correct defects shall be warranted by Subcontractor in accordance with the warranties set forth in subparagraph A for a period of eighteen (18) months from the date of completion of the correction, or for the remainder of the warranty period set forth in subparagraph B above, whichever is longer.

D. In the event Subcontractor shall have been notified of any defects in the Work in violation of Subcontractor's foregoing warranties and shall fail to promptly, and adequately, correct such defects, Buyer will have the right to correct or to have such defects corrected for the account of Subcontractor, and Subcontractor shall promptly pay Buyer the costs incurred in correcting such defects.

E. Subcontractor shall include, at a minimum, the foregoing warranty requirements in any lower-tier Subcontracts that it places.

## 5.0 TIMING OF WORK

## 5.1 REPORTING AND COORDINATION

A. During the performance of Work, Subcontractor shall submit to Buyer periodic progress reports on the actual progress and updated schedules as may be required by this Subcontract or requested by Buyer. In the event Subcontractor's performance of the Work is not in compliance with the schedule established for such performance, Buyer may, in writing, require Subcontractor to submit its plan for schedule recovery, or specify in writing the steps to be taken to achieve compliance with such schedule, and/or exercise any other remedies under this Subcontract. Subcontractor shall thereupon take such steps as may be directed by Buyer or otherwise necessary to improve its progress without additional cost to Buyer. If within a reasonable period as determined by Buyer, Subcontractor does not improve performance to meet the currently approved schedule, Buyer may require an increase in Subcontractor's labor force, the number of shifts, additional days of work, and an increase in the amount of plant and equipment, all without additional compensation to Subcontractor. Neither such notice nor Buyer's failure to issue such notice shall relieve Subcontractor of its obligation to achieve the quality of Work and rate of progress of work required by this Subcontract. Failure of Subcontractor to comply with Buyer's instructions may be grounds for determination by Buyer that Subcontractor is not prosecuting the work with such diligence as will assure completion within the times specified and may be grounds for termination.

B. Subcontractor recognizes that Buyer, the Government, other Subcontractors, and lower-tier Subcontractors may be working concurrently at the jobsite. Subcontractor agrees to cooperate with Buyer, the Government and other Subcontractors and lower-tier subcontractors so that the project, as a whole, will progress with a minimum of delays. Buyer reserves the right to direct Subcontractor to schedule the order of performance of its Work in such manner as not to interfere with the performance of others. Subcontractor shall fully cooperate with the other subcontractors and with Buyer's employees. Buyer reserves the right to require Subcontractor to schedule the order of performance of the work to minimize interference with work of any parties involved.

C. If any part of Subcontractor's Work is dependent upon the quality and/or completeness of work performed under another Subcontract, Subcontractor shall inspect such other work and promptly report to Buyer any defects therein which render such work unsuitable for the proper execution of the Work under this Subcontract. Failure to make such inspections or to report any such defects to Buyer shall constitute Subcontractor's acceptance of such other work as suitable to receive Subcontractor's Work; provided however, that Contractor shall not be responsible for defects that could not have reasonably been detected.

## 5.2 EXCUSABLE DELAYS

If Subcontractor's performance of this Subcontract is prevented or delayed by any unforeseeable cause, existing or future, which is beyond the reasonable control of the parties and without the fault or negligence of Subcontractor, Subcontractor shall, within twenty-four (24) hours of the commencement of any such delay, give to Buyer written notice thereof and within five (5) working days of commencement of the delay, a written description of the anticipated impact of the delay on performance of the Work. Delays attributable to and within the control of Subcontractor's suppliers or subcontractors of any tier shall be deemed delays within the control of Subcontractor. Within five (5) working days after the termination of any excusable delay, Subcontractor shall file a written notice with Buyer specifying the actual duration of the delay. Failure to give any of the above notices shall be sufficient ground for denial of an extension of time. If

Buyer determines that the delay was unforeseeable, beyond the control and without the fault or negligence of Subcontractor, Buyer will determine the duration of the delay and will extend the time of performance of this Subcontract by modification accordingly. Such time extension shall be the sole remedy for the delay subject to the rights of Subcontractor and Buyer under the termination clause.

## 5.3 POSSESSION PRIOR TO COMPLETION

Buyer and/or the Government shall have the right to move into Subcontractor's working and storage areas and the right to take possession of or use any completed or partially completed part of Subcontractor's Work as Buyer or the Government deem necessary for their operations. In the event Buyer or the Government desires to exercise the foregoing right, Buyer will so notify Subcontractor in writing. Such possession or use shall not constitute acceptance of Subcontractor's Work.

## 5.4 NOTICE OF COMPLETION AND FINAL ACCEPTANCE

A. When Subcontractor deems the Work fully completed, including satisfactory completion of such inspections, tests and documentation as are specified in this Subcontract, Subcontractor shall, within ten (10) working days thereafter, give a written Notice of Completion of the Work to Buyer, specifying the Work completed and the date it was completed. Within thirty (30) calendar days after receipt of said Notice of Completion, Buyer may inspect the Work and shall either reject the Notice of Completion and specify defective or uncompleted portions of the Work or shall give Subcontractor a written Notice of Acceptance of the Work either for the purpose of final payment only, or for the purposes of final payment and final acceptance.

B. In the event Buyer rejects the Notice of Completion and specifies defective or uncompleted portions of the Work, Subcontractor shall within five (5) working days, provide for Buyer review and approval, a schedule detailing when all defects will be corrected and/or the Work will be completed and shall proceed to remedy such defective and uncompleted portions of the Work. Thereafter, Subcontractor shall again give Buyer a written Notice of Completion of the Work, specifying a new date for the completion of the Work based upon the date such defective or uncompleted portions of the Work were corrected. The foregoing procedure shall apply again and successively thereafter until Buyer has given Subcontractor written Notice of Acceptance for purposes of final payment and final acceptance.

C. Any failure by Buyer to inspect or to reject the Work or to reject Subcontractor's Notice of Completion as set forth above, shall not be deemed to be acceptance of the Work for any purpose by Buyer nor imply acceptance of, or agreement with, said Notice of Completion.

# 6.0 CHANGES

## 6.1 BUYER'S RIGHT TO ORDER CHANGES

A. The Buyer may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this Subcontract in any one or more of the following:

1. Description of services to be performed.
2. Time of performance (i.e., hours of the day, days of the week, etc.).
3. Place of performance of the services.

4. Drawings, designs, or specifications when the supplies to be furnished are to be specially manufactured for the Government in accordance with the drawings, designs, or specifications.
5. Method of shipment or packing of supplies.
6. Place of delivery.
7. Amount of Government-furnished property.

B. If any change causes an increase or decrease in any hourly rate, the ceiling price, or the time required for performance of any part of the work under this subcontract, whether or not changed by the order, or otherwise affects any other terms and conditions of this Subcontract, the Buyer will make an equitable adjustment in any one or more of the following and will modify the Subcontract accordingly:

1. Ceiling price.
2. Hourly rates.
3. Delivery schedule.
4. Other affected terms.

C. The Subcontractor shall assert its right to an adjustment under this clause within thirty (30) days from the date of receipt of the written order. However, if the Buyer decides that the facts justify it, the Buyer may receive and act upon a proposal submitted before final payment of the Subcontract.

D. Failure to agree to any adjustment will be a dispute subject to resolution under the Claims and Disputes clause of this Subcontract. However, neither the existence of a dispute nothing nor anything in this clause excuses the Subcontractor from proceeding with the Subcontract as changed.

## 6.2 NOTICE OF CHANGES

A. Except for changes identified as such in writing and signed by Buyer, Subcontractor shall notify Buyer in writing promptly, within 7 calendar days from the date that Subcontractor identifies any condition, circumstance, event, occurrence, or Buyer conduct (including actions, inactions, and written or oral communications) that Subcontractor regards as a change to the Subcontract terms and conditions. On the basis of the most accurate information available to Subcontractor, the notice shall state:

1. The date, nature, and circumstances of the condition, circumstance, event, occurrence, or Buyer conduct regarded as a change;
2. The name, function, and activity of each person involved in or knowledgeable about such condition, circumstance, event, occurrence, or Buyer conduct;
3. The identification of any documents and the substance of any written and oral communications involved in such condition, circumstance, event, occurrence, or Buyer conduct;
4. In the instance of alleged acceleration of scheduled performance or delivery, the basis upon which it arose;
5. The particular elements of s u b contract performance for which Subcontractor may seek an equitable adjustment under this clause, including -
    i. What work or line items are, have been, or may be affected by the alleged change;

ii. What labor or materials or both have been or may be added, deleted, or wasted by the alleged change;

iii. what delay and/or disruption in the manner and sequence of performance and effect on continued performance has been or may be caused by the alleged change;

iv. What adjustments to Subcontract price, delivery schedule, and other provisions affected by the alleged change are estimated; and

6. Subcontractor's estimate of the time by which Buyer must respond to Subcontractor's notice to minimize cost, delay, or disruption of performance.

B. Following submission of the notice required by Paragraph A above, Subcontractor shall diligently continue performance of this Subcontract to the maximum extent possible in accordance with its terms and conditions.

C. Buyer shall, within thirty (30) calendar days after receipt of notice, respond to the notice in writing. In responding, Buyer shall do one of the following:

1. Confirm that the condition, circumstance, event, occurrence, or Buyer conduct of which Subcontractor gave notice constitutes a change and when necessary direct the mode of further performance;

2. Countermand any communication or direction regarded as a change;

3. Deny that the condition, circumstance, event, occurrence, or Buyer conduct of which Subcontractor gave notice constitutes a change and when necessary direct the mode of further performance; or

4. In the event Subcontractor's notice information is inadequate to make a decision under (1), (2), or (3) above, advise Subcontractor what additional information, data, documents, or records are required, and establish the date by which such additional information, data, documents, or records shall be furnished and the date thereafter by which Buyer will respond.

D. Equitable adjustments.

1. If Buyer confirms that the condition, circumstance, event, occurrence, or Buyer conduct effected a change as alleged by Subcontractor, and the conduct causes an increase or decrease in Subcontractor's cost of, or the time required for, performance of any part of the work under this Subcontract, whether changed or not changed by such conduct, an equitable adjustment shall be made –

i. In the Subcontract price or delivery schedule or both; and

ii. In such other provisions of the Subcontractor as may be affected.

2. The Subcontract shall be modified in writing accordingly. In the case of drawings, designs or specifications which are defective and for which Buyer is responsible, the equitable adjustment shall include the cost and time extension for delay reasonably incurred by Subcontractor in attempting to comply with the defective drawings, designs or specifications before Subcontractor identified, or reasonably should have identified, such defect. When the cost of property made obsolete or excess as a result of a change confirmed by Buyer under this clause is included in the equitable adjustment, Buyer shall have the right to prescribe the manner of disposition of the property. The equitable adjustment shall not include increased costs or time extensions for delay resulting from Subcontractor's failure to provide notice or to continue performance as provided in this Clause.

## 7.0 TERMINATION

## 7.1 TERMINATION FOR CONVENIENCE

A. Buyer may terminate performance of Work under this Subcontract in whole or in part if Buyer determines that a termination is in Buyer's interest. Buyer will terminate by delivering to Subcontractor a Notice of Termination for Convenience specifying the extent of termination and the effective date.

B. After receipt of a Notice of Termination, and except as directed by Buyer, Subcontractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this Clause:

1. Stop work as specified in the notice.

2. Place no further subcontracts or orders (referred to as subcontracts in this Clause) for materials, services, or facilities, except as necessary to complete the continued portion of the Subcontract.

3. Terminate all subcontracts to the extent they relate to the Work terminated.

4. Assign to the Government, as directed by Buyer, all right, title, and interest of Subcontractor under the subcontracts terminated, in which case Buyer will have the right to settle or to pay any termination settlement proposal arising out of those terminations.

5. Proposed settlements arising from the termination of subcontracts require the approval of Buyer prior to final settlement with the subcontractor.

6. As directed by Buyer, transfer title to the Government and deliver to Buyer (1) the fabricated or unfabricated parts, Work in process, completed Work, supplies, and other material produced or acquired for the Work terminated and (2) the completed or partially completed plans, drawings, information, and other property that, if the Subcontract had been completed, would be required to be furnished to Buyer.

7. Complete performance of the Work not terminated.

8. Take any action that may be necessary, or that Buyer may direct, for the protection and preservation of the property related to this Subcontract that is in the possession of Subcontractor and in which the Government has or may acquire an interest.

9. Use its best efforts to sell, as directed or authorized by Buyer, any property of the types referred to in subparagraph -B.6 above; provided, however, that Subcontractor (1) is not required to extend credit to any purchaser and (2) may acquire the property under the conditions prescribed by, and at prices approved by, Buyer. The proceeds of any transfer or disposition will be applied to reduce any payments to be made by Buyer under this Subcontract, credited to the price or cost of the Work, or paid in any other manner directed by Buyer.

C. After termination, Subcontractor shall submit a final termination settlement proposal to Buyer in the form and with the certification prescribed by Buyer. S u b c ontractor shall submit the proposal promptly, but no later than one year from the effective date of termination, unless extended in writing by Buyer upon written request of Subcontractor within this one-year period. However, if Buyer determines that the facts justify it, a termination settlement proposal may be received and acted on after one year or any extension. If Subcontractor fails to submit the proposal within the time allowed, Buyer may determine, based on information available, the amount, if any, due Subcontractor because of the termination and shall pay the amount determined.

D. Subject to paragraph C. above, Subcontractor and Buyer may agree upon the whole or any part of the amount to be paid because of the termination. The amount may include a reasonable allowance for profit on Work completed. However, the agreed amount, whether under this paragraph or paragraph E. below, exclusive of costs shown in subparagraph E. 3. below, may not exceed the total Subcontract price as reduced by (1) the number of payments previously made and (2) the Subcontract price of Work not terminated. The Subcontract shall be amended, and Subcontractor paid the agreed amount. Paragraph E. below shall not limit, restrict, or affect the amount that may be agreed upon to be paid under this paragraph.

E. If Subcontractor and Buyer fail to agree on the whole amount to be paid because of the termination of Work, Buyer will pay Subcontractor the amounts determined by Buyer as follows, but without duplication of any amounts agreed on under paragraph D. above.

1. The Subcontract price for completed supplies or services accepted by Buyer (or sold or acquired under subparagraph B.9. above) not previously paid for, adjusted for any saving of freight and other charges.

2. The total of:

   a. The costs incurred in the performance of the Work terminated, including initial costs and preparatory expense allocable thereto, but excluding any costs attributable to supplies or services paid or to be paid under subparagraph 1 above.

   b. The cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the Subcontract if not included in subdivision 2. a. above; and

   c. A sum, as profit on subdivision 2. a. above, determined by Buyer under 49.202 of the Federal Acquisition Regulation, in effect on the date of this Subcontract, to be fair and reasonable; however, if it appears that Subcontractor would have sustained a loss on the entire Subcontract had it been completed, Buyer will allow no profit under this subdivision 2. c. and shall reduce the settlement to reflect the indicated rate of loss.

3. The reasonable costs of settlement of the Work terminated, including:

   a. Accounting, legal, clerical, and other expenses reasonably necessary for the preparation of termination settlement proposals and supporting data;

   b. The termination and settlement of subcontracts (excluding the amounts of such settlements); and

   c. Storage, transportation, and other cost incurred, reasonably necessary for the preservation, protection, or disposition of the termination inventory.

F. Except for normal spoilage, and except to the extent that Buyer expressly assumed the risk of loss, Buyer will exclude from the amounts payable to Subcontractor under paragraph E. above, the fair value, as determined by Buyer, of property that is destroyed, lost, stolen, or damaged so as to become undeliverable to the Government or to Buyer.

G. The cost principles and procedures of Part 31 of the Federal Acquisition Regulation, in effect on the date of this Subcontract, shall govern all costs claimed, agreed to, or determined under this Clause.

H. If Buyer has made a determination of the amount due under paragraphs C., E., or J., Buyer will pay Subcontractor the amount determined by Buyer.

I. In arriving at the amount due Buyer under this Clause, there shall be deducted –

1. All unliquidated advance or other payments to Subcontractor under the terminated portion of this Subcontract;

2. Any claim which Buyer has against Subcontractor under this Subcontract; and

3. The agreed price for, or the proceeds of sale of, materials, supplies, or other things acquired by Subcontractor or sold under the provisions of this Clause and not recovered by or credited to Buyer.

J. If the termination is partial, Subcontractor may file a proposal with Buyer for an equitable adjustment of the price(s) of the continued portion of the Subcontract. Any proposal by Subcontractor for an equitable adjustment under this Clause shall be requested within 90 days from the effective date of termination unless extended in writing by Buyer.

1. Buyer may, under the terms and conditions it prescribes, make partial payments and payments against costs incurred by Subcontractor for the terminated portion of the Subcontract if Buyer believes the total of these payments will not exceed the amount to which Subcontractor may be entitled.

2. If the total payments exceed the amount finally determined to be due, Subcontractor shall repay the excess to Buyer upon demand, together with interest computed at the rate established by the Secretary of the Treasury under 50 U.S.C. App. 1215(b)(2). Interest shall be computed for the period from the date the excess payment is received by Subcontractor to the date the excess is repaid. Interest shall not be charged on any excess payment due to a reduction in Subcontractor's termination settlement proposal because of the retention or other disposition of termination inventory until 10 days after the date of the retention or disposition, or a later date determined by Buyer because of the circumstances.

K. Unless otherwise provided in this subcontract or by statute, Subcontractor shall maintain all records and documents relating to the terminated portion of this Contract for six years after final settlement. This includes all books and other evidence bearing on Subcontractor's costs and expenses under this Subcontract. S u b c ontractor shall make these records and documents available to Buyer, or the Government at Subcontractor's office, at all reasonable times, without any direct charge. If approved by Buyer, photographs, microphotographs, or other authentic reproductions may be maintained instead of original records and documents.

## 7.2 TERMINATION FOR DEFAULT

A. Buyer may, by written notice of default to Subcontractor, terminate this Subcontract in whole or in part if Subcontractor fails to—

1. Deliver the supplies or perform the services within the time specified in this Subcontract or any extension;

2. Make progress, so as to endanger performance of this Subcontract; or

3. Perform any of the other provisions of this Subcontract.

B. Buyer may terminate this Subcontract for default if Subcontractor does not cure such failure within 10 days (or more if authorized in writing by Buyer) after receipt of the notice from Buyer specifying Subcontractor's default.

C. If Buyer terminates this Subcontract in whole or in part, it may acquire, under the terms and in the manner Buyer considers appropriate, supplies or services similar to those terminated, and Subcontractor will be liable to Buyer for any excess costs for those supplies or services. However, Subcontractor shall continue the Work not terminated.

D. Subcontractor shall not be held in default for causes beyond the control and without the fault or negligence of Subcontractor. Examples of such causes include (1) acts of God or of the public enemy, (2) acts of the Government in either its sovereign or Contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) freight embargoes, and (9) unusually severe weather.

E. If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both Subcontractor and subcontractor, and without the fault or negligence of either, Subcontractor shall not be held in default, unless the subcontracted supplies or services were obtainable from other sources in sufficient time for Subcontractor to meet the required delivery schedule.

F. If this Subcontract is terminated for default, Buyer may require Subcontractor to transfer title and deliver to the Government, as directed by Buyer, any (1) completed supplies, and (2) partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and Subcontract rights (collectively referred to as "manufacturing materials" in this Clause) that Subcontractor has specifically produced or acquired for the terminated portion of this Subcontract. Upon direction of Buyer, Subcontractor shall also protect and preserve property in its possession in which the Government has an interest.

G. Buyer will pay Subcontract price for completed supplies delivered and accepted. S u b c ontractor and Buyer shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property. Failure to agree will be a dispute under the Disputes Clause. Buyer may withhold from these amounts any sum Buyer determines to be necessary to protect Buyer and the Government against loss because of outstanding liens or claims of former lien holders.

H. If, after termination, it is determined that Subcontractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of Buyer.

I. The rights and remedies of Buyer in this Clause are in addition to any other rights and remedies provided by law or under this Subcontract.

## 8.0 PROTECTION OF PROPERTY

## 8.1 PROTECTION OF PROPERTY, MATERIALS, EQUIPMENT, AND WORK

A. Notwithstanding any other provision of this Subcontract to the contrary, Subcontractor shall take all actions and steps necessary to safeguard and protect from loss or damage all government-owned property and equipment which is furnished or acquired by Subcontractor under the terms of this Subcontract or is provided by Buyer for Subcontractor's use or installation during performance of this Subcontract. This includes all materials, tools, equipment, facilities and partially completed Work furnished to Subcontractor by Buyer during performance of this Subcontract. This also includes any materials, tools, equipment, or facilities owned by others that Subcontractor comes in contact with on the Hanford site. Subcontractor shall be liable for and fully indemnify, defend, and hold Buyer harmless from all loss, damage or destruction to property and equipment that is the subject of this paragraph caused by Subcontractor, its employees, and lower-tier subcontractors during the execution of this Subcontract. Subcontractor shall cooperate with Buyer representatives in maintaining accountability for Government-owned property.

B. Subcontractor shall at all times, in accordance with the best practices and at no additional cost to Buyer, preserve and protect material and equipment used by Subcontractor in the execution of the Work from damage or loss due to weather, fire, theft, unexplained disappearance or other similar casualty.

C. Subcontractor shall at all times, in accordance with the best practices and at no additional cost to Buyer, protect from damage due to Subcontractor's operations, equipment and materials (whether stored or installed), paving, structures and any and all other items on jobsite belonging to the Government, Buyer or others.

D. Neither Buyer or the Government shall be responsible for any loss suffered by Subcontractor or damage to the Work, or to materials, tools, and equipment of Subcontractor or of any other Subcontractor, and Subcontractor assumes responsibility for any such loss or damage and for any cost of repairing, making good, or replacing any such loss or damage that may be directed by Buyer or the Government.

## 8.2 PROTECTION OF EXISTING VEGETATION, STRUCTURES, EQUIPMENT, UTILITIES, AND IMPROVEMENTS

A. Subcontractor shall preserve and protect all structures, equipment, and vegetation (such as trees, shrubs, and grass) on or adjacent to the Work site which are not to be removed and which do not unreasonably interfere with the Work required under this Subcontract. Subcontractor shall only remove trees when specifically authorized to do so by both the Contract Specialist and DOE Contracting Officer and shall avoid damaging vegetation that will remain in place. If any limbs or branches of trees are broken during Subcontract performance, or by the careless operation of equipment, or by workers, Subcontractor shall trim those limbs or branches with a clean cut and paint the cut with a tree-pruning compound as directed by Buyer and at Subcontractor's sole expense.

B. Subcontractor shall protect from damage all existing improvements and utilities (1) at or near the work site and (2) on adjacent property of a third party, the locations of which are made known to or should be known by Subcontractor. Subcontractor shall repair any damage to those facilities, including those that are the property of a third party, resulting from failure to comply with the requirements of this Subcontract or failure to exercise reasonable care in performing the Work. If Subcontractor fails or refuses to repair the damage promptly, Buyer may have the necessary work performed and charge the cost to Subcontractor.

## 8.3 SUSTAINABLE ACQUISITION, ENVIRONMENT PROTECTION, GREEN PURCHASING

A. Subcontractor shall provide products and services in a manner that promotes the expanded use of green products, reduces greenhouse gas emissions, and protects the environment. As prescribed in DEAR clause 952.223-78, Sustainable Acquisition Program, and FAR clause 52.223-2, products provided in performance of this Subcontract shall be environmentally preferable, which include recycled content, bio-based, energy efficient (Energy Star or FEMP designated products), non-ozone depleting alternative products or water efficient (plumbing) products.

B. Subcontractor will support Buyer's Environmental Management System in performance of this Subcontract and provide reports and data about sustainable acquisition efforts as required by the FAR clauses, DEAR clauses and Executive Orders referenced in these and other provisions of the Subcontract, directly to Buyer for consolidation and reporting to the DOE.

## 8.4 DOE-H-2059 PRESERVATION OF ANTIQUITIES, WILDLIFE, AND LAND AREAS (OCT 2014)

A. Subcontractor acknowledges that Federal Law provides for the protection of antiquities located on land owned or controlled by the Government. Antiquities include Indian graves or campsites, relics, and artifacts. Subcontractor shall control the movements of its personnel to ensure that any existing antiquities discovered thereon will not be disturbed or destroyed by such personnel. It shall be the duty of the Subcontractor to report to the Contract Specialist and Government Contracting Officer the existence of any antiquities so discovered.

B. The Subcontractor shall preserve all vegetation (including wetlands) except where such vegetation must be removed for survey or construction purposes. Any removal of vegetation shall be in accordance with the terms of applicable habitat mitigation plans and permits. Furthermore, all wildlife must be protected in accordance with programs approved by the Government.

C. Except as required by or specifically provided for in other provisions of this Subcontract, the Subcontractor shall not perform any excavations, earth borrow, preparation of borrow areas, or otherwise disturb the surface soils within the jobsite without the prior approval of the Contract Specialist and the Government Contracting Officer.

## 8.5 DOE-H-2064 USE OF INFORMATION TECHNOLOGY EQUIPMENT, SOFTWARE, AND THIRD-PARTY SERVICES – ALTERNATE I (OCT 2014) (*AMENDED*)

A. Acquisition of Information Technology. The Buyer or Government may provide Government-owned information technology equipment, existing computer software (as described in 48 CFR 27.405), and third-party services for the Subcontractor's use in the performance of the Subcontract; and the Buyer or the DOE Contracting Officer may provide guidance to the Subcontractor regarding usage of such equipment, software, and third-party services. The Subcontractor is not authorized to acquire (lease or purchase) information technology equipment, existing computer software, or third-party services at the Buyer's or Government's expense without prior written approval of the Contract Specialist and DOE Contracting Officer. Should the Subcontractor propose to acquire information technology equipment, existing computer software, or third-party services, the Subcontractor shall provide to the Buyer and DOE Contracting Officer justification for the need, including a complete description of the equipment, software or third-party service to be acquired, and a lease versus purchase analysis if appropriate.

B. The Subcontractor shall immediately provide written notice to the Buyer when an employee of the Subcontractor no longer requires access to the Government-furnished information technology systems.

C. The Subcontractor shall not violate any software licensing agreement or cause the Buyer or the Government to violate any licensing agreement.

D. The Subcontractor agrees that its employees will not use, copy, disclose, modify, or reverse engineer existing computer software provided to it by the Buyer or the Government except as permitted by the license agreement or any other terms and conditions under which the software is made available to the Subcontractor.

E. If at any time during the performance of this Subcontract, the Subcontractor has reason to believe that its utilization of Buyer or Government furnished existing computer software may invoice or result in a violation of the software licensing agreement, the Subcontractor shall promptly notify the Buyer, in writing, of the pertinent facts and circumstances. Pending direction from the Contract Specialist, the Subcontractor shall continue performance of the work required under this Subcontract without utilizing the software.

F. Subcontractor agrees to include the requirements of this Clause in all lower-tier subcontracts and to require any lower-tier subcontractors to agree to include the requirements of this Clause in all subcontracts at any tier.

G. The Subcontractor shall comply with the requirements of those DOE directives, or parts thereof, identified within the Subcontract in implementing the requirements of this clause. Consistent with the Changes clause of this contract, the Buyer, may, at any time, amend this clause in order to add, modify or delete specific requirements.

## 8.6 DOE H-2019 DISPOSITION OF INTELLECTUAL PROPERTY – FAILURE TO COMPLETE CONTRACT PERFORMANCE (OCT 2014) (*AMENDED*)

A. The following provisions shall apply in the event Subcontractor does not complete Subcontract performance for any reason:

1. The Government may take possession of and use all technical data, including limited rights data, restricted computer software, and data and software obtained from subcontractors, licensors, and licensees, necessary to complete the work in conformance with this Subcontract, including the right to use the data in any Government solicitations for the completion of the work contemplated under this Subcontract. Technical data includes, but is not limited to, specifications, designs, drawings, operations manuals, flowcharts, software, databases, and any other information necessary for of the completion of the work under this Subcontract. Limited rights data and restricted computer software will be protected in accordance with the provisions of the clause DEAR 970.5227-1, Rights in Data-Facilities (DEC 2000), incorporated into this Subcontract. Subcontractor shall ensure that its lower-tier subcontractors and licensors make similar rights available to the Government and its contractors.

2. Subcontractor agrees to and does hereby grant to the Government an irrevocable, non-exclusive, paid- up license in and to any inventions or discoveries regardless of when conceived or actually reduced to practice by Subcontractor, and any other intellectual property, including technical data, which are owned or controlled by Subcontractor, at any time through completion of this Subcontract and which are incorporated or embodied in the construction of the facilities or which are utilized in the operation or remediation of the facilities or which cover articles, materials or products manufactured at a facility: (1) to practice or to have practiced by or for the Government at the facility; and (2) to transfer such license with the transfer of that facility. The acceptance or exercise by the Government of the aforesaid rights and license shall not prevent the Government at any time from contesting the enforceability, validity, or scope of, or title to, any rights or patents or other intellectual property herein licensed.

3. In addition, Subcontractor will take all necessary steps to assign permits, authorizations, leases, and licenses in any third-party intellectual property to the Government, or such other third party as the Government may designate, that are necessary for the completion of the work contemplated under this Subcontract.

# 9.0 LABOR AND WORK RULES

## 9.1 SUBCONTRACTOR'S PERSONNEL

A. Subcontractor represents that all services supplied by Subcontractor in performance of this Subcontract shall be supplied by personnel who are skilled, experienced, and competent in their respective trades or professions. At any time and for any reason, Buyer may require Subcontractor to withdraw the services of any person and, in addition, request that Subcontractor promptly provide replacements for such persons satisfactory to Buyer. In addition to the other indemnification provisions within this Subcontract, Subcontractor specifically agrees to indemnify, defend, and hold Buyer harmless from and against any liabilities, claims, charges, or suits for alleged losses, costs, damages, or expenses arising from Buyer’s exercise of its rights under this provision.

B. At all times during the course of the Work, Subcontractor shall provide at the jobsite a qualified, competent and responsible supervisor who shall be satisfactory to Buyer. The supervisor shall have authority to represent Subcontractor and directions given to him shall be binding on Subcontractor. Upon Buyer's written request, Subcontractor shall give the supervisor, in writing, complete authority to act on behalf of, and to bind Subcontractor in all matters pertaining to the Work and this Subcontract. Subcontractor shall furnish Buyer a copy of the authorization. Subcontractor shall not transfer or remove any of its supervisory or key personnel from performance of work without the prior written approval of Buyer.

C. Subcontractor shall retain all authority and control over its employees, including responsibility for all costs arising from providing reasonable accommodations for its employees.

## 9.2 LABOR HARMONY

Subcontractor agrees that all labor employed by it, its agents, and/or lower-tier subcontractors for Work on the jobsites shall be in harmony with and be compatible with all other labor used by Buyer or other Subcontractors. Whenever Subcontractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of the Work, Subcontractor shall immediately give notice thereof including all relevant information to Buyer.

## 9.3 WORK RULES

Subcontractor shall comply strictly with Buyer and the Government's rules governing the conduct of Subcontractor and Subcontractor's employees, agents, and lower-tier subcontractors at and about the jobsite. Subcontractor agrees that it shall ensure that its supervisory personnel, employees, agents, and lower-tier subcontractors at the jobsite comply strictly with such rules. Buyer reserves the right to revise any such rules and Contractor shall comply fully with such rules as revised in accordance with the foregoing provisions.

## 9.4 SERVICE CONTRACT REPORTING

A. In accordance with FAR 52.204-15, "Service Contract Reporting Requirements for Indefinite-Delivery Contracts," the Contractor shall report annually on or before October 15, for services performed under this Subcontract or Subcontract release (order) during the preceding Government fiscal year (October 1 – September 30). Subcontractor reporting shall be provided to the Buyer on a Subcontract/Subcontract release basis and be determined based on the type and estimated total value of each Subcontract/Subcontract release as follows:

   1. All cost-reimbursement, time and materials, and labor-hour service contracts and orders with an estimated total value above the simplified acquisition threshold;

   2. All fixed-fixed price service contracts and orders awarded or issued with an estimated total value of $500,000 or greater;

B. Subcontractor's annual report shall contain, at a minimum, an itemized listing by

   1. Subcontract/Subcontract Release number including Subcontractor name and unique entity identifier, and

   2. The number of Subcontractor direct-labor hours expended on the services performed during the previous Government fiscal year.

C. The Subcontractor is advised that the information from Subcontractor's report will be made available to the public as required by section 743 of Division C of the Consolidated Appropriations Act, 2010.

## 9.5 EQUAL OPPORTUNITY NOTIFICATION

This Subcontractor and any lower-tier subcontractor shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, disability or veteran status.

## 9.6 DOE-H-2080 AGREEMENT REGARDING WORKPLACE SUBSTANCE ABUSE PROGRAMS AT DOE SITES (Apr 2018)

A. Program implementation. The Subcontractor shall, consistent with 10 CFR part 707, Workplace Substance Abuse Programs at DOE Sites, incorporated herein by reference with full force and effect, develop, implement, and maintain a workplace substance abuse program. The Subcontractor's proposed program shall be submitted in writing to the Buyer's Contract Specialist within 10 days of Subcontract Award.

B. Remedies. In addition to any other remedies available to the Buyer and Government, the Subcontractor's failure to comply with the requirements of 10 CFR part 707 or to perform in a manner consistent with its approved program may render the Subcontractor subject to: the suspension of Subcontract payments, or, where applicable, a reduction in fee; termination for default; and suspension or debarment.

C. Lower Tier-Subcontracts.

(1) The Subcontractor agrees to notify the Buyer reasonably in advance of, but not later than 30 days prior to, the award of any lower tier subcontracts the Subcontractor believes may be subject to the requirements of 10 CFR part 707.

(2) The Subcontractor shall require all lower-tier subcontractors subject to the provisions of 10 CFR part 707 to develop and implement a workplace substance abuse program that complies with the requirements of 10 CFR part 707, Workplace Substance Abuse Programs at DOE Sites, as a condition for award of the lower-tier subcontract. The Subcontractor shall review and approve each lower-tier subcontractor's program and shall periodically monitor each lower-tier subcontractor's implementation of the program for effectiveness and compliance with 10 CFR part 707.

(3) The Subcontractor agrees to include, and require the inclusion of, the requirements of this clause in all subcontracts, at any tier, that are subject to the provisions of 10 CFR part 707,

## 9.7 LABOR STANDARDS

A. The DOE Contracting Officer will determine the appropriate labor standards that apply to specific work activities in accordance with the Wage Rate Requirement (Construction) statute (formerly known as the Davis-Bacon Act), the Service Contract Labor Standards (SCLS) statute (formerly known as the Service Contract Act of 1965), or other applicable Federal labor standards law. Once a determination is made and provided to Subcontractor, Subcontractor shall comply with the determination and all applicable labor standards clauses and requirements. Subcontractor shall also ensure that appropriate labor standards clauses and requirements are flowed down to and incorporated into any applicable lower tier subcontracts.

B. Subcontractor shall comply and shall be responsible for compliance by any lower tier subcontractor, with the Wage Rate Requirements (Construction), the SCLS, or other applicable labor standards law. Subcontractor shall conduct such payroll and job-site reviews for construction work, including interviews with employees, with such frequency as may be necessary to assure compliance by its subcontractors and as requested or directed by the DOE and the Buyer. When performing work subject to the Wage Rate Requirements (Construction), Subcontractor shall maintain payroll records for a period of six (6) years from completion of the Subcontract, for laborers and mechanics performing the work. In accordance with subparagraph (g) of FAR 52.222-41, Service Contract Labor Standards, and subparagraph (b)(4) of FAR 52.222-6, Construction Wage Rate Requirements, Subcontractor and its subcontractors shall post in a prominent job-site location, the wage determination and, as applicable, Department of Labor Publications WH-1321, Employee Rights under the Davis-Bacon Act, and/or WH-1313, Employee Rights on Government Contracts.

C. In addition to any other requirements in the Subcontract, Subcontractor shall as soon as possible notify the Buyer and the DOE Contracting Officer of all labor standards issues, including all complaints regarding incorrect payment of prevailing wages and/or fringe benefits, received from subcontractor employees; significant labor standards violations, as defined in 29 CFR 5.7; disputes concerning labor standards pursuant to 29 CFR Parts 4, 6, and 8 and as defined in subparagraph (t) of FAR 52.222-41, Service Contract Labor Standards; disputed labor standards determinations; Department of Labor investigations; or legal or judicial proceedings related to the labor standards under this subcontract. Subcontractor shall furnish such additional information as may be required from time to time by Buyer and/or the DOE Contracting Officer.

## 10.0 INDEMNITY

Subcontractor agrees to defend, indemnify, and hold harmless Buyer and the Government, the affiliated companies of each, and their directors, officers, employees, agents, and representatives, from and against:

A. Any claim, demand, cause of action, liability, loss, penalty, or expense arising by reason of Subcontractor's actual or asserted failure to comply with any law, ordinance, regulation, rule, or order, or with this Subcontract. This includes, but is not limited to, fines or penalties by Government authorities and claims arising from Subcontractor's actual or asserted failure to pay taxes.

B. Any claim, demand, cause of action, liability, loss, penalty or expense arising from actual or asserted violation or infringement of rights in any patent, copyright, proprietary information, trade secret, or other property right caused or alleged to be caused by the use or sale of goods, materials, equipment, methods, processes, designs or information, including construction methods, construction equipment, and temporary construction facilities, furnished by Subcontractor or its lower-tier Subcontractors in performance of the work. Should any goods or services provided by Subcontractor become, or appear likely to become, the subject of a claim of infringement of a patent, copyright or other property right, Subcontractor shall, at Buyer's option, either procure for Buyer and the Government the right to continue using such goods or services, replace same with equivalent, non-infringing goods or services, or modify the goods or services so that the use thereof becomes non-infringing, provided that any such modification or replacement is of equal quality and provides equal performance to the infringing good or services.

C. Any claim, demand, cause of action, liability, loss, penalty, or expense arising from injury to or death of persons (including employees of Buyer, the Government, Subcontractor and Subcontractor's lower-tier Subcontractors) or from damage to or loss of property (including the property of Buyer or the Government) arising directly or indirectly out of this Subcontract or out of any acts or omissions of Subcontractor or its lower-tier Subcontractors in accordance with the State of Washington Comparative Fault Statute (Chapter 4.22 RCW). Subcontractor's defense and indemnity obligations hereunder include claims and damages arising from non-delegable duties of Buyer or arising from use by Subcontractor of construction equipment, tools, scaffolding, or facilities furnished to Subcontractor by Buyer or the Government.

D. Any claim, demand, cause of action, liability, loss, penalty, or expense for actual or alleged contamination, pollution, or public or private nuisance, arising directly or indirectly out of this Subcontract or out of any acts or omissions of Subcontractor, or its lower-tier Subcontractors.

E. Subcontractor's indemnity obligations shall apply regardless of whether the party to be indemnified was concurrently negligent, whether actively or passively, excepting only where the injury, loss, or damage was caused solely by the negligence or willful misconduct of, or by defects in design furnished by, the party to be indemnified. Subcontractor's defense and indemnity obligations shall include the duty to reimburse any attorney's fees and expenses incurred by Buyer or the Government for legal action to enforce Subcontractor's indemnity obligations.

F. In the event that the indemnity provisions in this Subcontract are contrary to the law governing this Subcontract, then the indemnity obligations applicable hereunder shall be construed to be to the fullest extent allowable by applicable law.

G. For purposes of the indemnity provided in this Clause, Subcontractor specifically and expressly waives any immunity that may be granted to it under the Washington State Industrial Insurance Act, Title 51 RCW, and all other applicable Industrial Insurance/Worker's Compensation Acts or their equivalent in the applicable jurisdiction. With respect to claims by employees of Subcontractor or its lower-tier Subcontractors, the indemnity obligations created under this Clause, shall not be limited by the fact of, amount, or type of benefits or compensation, payable by or for Subcontractor, its lower-tier Subcontractors or suppliers under any workers compensation, disability benefits, or other employee benefits acts or regulations, and Subcontractor waives any limitation of liability arising from workers' compensation or such other acts or regulations. Subcontractor acknowledges that the waiver of immunity contained in this Article was mutually negotiated.

H. Buyer shall be entitled to retain from payments otherwise due Subcontractor such amounts as shall reasonably be considered necessary to satisfy any claims, suits or liens for damages that fall within Subcontractor's indemnity obligations under this Clause, until such claims, suits or liens have been settled and satisfactory evidence to that effect has been furnished to Buyer.

## 11.0 BONDS

If requested by Buyer, Subcontractor shall obtain payment and/or performance bonds, each in an amount equal to 100% of the Subcontract price. The bonds shall be written on forms satisfactory to Buyer. Subcontractor's sureties shall be only those approved by the Department of Treasury, as indicated in Circular 570, "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies."

## 12.0 WORK CONDITIONS

### 12.1 CONTRACTUAL RELATIONSHIP

Subcontractor represents that it is fully experienced and properly qualified to perform the class of Work provided for herein, and that it is properly equipped, organized, and financed to perform such Work. Subcontractor represents that at the time of submission of its proposal for performance of the Work, it was properly licensed and qualified to do business in all governmental jurisdictions in which the Work is to be performed. Upon written request by Buyer, Subcontractor shall furnish to it such evidence as Buyer may require relating to Subcontractor's ability to fully perform this Subcontract. Nothing contained in this Subcontract, or any other subcontract awarded by Subcontractor shall create any contractual relationship between any Subcontractor and Buyer or the Government.

Subcontractor agrees that Subcontractor is an independent Subcontractor and an employer subject to all applicable unemployment compensation, occupational safety and health, workers' compensation, or similar statutes so as to relieve Buyer of any responsibility or liability for treating Subcontractor's employees as employees of Buyer for the purpose of their safety or of keeping records, making reports or paying of any payroll taxes or contribution; and Subcontractor agrees to defend, indemnify and hold Buyer harmless and reimburse it for any expense or liability incurred under said statutes in connection with employees of Subcontractor, including a sum equal to any unemployment benefits paid to those who were Subcontractor's employees, where such benefit payments are charged to Buyer under any merit plan or to Buyer reserve account pursuant to any statute. Subcontractor further agrees, as regards the items set forth below and for Work under this Subcontract, that it will keep and have available all necessary records and make all payments, reports, collections and deductions and otherwise do any and all things so as to fully comply with all federal, state and local laws, ordinances and regulations as they affect performance of this Subcontract, so as to fully relieve and protect Buyer and the Government from any and all responsibility or liability therefore or in regard thereto: (1) the production, purchase and sale, furnishing and delivering, pricing, and use or consumption of materials, supplies and equipment; (2) the hire, tenure or conditions of employment of employees and their hours or work and rates of the payment of their work, and (3) the keeping of records, making of reports, and the payment, collection and/or deduction of federal, state, commonwealth and local taxes, contributions, pension funds, welfare funds or similar assessments.

## 12.2 PERMITS AND LICENSES

Subcontractor shall promptly apply for and procure without additional compensation all permits (except for such permits as may be specifically set forth as Buyer responsibility elsewhere in this Subcontract), certificates and licenses required by governmental authorities having jurisdiction over the Work, Subcontractor or the location of the Work.

## 12.3 INDEPENDENT CONTRACTOR

By accepting this Subcontract, Subcontractor certifies that it is acting as an independent Contractor with responsibility for and control over the details and means for performing the Work. Anything in this Subcontract, which may appear to give Buyer the right to direct Subcontractor as to the details of the performance of the Work or to exercise a measure of control over Subcontractor, shall mean that Subcontractor shall follow the desires of Buyer only as to the intended results of the Work. Nothing in this Subcontract shall be deemed to represent that Subcontractor or any of Subcontractor’s employees or agents, are the agents, representatives or employees of Buyer or the Government.

## 12.4 UNCLASSIFIED COMPUTER SECURITY REQUIREMENTS

When made available by Buyer as part of this Subcontract, Buyer's telecommunications and computer systems may be used only in performance of this Subcontract. Subcontractor will ensure that personnel who are allowed access to the Hanford Local Area Network (HLAN) understand and comply with Buyer's Computer Access and data security rules. Foreign Nationals may not be granted access until cleared by the Foreign National Visits and Assignments office.

When authorized to connect Subcontractor-owned computers to HLAN, Subcontractor will:

- Identify a single contact responsible for coordinating appropriate controls with the Central Plateau Cleanup Company Computer Protection Program Manager (CPPM).
- Obtain approval from the CPPM prior to making any connections.
- Ensure that any computer connected to the HLAN must be physically separated from any other network by Buyer-approved means.
- Allow Buyer unrestricted access to those computers for periodic inspection and to verify that all “data in all forms” is erased prior to final payment on the Subcontract (41 CFR 109-43).

## 12.5 DOE-H-2063 CONFIDENTIALITY OF INFORMATION (OCT 2014) (*AMENDED)*

A. Performance of work under this Subcontract may result in the Subcontractor having access to Confidential and/or Controlled Unclassified Information, including Official Use Only information, via written or electronic documents, or by virtue of having access to DOE's electronic or other systems (hereinafter referred to as CUI). Such CUI includes personally identifiable information (such as social security account numbers) or proprietary business, technical, or financial information belonging to the Buyer, the Government or other companies or organizations. The Subcontractor shall treat this information as confidential and agrees not to use this information for its own purposes, or to disclose the information to third parties, unless specifically authorized to do so in writing by the Buyer and DOE Contracting Officer.

B. The restrictions set out in paragraph (A) above, however, do not apply to:

1. Information which, at the time of receipt by the Subcontractor, is in the public domain;
2. Information which, subsequent to receipt by the Subcontractor, becomes part of the public domain through no fault or action of the Subcontractor;
3. Information which the Subcontractor can demonstrate was previously in its possession and was not acquired directly or indirectly as a result of access obtained by performing work under this contract;
4. Information which the Subcontractor can demonstrate was received from a third party who did not require the Subcontractor to hold it in confidence; or
5. Information which is subject to release under applicable law.

C. The Subcontractor shall obtain a written agreement from each of its employees who are granted access to, or furnished with, confidential information, whereby the employee agrees that he or she will not discuss, divulge, or disclose any such information to any person or entity except those persons within the Subcontractor's organization directly concerned with the performance of the contract. The agreement shall be in a form satisfactory to the Buyer.

D. Upon request of the Buyer, the Subcontractor agrees to execute an agreement with any party which provides CUI to the Subcontractor pursuant to this Subcontract, or whose facilities the Subcontractor is given access to that restrict use and disclosure of CUI obtained by the Subcontractor. A copy of the agreement, which shall include all material aspects of this clause, shall be provided to the Buyer and DOE Contracting Officer for approval.

E. Upon request of the Buyer, the Subcontractor shall supply the Buyer with reports itemizing the confidential or proprietary information it receives under this Subcontract and identify the source (company, companies or other organizations) of the information.

F. Subcontractor agrees to flow down this clause to all lower-tier subcontracts issued under this Subcontract.

## 12.6 PROPRIETARY RIGHTS

All materials which Subcontractor is required to prepare or develop in the performance and completion of Subcontractor's scope of Work hereunder, including documents, calculations, maps, sketches, notes, reports, data, models and samples, and any and all inventions and copyrightable material contained therein, shall become the sole and exclusive property of Buyer. Subcontractor agrees to execute all documents and to take all steps requested by Buyer which may be required to complete transfer of such ownership and property rights.

## 12.7 PUBLICITY

Subcontractor shall not make news releases, publicize, or issue advertising pertaining to the Work or this Subcontract without first obtaining the written approval of Buyer.

## 13.0 INVOICING AND PAYMENTS

## 13.1 TAXES

Unless the Subcontractor is issued a direct pay permit by the Buyer, the Subcontractor is required to collect the applicable Washington State sales or use tax and include this on each applicable invoice. Sales tax must be listed as a separate line item on the invoice. If the Subcontractor is an out of state vendor with no nexus in the State of Washington, taxes will be paid by Buyer. Subcontractor shall notify the Buyer's contract specialist within (5) days of Subcontract award if the Subcontractor does not have a nexus in the State of Washington. All other Federal, State, county, municipal or other taxes not excluded by the Washington State Department of Revenue Direct Pay Permit must be included in the Subcontract amount. If as a result of this Subcontract, the Subcontractor becomes eligible for Washington State Business and Occupation Tax Credit for Research and Development spending, the Subcontractor shall take such tax credit and assign such tax credit to the Buyer. If the Subcontractor applies for the Washington State Business and Occupation Tax Credit for Research and Development spending, the Subcontractor shall immediately notify the Buyer's Contract Specialist. The Subcontractor shall fully cooperate with the Buyer in any tax audits, tax assessment reviews, or tax challenges.

## 13.2 INVOICING

A. Subcontractor shall prepare all invoices in a form satisfactory to and approved by Buyer. Except to the extent expressly stated elsewhere in this Subcontract, the Subcontract price shall be payable thirty (30) calendar days after receipt by Buyer of a proper invoice. All unit pricing, and payments made, shall be in U.S. dollars only, in the forms of cash, check or electronic transfer as may be agreed upon.

B. The invoice shall be provided in accordance with FAR 32.905. Submittal of an invoice constitutes Contractor's certification that the invoice is correct, payable, and that the materials, Work and/or services have been delivered and are in accordance with all terms of the Subcontract.

C. Subcontractor understands that submission of a false or fraudulent invoice to Buyer under this Subcontract may constitute a violation of the Federal False Claims Act.

D. At Buyer's request Subcontractor shall furnish evidence, satisfactory to Buyer, that all labor and materials furnished, and equipment used, during the period covered by any invoice has been paid for in full and that the Work is not subject to liens or claims on account thereof. Buyer may withhold payment of invoices until Subcontractor furnishes such evidence.

E. In the event an invoice is submitted, in accordance with Subcontract terms, for Work accomplished on a reimbursable or unit price/unit rate basis, it shall be accompanied by documentation supporting each element of measurement and/or cost. The final invoice shall be submitted for payment after completion and acceptance of Work by Buyer and compliance by Subcontractor with all terms of this Subcontract. It shall be supported by a written acceptance of the Work signed by Buyer, and a certification and release.

F. Any invoice submitted, which fails to comply in whole or in part with the terms of this Subcontract, including the requirements of form, accuracy, and supporting documentation, may be returned to Subcontractor. Any costs or payment delays associated with the resubmission of a proper invoice shall be to Subcontractor's account. Final payment shall not relieve Subcontractor of any obligation under this Subcontract.

## 13.3 LIMITATION OF FUNDS

Subcontractor shall notify the Contract Specialist in writing, whenever it has reason to believe that the costs it expects to invoice under this Subcontract in the next 30 days, when added to all costs previously invoiced, will exceed 75 percent of the total Subcontract value. The notice shall state the estimated date when such allotted amount will be reached.

## 13.4 TITLE AND OFFSET

A. Subcontractor warrants full and unrestricted title to the Government for all items purchased under this Subcontract and is free and clear of any and all liens, restrictions, reservations, security interests, and encumbrances. Excess items received that are of a nominal value shall be kept by Buyer at no cost to Buyer. All items received in excess of Subcontract requirements that are returned shall be returned at Subcontractor's expense.

B. Buyer, without waiver or limitation of any rights or remedies of Buyer, shall be entitled from time to time to deduct from any amounts due or owing by Buyer to Subcontractor in connection with this Subcontract (or any other Subcontract with Buyer), any and all amounts owed by Subcontractor to Buyer or the Government in connection with this Subcontract.

## 13.5 BACKCHARGES

A. Costs sustained by Buyer as a result of (1) Subcontractor's non-compliance with any law, ordinance, regulation, rule or order, or this Subcontract, including its Safety provisions; (2) delays to Subcontract performance attributable to unsatisfactory Subcontractor performance; or (3) damage to or loss of property (including the property of Buyer or the Government) resulting from any acts or omissions of Subcontractor or its lower-tier subcontractors, shall be backcharged to Subcontractor. Backcharges may include, but are not limited to, costs of labor, material, or equipment; taxes, levies, duties and assessments; and markups for indirect costs, overhead, supervision, and administration. Such backcharges shall offset payments due Subcontractor from pending invoices and if such backcharges exceed invoiced amounts, such backcharges will be invoiced by Buyer to Subcontractor, such backcharges payable within 30 days.

B. The Subcontractor shall protect from damage at no additional cost to Buyer all existing equipment, materials (whether stored or installed), paving, structures, improvements, and utilities (1) at or near the work site and (2) on adjacent property of a third party, the locations of which are made known to or should be known by the Subcontractor. The Subcontractor shall repair any damage to those facilities, including those that are the property of a third party, resulting from failure to comply with the requirements of this Subcontract or failure to exercise reasonable care in performing the work.

## 13.6 LIENS

A. To the full extent permitted by applicable law, Subcontractor hereby waives and releases any and all rights of materialmen or mechanics' liens and similar rights for payment for services, labor, equipment, or materials furnished by Subcontractor in performance of the Work and granted by law to persons supplying materials, equipment, services and other things of value to approve or modify land or structures hereon, which Subcontractor may have against the Government's premises, property belonging to Buyer or the Government, or to either of them, or funds payable by the Government to Buyer.

B. Subcontractor shall at all times promptly pay for all services, materials, equipment and labor used or furnished by Subcontractor in the performance of the Work under this Subcontract and shall, to the fullest extent allowed by law, at its expense keep the Government's premises and all property belonging to Buyer and the Government, or to either of them, free and clear of any and all of the above mentioned liens and rights of lien arising out of services, labor, equipment or materials furnished by Subcontractor or its employees, materialmen or subcontractors in the performance of the Work. If Subcontractor fails to release and discharge any lien or threatened lien against the Government's premises or the property of Buyer and the Government, or of either of them, arising out of performance of the Work within five (5) working days after receipt of written notice from Buyer to remove such claim of lien or otherwise deal with the lien claimant, Subcontractor shall pay Buyer any and all costs and expenses of Buyer in so doing, including reasonable attorney's fees incurred by Buyer.

## 13.7 FINAL PAYMENT CERTIFICATION AND RELEASE

At the time of and as a condition precedent to final payment under this Subcontract, Subcontractor shall execute and deliver to Buyer a certificate and release discharging Buyer of and from all liabilities, obligations, and claims arising out of or under this Subcontract. Buyer shall not be obligated to make final payment to Subcontractor until Subcontractor has delivered to Buyer a certificate and release satisfactory to Buyer that Subcontractor has fully performed under this Subcontract and that all claims of Subcontractor for the work are satisfied upon the making of such final payment, that no property of the Government or property used in connection with the work is subject to any unsatisfied lien or claim as a result of the performance of the work, that all rights of lien against the Government's property in connection with the work are released (including without limitation, if Buyer requests, releases of lien satisfactory in form to Buyer executed by all persons who by reason of furnishing material, labor or other services to Subcontractor for the work or potential lienors against the Government's property), and that Subcontractor has paid in full all outstanding obligations against the work.

## 13.8 INTEREST PAYMENT

No interest is payable to Subcontractor for any claim it may have, except that specifically imposed by a court of competent jurisdiction on any judgment (and then only from the date of the entry of judgment).

## 13.9 OTHER DIRECT COSTS

Unless specifically identified in the Subcontract, Other Direct Costs (ODCs), including travel, may not be charged to this Subcontract. If authorized in the Subcontract, to be considered for reimbursement, Other Direct Costs must be:

A. Directly **Allocable** to performance of this Subcontract,

B. **Allowable** in accordance with FAR part 31,

C. **Reasonable** in accordance with FAR cost and pricing principles, and

D. Invoiced in a timely manner with accurate, detailed, and sufficient documentation, as required in the Subcontract or by regulation, to verify the ODC, the authorized approval for incurrence of the ODC, and an explanation of the Contractual purpose for the ODC.

E. In addition to the above, when travel is authorized in the Subcontract:

   a. Travel must be performed, invoiced, and supported in accordance with the Federal Travel Regulations in effect at the time of the travel as identified on the GSA.GOV web site,

b. Must be accomplished with reasonable steps to mitigate the amount of travel expense. When Work assignments are such that travel for any one employee would exceed a short term (typically more than 30 days), Subcontractor is expected to propose and implement lower cost alternatives (such as long-term lodging, temporary relocation, long term car rental, etc.).

c. Invoices for authorized travel expenses must:

   i. Identify the name(s), purpose, destination(s) and details of the travel,

   ii. Be supported by original or legible copies of receipts for

      1. Actual airfare or other public conveyance expenses,

      2. Car rental expenses for each rental day, and

      3. Lodging expenses.

Submittal of an invoice for ODCs constitutes Contractor's certification to the above.

## 13.10 DEAR 970.5232-3 ACCOUNTS, RECORDS, AND INSPECTION (DEC 2010) (AMENDED)

(a) Accounts. The Subcontractor shall maintain a separate and distinct set of accounts, records, documents, and other evidence showing and supporting: all allowable costs incurred; collections accruing to the Subcontractor in connection with the work under this Subcontract, other applicable credits, negotiated fixed amounts, and fee accruals under this contract; and the receipt, use, and disposition of all Government property coming into the possession of the Subcontractor under this Subcontract. The system of accounts employed by the Subcontractor shall be satisfactory to DOE and in accordance with generally accepted accounting principles consistently applied.

(b) Inspection and audit of accounts and records. All books of account and records relating to this Subcontract shall be subject to inspection and audit by DOE or its designees in accordance with the provisions of Clause 970.5204-3, Access to and ownership of records, at all reasonable times, before and during the period of retention provided for in paragraph (d) of this clause, and the Subcontractor shall afford DOE proper facilities for such inspection and audit.

(c) Audit of subcontractors' records. The Subcontractor also agrees, with respect to any subcontracts (including fixed-price or unit-price subcontracts or purchase orders) where, under the terms of the subcontract, costs incurred are a factor in determining the amount payable to the subcontractor of any tier, to either conduct an audit of the subcontractor's costs or arrange for such an audit to be performed by the cognizant government audit agency through the Contracting Officer.

(d) Disposition of records. Except as agreed upon by Buyer and Subcontractor, all financial and cost reports, books of account and supporting documents, system files, data bases, and other data evidencing costs allowable, collections accruing to Subcontractor in connection with the work under this Subcontract, other applicable credits, and fee accruals under this Subcontract shall be delivered to Buyer at or before final payment or otherwise disposed of by Subcontractor no earlier than six years after final payment. Except as otherwise provided in this Subcontract or otherwise agreed upon by Buyer and Subcontractor in writing, all other records in the possession of Subcontractor relating to this Subcontract shall be preserved by the Subcontractor for a period of six years, or a longer period pursuant to any other applicable provision of this Subcontract, after final payment under this Subcontract or otherwise disposed of in such manner as may be agreed upon by Buyer and Subcontractor.

(e) Reports. The Subcontractor shall furnish such progress reports and schedules, financial and cost reports, and other reports concerning the work under this Subcontract as the Contracting Officer may from time to time require.

(f) Inspections. The DOE shall have the right to inspect the work and activities of the Subcontractor under this Subcontract at such time and in such manner as it shall deem appropriate.

(g) Subcontracts. The Subcontractor further agrees to require the inclusion of provisions similar to those in paragraphs (a) through (g) and paragraph (h) of this clause in all subcontracts (including fixed-price or unit-price subcontracts or purchase orders) of any tier entered into hereunder where, under the terms of the subcontract, costs incurred are a factor in determining the amount payable to the subcontractor.

(h) Comptroller general.

(1) The Comptroller General of the United States, or an authorized representative, shall have access to and the right to examine any of the contractor's or subcontractor's directly pertinent records involving transactions related to this contract or a subcontract hereunder and to interview any current employee regarding such transactions.

(2) This paragraph may not be construed to require the Contractor or subcontractor to create or maintain any record that the Contractor or subcontractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(3) Nothing in this contract shall be deemed to preclude an audit by the Government Accountability Office of any transaction under this contract.

(i) Internal audit. The Subcontractor agrees to design and maintain an internal audit plan and an internal audit organization.

(1) Upon contract award, the exercise of any contract option, or the extension of the contract, the Contractor must submit to the Contracting Officer for approval an Internal Audit Implementation Design to include the overall strategy for internal audits. The Audit Implementation Design must describe –

(i) The internal audit organization's placement within the Contractor's organization and its reporting requirements;

(ii) The audit organization's size and the experience and educational standards of its staff;

(iii) The audit organization's relationship to the corporate entities of the Contractor;

(iv) The standards to be used in conducting the internal audits;

(v) The overall internal audit strategy of this contract, considering particularly the method of auditing costs incurred in the performance of the prime contract;

(vi) The intended use of external audit resources;

(vii) The plan for audit of subcontracts, both pre-award and post-award; and

(viii) The schedule for peer review of internal audits by other contractor internal audit organizations, or other independent third party audit entities approved by the DOE Contracting Officer.

(2) By each January 31 of the contract performance period, the Contractor must submit an annual audit report, providing a summary of the audit activities undertaken during the previous fiscal year. That report shall reflect the results of the internal audits during the previous fiscal year and the actions to be taken to resolve weaknesses identified in the contractor's system of business, financial, or management controls.

(3) By each June 30 of the contract performance period, the Contractor must submit to the Contracting Officer an annual audit plan for the activities to be undertaken by the internal audit organization during the next fiscal year that is designed to test the costs incurred and contractor management systems described in the internal audit design.

(4) The Contracting Officer may require revisions to documents submitted under paragraphs (i)(1), (i)(2), and (i) (3) of this clause, including the design plan for the internal audits, the annual report, and the annual internal audits.

(j) Remedies. If at any time during contract performance, the Contracting Officer determines that unallowable costs were claimed by the Contractor to the extent of making the contractor's management controls suspect, or the contractor's management systems that validate costs incurred and claimed suspect, the Contracting Officer may, in his or her sole discretion, require the Contractor to cease using the special financial institution account in whole or with regard to specified accounts, requiring reimbursable costs to be claimed by periodic vouchering. In addition, the Contracting Officer, where he or she deems it appropriate, may: Impose a penalty under 48 CFR 970.5242-1, Penalties for Unallowable Costs; require a refund; reduce the contractor's otherwise earned fee; and take such other action as authorized in law, regulation, or this contract.

### 13.11 REQUESTS FOR INFORMATION, DATA, OR DOCUMENTS

A. Subcontractor agrees that Buyer may request information, data documents, and records it determines to be necessary to administer this Subcontract; enforce any provision(s) thereof; comply with any provisions of the Prime Contract or any request for information, data, documents, or records from DOE; or support, verify, justify, explain, or understand information, notices, or requests provided by Subcontractor, including but not limited to requests for payment, invoices, cost submittals, claims, and certified cost or pricing data. Subcontractor shall promptly provide all such information, data, documents, and/or records in response to any such request.

B. If Subcontractor contends that any information, data, documents, or records requested by Buyer pursuant to Paragraph A above are proprietary, confidential, trade secret, or otherwise likely or certain to cause liability, harm, or loss by disclosure of the same to Buyer and/or the Government, Subcontractor shall notify Buyer within seven (7) calendar days of Buyer’s request for disclosure.

C. Upon receipt of Subcontractor’s notice specified in Paragraph B above, Buyer shall have the option of rescinding its request or requesting that Subcontractor provide for a third-party audit acceptable and sufficient to support, verify, justify, explain, or understand Subcontractor’s certified cost or pricing data, which report shall be produced and provided at Subcontractor’s sole expense.

D. Upon Buyer’s request for audit as specified in Paragraph C above, Subcontractor shall, at its sole expense, arrange for a third party auditor to conduct an audit of the requested information, data, documents, or records; shall promptly and reasonably make the information, data, documents, or records originally requested by Buyer available to a third party auditor; and shall provide to Buyer an audit report meeting all criteria specified in Buyer’s request for audit.

E. Buyer shall have the right, in its sole discretion, to accept or reject as insufficient an audit report provided pursuant to Paragraph D above. If Buyer rejects an audit report, Subcontractor shall, at its sole expense, arrange for further audit and reporting as necessary to satisfy all criteria specified in Buyer's request for audit.

## 14.0 LAWS, REGULATIONS AND DOE DIRECTIVES

A. Subcontractor shall comply with all applicable federal, state and local laws and regulations (including DOE regulations) and all applicable lawful orders, rules and regulations. Subcontractor is obligated to comply with Prime Contract Section J, Attachment J-2, which is a list of applicable Federal, State and Local Regulations provided for information purposes only. Subcontractor acknowledges that it has a copy of and has read this list of requirements that it must comply with in connection with this Subcontract. Omission of any applicable law or regulation from the Subcontract does not affect the obligation of the Subcontractor to comply with such law or regulation pursuant to this paragraph.

B. In performing work under this Subcontract, the Subcontractor shall comply with the requirements of those DOE directives, or parts thereof, identified in Section J, Attachment J-2 to the Prime Contract, until such time as the Contracting Officer approves the substitution of an alternative procedure, standard, system of oversight or assessment mechanism. Subcontractor acknowledges that it has a copy of and has read this list of DOE Directives that it must comply with in connection with this Subcontract.

C. Except as otherwise directed by Buyer or the Contracting Officer of the Government, the Subcontractor shall procure all necessary permits or licenses required for the performance of work under this Subcontract.

D. Regardless of the performer of the work, the Subcontractor is responsible for compliance with the requirements of this clause. The Subcontractor is responsible for flowing down the requirements of the clause to the subcontracts at any tier to the extent necessary to ensure the Subcontractor's compliance with the requirements.

## 14.1 VALIDITY OF PROVISIONS

In the event any clause, of any part of portion of any clause, of this Subcontract shall be held invalid, void, or otherwise unenforceable, such holding shall not affect the remaining part or portions of that clause, or any other clause hereof.

## 14.2 WAIVER

Buyer's failure to insist on performance of any term, condition, or instruction, or to exercise any right or privilege included in this Subcontract, or its waiver of any breach, shall not thereafter waive any such term, condition, instruction, and/or any right or privilege. No asserted waiver of any right or benefit by Buyer shall be valid unless such waiver is in writing, signed by Buyer, supported by consideration, and specifies the extent and nature of the rights or benefits being waived.

## 14.3 SURVIVAL

The provisions of this Subcontract which by their nature are intended to survive the termination, cancellation, completion, or expiration of this Subcontract shall continue as valid and enforceable obligations of the parties notwithstanding any such termination, cancellation, completion, or expiration.

## 14.4 TRIAL

Subcontractor hereby knowingly, voluntarily, and intentionally waives (to the extent permitted by applicable law) any right it may have to a trial by jury of any dispute arising under or relating in any way to this Subcontract and agrees that any such dispute may, at Buyer's option, be tried before a judge sitting without a jury.

## 14.5 GOVERNING LAW

A. Irrespective of the place of performance, this Subcontract will be construed and interpreted according to the Federal Common Law of Government Contracts as enunciated and applied by Federal judicial bodies, Boards of Contract Appeals and quasi-judicial agencies of the Federal Government. To the extent that the Federal Common Law of Government Contracts is not dispositive, the law of the State of Washington shall apply. In the event that either party hereto must resort to litigation to enforce a right or remedy conferred by law, equity or the provisions of this Contract, the parties hereby consent to the action being brought in the court of competent jurisdiction in the state of Washington.

B. Subcontractor shall comply strictly with local, municipal, state, federal and governmental laws, orders, codes, rules, ordinances, and regulations applicable to Subcontractor's operations in the performance of the Work hereunder. Omission of any applicable law or regulations from the contract does not affect the obligation of the Subcontractor to comply with such law or regulation pursuant to this paragraph.

C. Subcontractor shall comply with the requirements of those DOE directives, or parts thereof identified in this contract including those applicable directives listed in Section J, Attachment J-2 of the Buyer's prime contract.

D. Subcontractor shall not, under any circumstances, apply to, or enter into, negotiations with any governmental authority or agency for acceptance of variations from or revisions to safety or health, or air, water, or noise pollution laws or regulations relating to this Subcontract or to the performance thereof, without Buyer's prior written approval.

E. Regardless of the performer of the work, the Subcontractor is responsible for compliance with the requirements of this clause. The Subcontractor is responsible for flowing down the requirements of the clause to the subcontracts at any tier to the extent necessary to ensure the Subcontractor's compliance with the requirements.

## 14.6 DOE_H_2043 ASSIGNMENT *(AMENDED)*

A. Neither this Subcontract nor any portion or interest therein nor any claim hereunder shall be assigned, transferred, or delegated by Subcontractor except as expressly authorized in writing by Buyer. This shall include assignments of Subcontractor's accounts receivable.

B. Buyer may assign this Subcontract, in whole or in part to DOE or to such party as DOE may designate to perform Buyer's obligations hereunder. Upon receipt by Subcontractor of written notice that the DOE or a party so designated by DOE or Buyer has accepted an assignment of this Subcontract, Buyer shall be relieved of all responsibility hereunder and Subcontractor shall thereafter look solely to such assignee for performance of Buyer's obligations.

C. During the period of performance of this Subcontract it may become necessary for Buyer or DOE to transfer and assign contracts in whole or in part supporting site work to this Subcontract. Subcontractor shall accept the transfers and assignments of contracts. Transfer and assignment of contracts to Subcontractor, if any, will be for administration purposes, and once transferred, will become subcontracts to the Subcontractor. Subcontractor shall incorporate all mandatory flow-down provisions into any transferred contract at no cost. Any recommendations and/or suggestions on individual transfers shall be submitted in writing to Buyer prior to the transfer or assignment.

D. Subcontractor agrees to transfer and assign or accept transfer and assignment of lower-tier subcontracts as determined necessary by Buyer or DOE for continuity of operations. The transfer and assignment may be to or from another contractor or subcontractor or to or from DOE as a prime contract. Subcontracts transferred or assigned to Subcontractor, once transferred, will become lower-tier subcontracts to Subcontractor. Subcontractor shall use its best efforts to negotiate changes to the assigned lower-tier subcontracts incorporating mandatory flow-down provisions at no cost. If the lower-tier subcontractor refuses to accept the changes or requests price adjustments, Subcontractor will notify Buyer in writing.

E. Subcontractor shall flow down in all lower tier subcontracts the requirements of this Clause.

## 14.7 ARBITRATION OPTION

In the event that Buyer is required to arbitrate a dispute with a third party, which dispute arises out of or is directly related to this Subcontract, Subcontractor agrees to join in such arbitration proceeding as Buyer may direct and shall submit to such jurisdiction and be finally bound by the judgment rendered in accordance with the arbitration rules as may be established therein.

## 14.8 GRATUITIES

A. Subcontractor, its employees, agents, or representatives shall not offer or give to an officer, director, agent, consultant, official or employee of Buyer or the Government, any gifts, entertainment, payments, loans, or other gratuities to influence the award of a pending Subcontract or obtain favorable treatment under a Subcontract.

B. Violation of this Clause may be deemed by Buyer to be a material breach of this Subcontract and any other contract with Buyer and subject all subcontracts with Subcontractor to Termination for Default, as well as any other remedies at law or in equity.

## 14.9 IMPLEMENTATION OF SECTION 3161 POLICY ON WORKFORCE RESTRUCTURING

A. Pursuant to the requirements of Section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (Pub. L. 102-484) preference is to be provided to displaced Subcontractor employees whose eligibility is defined in the DOE guidelines on work force restructuring or the site work force restructuring plan, including lower tier subcontractor employees, for work at the Hanford Site in accordance with the following unless modified by final Section 3161 guidance issued by DOE. Subcontractor and Subcontractor lower-tier subcontractors shall:

1. When offering or bidding to perform a work activity to provide hiring preference, to the extent practicable, in filling vacancies to displaced employees who meet the eligibility criteria contained in the DOE's Work Force Restructuring Guidelines and who are qualified for the prospective work or, through further retraining, can become qualified within the time frames and dollar amounts provided for in the guidelines (displaced workers with the hiring preference are listed on the Department's Job Opportunity Bulletin Board System {JOBBS} along with their qualifications); consistent with applicable law or employment seniority plans or practices of the DOE, with Section 3152 of the National Defense Authorization Act for Fiscal Years 1990 and 1991, and with the terms of any legally enforceable affirmative action plan.

2. Provide, or through its subcontractors provide, the training contemplated by subparagraph A.1. above; and

3. Discuss with affected unions or subcontractors and bargain where required by law regarding the implementation of the hiring preference provided by subparagraph A.1. above.

B. Subcontractor and any lower tier subcontractor subject to subparagraph A.1. above shall negotiate with affected unions to implement the hiring preference. This includes, if necessary, special agreements for allocation of work or arrangements for exceptions to internal union rules that might otherwise be obstacles to implementation of the hiring preference, consistent with the Departmental guidance regarding Section 3161.

C. Subcontractor and any lower-tier subcontractor shall comply with plans issued by DOE pursuant to Section 3161.

D. Nothing in this Clause shall be construed to excuse Subcontractor or any lower-tier subcontractor from compliance with the requirements of any applicable law.

E. Nothing in this Clause is intended to create rights in third parties or persons.

## 14.10 TOXIC SUBSTANCES CONTROL ACT

Subcontractor warrants that each and every chemical substance delivered under this Subcontract, if any, 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 2607(b) of the Toxic Substances Control Act (15 U.S.C. 2601-2629).14.12

## 14.11 CLAIMS AND DISPUTES

A. All claims and disputes arising under or relating to this Subcontract shall be resolved under this Clause.

B. "Claim," as used in this Clause, means a written demand or written assertion by Subcontractor, as a matter of right, to the payment of money in a sum certain, the adjustment or interpretation of Subcontract terms, or other relief arising under or relating to this Subcontract. Buyer shall not be liable for, and Subcontractor hereby waives, any Claim or potential Claim of Subcontractor, which was not timely and properly reported, substantiated, and progressed by Subcontractor in accordance with all provisions of this Clause.

1. The following process is to be used if Subcontractor believes it has or may have a Claim:

(a) Subcontractor shall give Buyer written notice within five (5) working days after the happening of any event or occurrence which Subcontractor believes may give rise to a Claim by Subcontractor for additional time or money. Within fourteen (14) calendar days after the happening of such event, Subcontractor shall supply Buyer with a written statement supporting Subcontractor's Claim, including but not limited to, Subcontractor's detailed estimate of the change in Subcontract price and/or scheduled time occasioned thereby.

(b) Subcontractor shall substantiate its written statement supporting its notice of Claim with payroll documents, paid invoices, receipts, records of performance, and other documents satisfactory to Buyer and subject to Buyer's verification.

(c) Subcontractor shall provide an updated and revised notice of Claim and written statement every thirty (30) days following initial submission to Buyer of the written statement of Claim and shall substantiate its updates and revisions with the documents specified in Subparagraph B(1)(b) above. Failure to timely update and revise the notice of Claim and written statement shall constitute release and waiver of any part of the Claim or any adjustment in Subcontract price or time not included in a prior timely notice of Claim and written statement.

(d) Following Buyer's receipt of a timely written notice and statement of Claim, the parties shall negotiate diligently to reach an agreement, but in no case, except with Buyer's prior written consent, shall any work be halted pending such agreement, whether or not the Claim can be resolved to Subcontractor's satisfaction, and Subcontractor shall be bound by the terms and conditions of this Subcontract to prosecute the work without delay to its successful completion. Buyer shall not be bound to any adjustments in the Subcontract price or scheduled time unless expressly agreed to by Buyer in writing. No Claim hereunder by Subcontractor shall be allowed if asserted after final payment under this Subcontract. Subcontractor's remedies are limited to those expressly set forth in this Subcontract.

(e) If after good faith efforts, the Claim is not resolved, the Subcontractor may request from Buyer a final determination as to the Claim pursuant to Paragraphs C through F below.

C. Subcontractor may request from Buyer a final determination as to a Claim for which it has given proper and timely written notice and negotiated diligently and in good faith to resolve as required by Paragraph B above, but which remains unresolved in whole or in part. Subcontractor shall notify Buyer in writing that a dispute exists and that it requests a final determination. A request for a final determination Subcontractor shall be submitted by Subcontractor in writing to the Contract Specialist for a decision within one (1) year after the happening of the event or occurrence giving rise to the Claim unless the parties agree to a different time period for submittal. Subcontractor agrees that by failing to request a final determination within the time period specified above, Subcontractor releases and waives the Claim and any right to commence litigation or other legal or administrative proceedings with respect to the Claim.

D. The Subcontractor shall provide a certification as specified below when submitting any Claim to Buyer.

1. The certification shall state as follows: "I certify that the claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the Subcontract adjustment for which the Subcontractor believes the Buyer is liable; and that I am duly authorized to certify the claim on behalf of the Subcontractor."
2. The certification may be executed by any person duly authorized to bind the Subcontractor with respect to the claim.
3. The certification requirement does not apply to issues in controversy that have not been submitted as all or part of a claim.
4. Subcontractor agrees that its failure to provide a Claim certification that fully complies with the requirements of this Paragraph D releases and waives the Claim and any right to commence litigation or other legal or administrative proceedings with respect to the Claim.

E. Within sixty (60) days of receiving Subcontractor's request for final determination of a Claim, Buyer shall provide to Subcontractor either (1) a written final determination on the Claim or (2) a notice of a reasonable date by which it will render its final determination on the Claim. Subcontractor agrees not to institute, and agrees to stay, any legal proceedings against Buyer with respect to a Claim unless and until Buyer has provided its final determination of the Claim or has failed to provide a final determination within 60 days of Subcontractor's request for final determination or a reasonable date of which it has provided notice in accordance with this Paragraph, whichever is later.

Buyer's final determination as to a Claim shall constitute a final decision fully and finally resolving the Claim unless Subcontractor files a lawsuit or initiates other legal proceedings in accordance with this Subcontract.

F. The parties, by mutual consent, may agree to use alternative dispute resolution (ADR) to resolve any Claim or dispute arising from or relating to this Subcontract or the work thereunder. If Subcontractor refuses an offer for ADR, Subcontractor shall inform the Buyer, in writing, of Subcontractor's specific reasons for rejecting the offer.

G. The Subcontractor shall proceed diligently with performance of this Subcontract, pending final resolution of any request for relief, claim, appeal, or action arising under or relating to the Subcontract, and comply with any decision of the Buyer.

H. Subcontractor acknowledges that the Prime Contract provides procedures for resolution of claims and disputes. Subcontractor agrees to submit all Claims to Buyer in such manner and time as will permit Buyer to fully comply with all such Prime Contract procedures and all provisions and requirements of the Contract Disputes Act, 41 U.S.C. §§ 7101-7109. Subcontractor agrees not to institute legal or other proceedings against Buyer until all applicable Prime Contract procedures and remedies have been exhausted. Subcontractor shall fully reimburse Buyer for all costs and expenses, including attorney fees and costs of legal action, incurred by Buyer in the enforcement of this Paragraph. Subcontractor shall indemnify and hold harmless Buyer from all liability, loss, damages, penalties, claims, costs, and expenses, including attorney fees and costs of legal action arising from or relating to Subcontractor's failure to comply with this Paragraph.

I. Under no circumstance will Subcontractor submit any Claims or disputes after final payment is received for completion of this Subcontract.

J. Subcontractor's right of recovery for any Claim arising from acts, errors, and/or omissions of the Government, its employees, officers, agents, or representatives shall be limited solely to the relief recovered by Buyer from the Government, and Buyer shall not be liable to Subcontractor for any monies or other relief except those paid by the Government to Buyer for the benefit of Subcontractor. Any Claim by Subcontractor involving, in whole or in part, acts, errors, and/or omissions of the Government, its employees, officers, agents, or representatives, shall be submitted in such manner and time as will permit Buyer to fully comply with all applicable Prime Contract provisions and requirements for passing the Claim through to the Government. Subcontractor agrees to revise and/or resubmit upon Buyer's request any Claim arising from acts, errors, and/or omissions of the Government, its employees, officers, agents, or representatives, and to submit upon Buyer's request any documents, records, data, or information relating to any such Claim. Subcontractor agrees not to institute, and agrees to stay, any legal proceedings against Buyer arising from or relating to a Claim by Subcontractor involving, in whole or in part, acts, errors, and/or omissions of the Government, its employees, officers, agents, or representatives until all proceedings between Buyer and the Government are final and complete. Subcontractor shall indemnify and hold harmless Buyer from all liability, loss, damages, penalties, claims, costs, and expenses, including attorney fees and costs of legal action arising from or relating to Subcontractor's failure to comply with this Paragraph.

## 14.12 ALTERNATIVE DISPUTE RESOLUTION

A. Buyer and Subcontractor both recognize that methods for fair and efficient resolution of contractual issues in controversy by mutual agreement are essential to the successful and timely completion of subcontract requirements. Accordingly, Buyer and Subcontractor shall use their best efforts to resolve any contractual issue in controversy by mutual agreement, subject to and consistent with the "Claims and Disputes" Clause of this Subcontract. Issues of controversy may include a dispute, claim, question, or other disagreement. The parties agree to negotiate with each other in good faith, recognizing their mutual interests, and attempt to reach a just and equitable solution satisfactory to both parties.

B. If a mutual agreement cannot be reached through negotiations within a reasonable period of time, the parties may use a process of alternative dispute resolution (ADR). The ADR process may involve mediation, facilitation, fact-finding, group conflict management, and conflict coaching by a neutral party. The neutral party may be an individual, a board comprised of independent experts, or a company with specific expertise in conflict resolution or expertise in the specific area of controversy. The neutral party will not render a binding decision but will assist the parties in reaching a mutually satisfactory agreement. Any opinions of the neutral party shall not be admissible as evidence in any subsequent litigation proceedings.

C. Either party may request that the ADR process be used by making a written request to the other party. A voluntary election by both parties is required to participate in the ADR process. The parties must agree on the procedures and terms of the process, and officials of both parties who have the authority to resolve the issue must participate in the agreed-upon process.

D. The provisions of this Clause are intended to complement, but not to supersede or preempt, any of the requirements of the "Claims and Disputes" Clause of this Subcontract.

## 15.0 PARENT ORGANIZATION SUPPORT

A. Subcontractor acknowledges that pursuant to Clause H.51 of the Prime Contract, allocations of parent organization expenses are unallowable costs unless authorized by Buyer and the DOE Contracting Officer. Subcontractor shall not seek, and is not entitled to receive, payment for any allocation of parent organization expenses, as defined in this Clause, unless those parent organization expenses have been expressly authorized by Buyer and the DOE Contracting Officer.

B. To protect Buyer from the risk associated with disallowance of parent organization expenses, Buyer may withhold and retain up to five percent (5%) of the amount that would otherwise be due to Subcontractor for general and administrative expenses until final payment under this Subcontract.

C. If DOE disallows, deems unallowable, or otherwise deems not payable or improperly paid to Buyer any amount paid by Buyer to Subcontractor on grounds that the amount constitutes or includes unallowable parent organization expenses, the full amount disallowed and/or deemed unallowable shall immediately be due and payable by Subcontractor to Buyer and shall be subject to backcharging or offset. Buyer shall be entitled to deduct the full amount disallowed and/or deemed unallowable from the Total Value of the Subcontract.

D. Subcontractor shall indemnify, defend, and hold harmless Buyer from any and all costs and expenses, including legal expenses and attorney fees, incurred by Buyer due to disallowance or rejection by DOE of parent organization expenses for which Subcontractor seeks and/or receives payment without express authorization by the by the Contracting Officer or in violation of any part of an approved Parent Organization Support Plan (POSP).

## 16.0 SHIPMENT NOTIFICATION

A. Subcontractor and/or any lower-tier subcontractor shall notify Energy Northwest seven (7) days in advance (1) of movement of "common" explosives over 1,800 pounds excluding small arms ammunitions or classified shipments within five (5) miles of Energy Northwest and/or, (2) of any railroad shipment from/to Hanford north of the rail spur to the Fast Flux Test Facility.

B. For EM radioactive material/waste shipments by motor carrier and/or rail, the additional security measures described below shall be implemented. Documentation that the security measures were performed shall be maintained with the shipping papers.

1. Additional Security Measures to be Implemented for Motor Carriers transporting Radioactive Material/Waste Shipments:

(i) Verify and document that site security plans require drivers entering the facility for loading/unloading of shipments to sign in at the security gate and be escorted to the loading/unloading location unless a security badge has been issued.

(i). Verify and document the name of the drivers, who will be entering DOE facilities to pick up shipments to be used for commercial shipments, are on the list provided by the motor carrier.

(ii) Verify and document the motor carriers to be used have provided documentation that all drivers meet the personal security requirements addressed in the U.S. Department of Transportation's Security Sensitive Visits.

(iii) Obtain copies of documentation from the carriers that all drivers are citizens of the United States.

(iv) Verify the drivers have a Commercial Driver's License, with proper hazardous materials endorsements, and attach a copy to the shipment documentation to be kept on file for each shipment.

(v) Verify the drivers have a Commercial Driver's License, with proper hazardous materials endorsements, and attach a copy to the shipment documentation to be kept on file for each shipment.

(vi) Verify and document the carriers utilize satellite tracking and/or maintains cellular telephone contact with the driver, including the requirement that the driver must contact carrier dispatch at regular intervals.

(vii) Require security staff to perform and document per-loading equipment inspections to avoid explosive and other devices as detailed in Measure 18 of CRD Notice 473.9 (Supplemented Rev. 0), Security Conditions.

(viii) **NOTE:** DOE Notice, Measure 18. Implement screening for other deliveries at designated inspection points to identify explosives and incendiary devices. Use canine (K-9) teams for inspections, when available. Instruct Site personnel to report suspicious packages to Security and refrain from handling them until cleared by appropriate authority.

(ix) Provide the drivers a briefing and a copy of written instructions regarding en route shipment security measures to be taken. Ensure the drivers can read and understand the instructions provided and have the driver sign a copy of the instructions. Attach signed and dated copy of the instructions to the shipment documentation to be kept on file.

(x) Request consignee notification of receipt of shipments.

2. Additional security measures to be implemented for rail carriers transporting radioactive material/waste shipments:

(i) Obtain a copy of the rail carrier's security plan. Ensure the plan identifies communications links, frequency of communication, and points of contact information for security-related emergencies.

(ii) Implement a mechanism to be notified by the carrier should cars/train encounter any unexpected occurrences enroute. Ensure the rail carrier has access to the information.

(iii) Require security staff to perform and document pre-loading equipment inspections to avoid explosive and other as detailed in Measure 18 of CRD Notice 473.9 (Supplemented Rev. 0), Security Conditions.

**NOTE:** DOE Notice, Measure 18. Implement screening procedures for other deliveries at designated inspection points to identify explosives and incendiary devices. Use K-9 teams for inspections, when available. Instruct site personnel to report suspicious packages to Security and refrain from handling them until cleared by appropriate authority.

(iv) Verify and document the rail carrier has a communication system (through central dispatch consignee notification of arrival cars/trains).

(v) Request consignee notification of arrival of cars/trains.

## 17.0 CLAUSES INCORPORATED BY REFERENCE

| FAR/DEAR REFERENCE | CLAUSE TITLE |
|---|---|
| FAR 32.905 | Payment Documentation and Process |
| FAR 52.203-3 | Gratuities (Apr 1984) |
| FAR 52.203-5 | Covenant Against Contingent Fees (May 2014) |
| FAR 52.203-6 | Restrictions On Subcontractor Sales To The Government (Sept 2006) |

| | |
|---|---|
| FAR 52.203-7 | Anti-Kickback Procedures (May 2014) |
| FAR 52.203-8 | Cancellation, Rescission, And Recovery Of Funds For Illegal Or Improper Activity (May 2014) |
| FAR 52.203-10 | Price Or Fee Adjustment For Illegal Or Improper Activity (May 2014) |
| FAR 52.203-12 | Limitation On Payments To Influence Certain Federal Transactions (Oct 2010) |
| FAR 52.203-13 | Contractor Code of Business Ethics and Conduct (Oct 2015) |
| FAR 52.204-10 | Reporting Executive Compensation and First-Tier Subcontract Awards (Oct 2018) |
| FAR 52.230-14 | Display of Hotline Poster(s) (Oct 2015) |
| FAR 52.203-17 | Contractor Employee Whistleblower Rights and Requirements to Inform Employees of Whistleblower Rights (Apr 2014) |
| FAR 52.203-19 | Prohibition on Requiring Certain Internal Confidentially Agreements or Statements (Jan 2017) |
| FAR 52.204-4 | Printed Or Copied Double-Sided on Postconsumer Fiber Content Paper (May 2011) |
| FAR 52.204-9 | Personal Identity Verification Of Contractor Personnel (Jan 2011) |
| FAR 52.204-13 | System for Award Management Maintenance (Oct 2018) |
| FAR 52.204-23 | Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Labs and Other Covered Entities (Jul 2018) |
| FAR 52.204-25 | Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services and Equipment (Aug 2020) |
| FAR 52.209-6 | Protecting The Government's Interest When Subcontracting With Contractors Debarred, Suspended, Or Proposed For Debarment (Oct 2015 ) |
| FAR 52.215-2 | Audit and Records—Negotiation (Oct 2010) |
| FAR 52.215-10 | Price Reduction for Defective Certified cost or Pricing Data (Aug 2011) |
| FAR 52.215-11 | Price Reduction for Defective Cost or Pricing Data – Modifications (Aug 2011) |
| FAR 52.215-12 | Subcontractor Certified Cost Or Pricing Data (Oct 2010) |
| FAR 52.215-13 | Subcontractor Certified Cost or Pricing Data – Modifications (Oct 2010) |
| FAR 52.215-14 | Integrity Of Unit Prices (Oct 2010) |
| FAR 52.215-15 | Pension Adjustments and Asset Reversions (Oct 2010) |
| FAR 52.215-18 | Reversion or Adjustment of Plans for Post-Retirement Benefits (PRB) Other Than Pensions (Jul 2005) |
| FAR 52.215-19 | Notification Of Ownership Changes (Oct 1997) |
| FAR 52.215.20 | Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data (Oct 2010) |
| FAR 52.215.21 | Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data - Modifications (Oct 2010) |
| FAR 52.219-4 | Notice of Price Evaluation Preference for HubZone Small Business Concerns (Oct 2014) |
| FAR 52.219-8 | Utilization Of Small Business Concerns (Oct 2018) |
| FAR 52.219-9 | Small Business Subcontracting Plan (Oct 2018) |
| FAR 52.222-1 | Notice To The Government Of Labor Disputes (Feb 1997) |
| FAR 52.222-3 | Convict Labor (June 2003) |
| FAR 52.222-4 | Contract Work Hours and Safety Standards – Overtime Compensation (May 2018) |
| FAR 52.222-17 | Nondisplacement of Qualified Workers (May 2014) |
| FAR 52.222-20 | Contracts for Materials, Supplies, Articles, and Equipment Exceeding $15,000 (May 2014) |
| FAR 52.222-21 | Prohibition Of Segregated Facilities (Apr 2015) |
| FAR 52.222-26 | Equal Opportunity (Sep 2016) |

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| FAR 52.222.35 | Equal Opportunity for Veterans (Oct 2015) |
| FAR 52.222.36 | Equal Opportunity for Workers with Disabilities (Jul 2014) |
| FAR 52.222-37 | Employment Reports On Special Disabled Veterans, Veterans Of The Vietnam Era, And Other Eligible Veterans (Feb 2016) |
| FAR 52.222-40 | Notification of Employee Rights under the National Labor relations Act (Dec 2010) |
| FAR 52.222-41 | Service Contract Labor Standards (Aug 2018) |
| FAR 52.222-50 | Combating Trafficking In Persons (Jan 2019) |
| FAR 52.222-54 | Employment Eligibility Verification (Oct 2015) |
| FAR 52.222-55 | Minimum Wages Under Executive Order 13658 (Dec 2015) |
| FAR 52.222-62 | Paid Sick Leave Under Executive Order 13706 (Jan 2017) |
| FAR 52.222-90 | Addressing DEI Discrimination by Federal Contractors (DEVIATION APR 2026) |
| FAR 52.223-3 | Hazardous Material Identification and Material Safety Data (Jan 1997) – Alternate I (Jul 1995) |
| FAR 52.223-11 | Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons (Jun 2016) |
| FAR 52.223-12 | Maintenance, Service, Repair, or Disposal of Refrigeration Equipment And Air Conditioners (Jun 2016) |
| FAR 52.223-14 | Acquisition of EPEAT® - Registered Televisions (Jun 2014) |
| FAR 52.223-15 | Energy Efficiency in Energy-Consuming Products (Dec 2007) |
| FAR 52.223-16 | Acquisition of EPEAT® - Registered Personal Computer Products (Oct 2015) |
| FAR 52.223-17 | Affirmative Procurement of EPA-Designated Items in Service and Construction Contracts (Aug 2018) |
| FAR 52.223-18 | Encouraging Contractors Policies to Ban Text Messaging While Driving (Aug 2011) |
| FAR 52.224-1 | Privacy Act Notification (Apr 1984) |
| FAR 52.224-2 | Privacy Act (Apr 1984) |
| FAR 52.224-3 | Privacy Training (Jan 2017) |
| FAR 52.225-1 | Buy American Act—Supplies (May 2014) |
| FAR 52.225-8 | Duty-Free Entry (Oct 2010) |
| FAR 52.225-13 | Restrictions On Certain Foreign Purchases (Jun 2008) |
| FAR 52.227-1 | Authorization and Consent (Dec 2007) |
| FAR 52.227-2 | Notice and Assistance Regarding Patent and Copyright Infringement (Dec 2007) |
| FAR 52.227-3 | Patent Indemnity (Apr 1984) |
| FAR 52.227-9 | Refunds Of Royalties (Apr 1984) |
| FAR 52.227-14 | Rights in Data – General |
| FAR 52.230-2 | Cost Accounting Standards (Oct 2015) |
| FAR 52.230-6 | Administration of Cost Accounting Standards (Jun 2010) |
| FAR 52.232-17 | Interest (May 2014) |
| FAR 52.232-40 | Providing Accelerated Payment to Small Business Subcontractors (Dec 2013) |
| FAR 52.242-15 | Stop-Work (August 1989) Alternate I (Apr 1984) |
| FAR 52.244-2 | Subcontracts (Oct 2010) – Alternate I (Jun 2007) |
| FAR 52.244-5 | Competition In Subcontracting (Dec 1996) |
| FAR 52.244-6 | Subcontracts For Commercial Items (Jan 2019) |
| FAR 52.246-26 | Reporting Nonconforming Items (Jun 2020) |

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| FAR 52.247-63 | Preference For U.S. - Flag Air Carriers (June 2003) |

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| FAR 52.247-64 | Preference For Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) |
| FAR 52.248-1 | Value Engineering (Oct 2010) |
| FAR 52.248-3 | Value Engineering |
| DEAR 952.204-2 | Security (Aug 2016) |
| DEAR 952.204-70 | Classification Declassification (Sep 1997) |
| DEAR 952.204-77 | Computer Security (Aug 2006) |
| DEAR 952.208-70 | Printing (Apr 1984) |
| DEAR 952.209-72 | Organizational Conflicts of Interest (Aug 2009) – Alt I (Feb 2011) |
| DEAR 952.217-70 | Acquisition Of Real Property (Mar 2011) |
| DEAR 952.223-72 | Radiation Protection and Nuclear Criticality (Apr 1984) |
| DEAR 952.223-78 | Sustainable Acquisition Program (Oct 2010) – Alt I (Oct 2010) |
| DEAR 952.225-71 | Compliance with Export Control Laws and Regulations (Nov 2015) |
| DEAR 952.226-74 | Displaced Employee Hiring Preference (June 1997) |
| DEAR 952.247-70 | Foreign Travel (June 2010) |
| DEAR 952.250-70 | Nuclear Hazards Indemnity Agreement (Aug 2016) |
| DEAR 970.5226-2 | Workforce Restructuring Under Section 3161 Of The National Defense Authorization Act For Fiscal Year 1993 (Dec 2000) |
| DEAR 970.5227-1 | Rights in Data – Facilities (Dec 2000) |
| DEAR 970.5227-6 | Patent Indemnity - Subcontracts (Dec 2000) |
| DEAR 970.5232-3 | Accounts, Records, And Inspection (Dec 2010) Alternate I (Dec 2000) |