

**South Dakota Science and Technology Authority
630 East Summit Street
Lead, South Dakota, 57754**

PURCHASE ORDER TERMS AND CONDITIONS

These terms and conditions will be included on the purchase order to the selected vendor(s).

I. PURCHASE ORDER AS AGREEMENT

This Purchase Order constitutes the SDSTA's acceptance of the Bid of _____ (Vendor) dated _____, attached hereto as Exhibit B, to furnish the items or commodities specified in the Bid, but subject to the terms and conditions stated in this Purchase Order and the attachments, including, if applicable, the Specifications for Materials shown on Exhibit A. Upon written acceptance by the Vendor, this Purchase Order and the attachments hereto shall constitute a legally-binding agreement between the SDSTA and the Vendor. The SDSTA agrees that the items or articles specified in the Bid are identical to those specified in the SDSTA's solicitation, or are acceptable on an "as equal" basis.

II. DELIVERY TIME AND PLACE

All deliveries are to be made to:

Attn: **Name**

Sanford Underground Laboratory / SDSTA

100 Ross Street - Ross Warehouse

Lead, SD 57754

Main phone number: (605) 722-8650

Vendor will coordinate delivery requirements with SDSTA's Procurement Representative, Pam Millard, pmillard@sanfordlab.org, (605) 722-4056, and will confirm delivery arrangements with this Representative at least one week prior to delivery.

III. INVOICES AND STATEMENTS

All delivery tickets, invoices and statements shall reference the number of this Purchase Order. Invoices must be submitted electronically to SDSTA at this address: ap@sanfordlab.org by the 3rd of the month for payment to be made by the 20th of the month.

IV. SDSTA REPRESENTATIVE

The SDSTA shall designate in writing a SDSTA Project Representative. The SDSTA Project Representative shall be responsible for providing SDSTA-supplied information and approvals in a timely manner to permit Vendor to fulfill its obligations pursuant to this Agreement. The SDSTA Project Representative shall also provide Vendor with prompt notice if it observes any failure on the part of the Vendor to fulfill its contractual obligations, including any errors,

omissions or defects in the performance of the work provided for in this Agreement. Unless changed in writing by the SDSTA, the SDSTA Project Representative is .

V. INSPECTION

Items or commodities purchased hereunder are subject to inspection and acceptance at the delivery point. The SDSTA reserves the right to reject and refuse acceptance of items or commodities which do not conform to the SDSTA's solicitation and related instructions, specifications, drawings and data, or with Vendor's warranty (expressed or implied). The Vendor shall be responsible for the SDSTA's reasonable costs incurred in inspecting items or commodities which the SDSTA deems to be nonconforming. Items or commodities which are rejected will be returned to Vendor at Vendor's expense and Vendor agrees to accept the same. Payment for any item or commodity delivered pursuant to this Purchase Order shall not be deemed an acceptance thereof.

VI. WARRANTY

Vendor expressly warrants that all articles, assemblies, parts and materials furnished under this Purchase Order (a) will correspond with the description thereof contained in the Bid and with the additional specifications, if any, attached hereto and made a part hereof; (b) will be free from defects in labor, materials or fabrication; and (c) will be free and clear of all liens and encumbrances, Vendor hereby warranting to SDSTA good and merchantable title thereto. All of said warranties shall survive acceptance and shall run in favor of the SDSTA, its successors and assigns. Vendor shall carefully study and compare all manufacturers' numbers, quantities, descriptions and special instructions with its Bid and this Purchase Order, and will at once report to the SDSTA in writing any discrepancies, inconsistencies or omissions discovered by the Vendor.

VII. INDEMNITY

Vendor agrees to indemnify and hold the SDSTA harmless from and against all claims, damages and expenses arising out of or related to any patent controversy or litigation, damages to person or property caused by Vendor's negligence or other fault.

VIII. COMPLIANCE WITH LAWS

Vendor warrants that all federal, state and local laws and regulations of all governmental and trade authorities, agencies or commissions concerning the manufacture, sale, pricing and labeling of the merchandise purchased hereunder have been complied with, and Vendor agrees to indemnify SDSTA against any loss or expense sustained by the SDSTA as the result of any noncompliance. See the appended *Compliance with Federal Acts* provisions for details.

IX. TERMINATION

SDSTA may at any time terminate this Purchase Order in whole or in part for the convenience of SDSTA or for cause, by written or electronic notice, or verbal notice confirmed in writing, and

thereupon the SDSTA shall be entitled to recover all deposits and advances made. Upon termination for the convenience of the SDSTA, the SDSTA shall pay the Vendor's reasonable expenses incurred in connection with this Purchase Order, including a commercially-reasonable restocking fee, if applicable. If, however, termination is occasioned by Vendor's breach of any condition hereof, including breach of warranty, or by Vendor's delay, Vendor shall not be entitled to any such payment, and the SDSTA shall have against Vendor all remedies provided by law and equity.

X. TITLE AND RISK OF LOSS

The risk of loss shall remain with the Vendor until upon completion of Vendor's obligations with respect to delivery or installation, as required, at which time title and the risk of loss shall be deemed transferred to the SDSTA.

XI. NOTICES

Questions concerning shipping dates, pricing structures, invoices, and technical questions and notices which may be or are required to be given under this Purchase Order must be given writing to the contacts listed below. The failure to return calls, faxes or emails in a timely manner shall constitute a breach of this Purchase Order.

XII. NON-DISCRIMINATION STATEMENT - DEBARMENT

The SDSTA requires that all contractors, vendors, and suppliers employing fifteen or more persons and doing business with the SDSTA provide a statement of non-discrimination. By submitting the attached Vendor's Bid, the Vendor certifies they do not discriminate in its employment practices with regard to race, religion, age, sex, national origin or disability. By executing this Purchase Order, the Vendor certifies that it is not ineligible, debarred or suspended from participating in agreements involving the expenditure of federal funds and that it is eligible to participate in federally-funded contracts. Vendor further agrees that Vendor will not employ, hire, contract with or engage any designer, consultants, subconsultants, contractors, subcontractors or other person to perform work in connection with this Purchase Order which is ineligible, debarred or suspended from participating in such agreements.

XIII. MISCELLANEOUS

This Purchase Order and the attachments specifically referred to herein constitute the entire agreement of the parties concerning its subject matter. In the event these terms conflict with the Compliance with Federal Acts requirements that follow, the Federal requirements take precedence. The terms of this Purchase Order may only be amended by a written document, executed with the same formalities as this Purchase Order. Time is of the essence in the performance of the covenants, terms and conditions of this Purchase Order. If the Vendor attempts to alter these terms and conditions or substitute any terms and conditions of its own that are contrary, its Bid will be considered unresponsive. The terms of this Purchase Order are to be construed under and governed by the laws of South Dakota. Any lawsuit arising out of or related to this Purchase Order must be brought in the state courts of South Dakota.

SDSTA:

SOUTH DAKOTA SCIENCE AND
TECHNOLOGY AUTHORITY

By: _____

Executive Director

VENDOR:

By: _____

Title : _____

VENDOR:

By: _____

Date

Its _____

Fed. Emp. Tax ID#: _____

Shipping Contact: _____

Email: _____

Phone: _____

Cell: _____

COMPLIANCE WITH FEDERAL ACTS
GENERAL PROVISIONS FOR FIXED PRICE NON-COMMERCIAL SUPPLIES & SERVICES

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CLAUSE 1 – DEFINITIONS

As used herein, the following terms shall have the indicated meanings:

"CFR" means the U.S. Code of Federal Regulations.

"Items" means the materials, supplies, and services subcontracted for under the Subcontract.

"DEAR" means the DOE Acquisition Regulation.

"DOE" means the U. S. Department of Energy.

"FAR" means the Federal Acquisition Regulation.

"Government" means the United States Government.

"SDSTA" means the South Dakota Science and Technology Authority.

"Subcontract" means the subcontract between the SDSTA and the Subcontractor which includes these General Provisions.

"Subcontractor" means the party who has entered into the Subcontract with the SDSTA, as identified in the Subcontract.

The lower case term "subcontractor" means the Subcontractor's subcontractor(s).

CLAUSE 2 – SCOPE OF SUBCONTRACT

The scope of the Subcontract shall be limited to the acquisition of fixed price supplies and services, excluding commercial items or commercial components, as those terms are defined in FAR 2.101, and architect-engineer services or construction work. The subcontract may include research, development, or demonstration work.

To the maximum practicable extent, the Subcontractor and its subcontractors at all tiers shall incorporate commercial items or nondevelopmental items, as defined in FAR 2.101, as components of items to be supplied under the Subcontract.

The Subcontract is awarded under Prime Contract No. DE-AC02-05CH11231 between DOE and Lawrence Berkeley National Laboratory for research and related work.

CLAUSE 3 – ACCEPTANCE OF SUBCONTRACT

The Subcontractor's written acceptance of this Subcontract or the performance of any portion of this Subcontract shall constitute the Subcontractor's unqualified acceptance of this Subcontract and all of the General Provisions

Fixed Price Non-Commercial Supplies & Services

Subcontract's terms and conditions. Any alterations made to the documents comprising this Subcontract or any conditions imposed by the Subcontractor upon its written acceptance of this Subcontract are not accepted, shall constitute a proposal for modification of the Subcontract only, and shall have no effect on the validity or the Subcontractor's acceptance of this Subcontract and its terms and conditions, anything to the contrary notwithstanding.

In the event the Subcontractor's business status indicated in the Subcontract or the Subcontractor's proposal is not accurate and current, in accordance with applicable Federal laws, executive orders, and regulations, the SDSTA may cancel this Subcontract, without further obligation.

CLAUSE 4 – DOCUMENTS OF SUBCONTRACTOR

The provisions of any quotation or other documents of the Subcontractor referenced in or incorporated as a part of this Subcontract are referenced or incorporated only for the purpose of further describing the Items and the price and/or the delivery thereof, and any terms and conditions contained in such referenced or incorporated documents shall not apply.

CLAUSE 5 – QUALITY OF MATERIALS AND SUPPLIES

The Items, including any materials and supplies furnished by the Subcontractor in performance of any services, shall as a minimum: (1) conform to the requirements of this Subcontract and be as warranted;

(2) be new or reconditioned and so identified and warranted as new and not of such age or so deteriorated as to impair their usefulness or safety; and (3) not contain any counterfeit or suspect materials, parts, or components. The furnishing of reconditioned Items must be specified in the Subcontract or approved by the SDSTA.

The SDSTA will not accept any Items, including any services involving the furnishing of materials or supplies that do not meet these minimum requirements, notwithstanding any inspection or acceptance of delivery by the SDSTA, unless such condition is specifically approved in writing by the SDSTA Procurement Representative. The Subcontractor shall promptly replace such items with conforming items at its expense.

The SDSTA may impound any suspect/counterfeit items furnished or used under this Subcontract and provide such items to the appropriate authorities for investigation. The SDSTA reserves the right to withhold payment for the suspect/counterfeit items pending the results of any such investigation.

CLAUSE 6 – FORCED, CONVICT, AND INDENTURED LABOR

By signing or accepting this subcontract, the Subcontractor hereby certifies that no foreign-made equipment, materials, or supplies furnished to the SDSTA pursuant to this subcontract will be produced in whole or in part by forced labor, convict labor, or indentured labor under penal sanction.

Any Subcontractor subcontracting with the SDSTA who knew or should have known that the foreign-made equipment, materials, or supplies furnished to the SDSTA were produced in whole or in part by forced labor, convict labor, or indentured labor under penal sanction, when entering into a subcontract pursuant to the above, may have any or all of the following sanctions imposed:

The subcontract under which the prohibited equipment, materials, or supplies were provided may be voided at the option of the SDSTA.

The Subcontractor may be removed from consideration for SDSTA subcontracts for a period not to exceed 360 days.

CLAUSE 7 – PACKAGING INSTRUCTIONS

The Subcontractor shall suitably package Items for shipment to prevent damage during handling and shipping. Any damage resulting from improper packaging, containerizing, or lack thereof shall be the liability of the Subcontractor, anything to the contrary notwithstanding. The Subcontractor shall indicate the SDSTA Subcontract number on each container or package. An itemized packing list shall be affixed to the outermost cover of each container or package.

The SDSTA encourages the use of biodegradable packaging materials. To assist in this endeavor, the Subcontractor is requested to use every reasonable effort to use biodegradable packaging materials for shipments to the SDSTA.

CLAUSE 8 – TITLE AND RISK OF LOSS

Unless otherwise provided in the Subcontract, title to items purchased under the Subcontract shall pass directly to the Government, and the risk of loss or damage to the items shall remain with the Subcontractor and shall pass to the SDSTA, upon completion of delivery and unloading at the delivery point.

However, if the Subcontract requires formal acceptance of any items by the SDSTA, then title to such items shall pass directly to the Government upon such formal acceptance; and the title and risk of loss or damage to non-conforming items shall remain with the Subcontractor until acceptance of the items by the SDSTA as conforming.

CLAUSE 9 – SHIPMENTS FOR SDSTA'S ACCOUNT

Except as otherwise provided in the Subcontract, all shipments by the Subcontractor for the SDSTA's account shall be (1) shipped FOB Destination or Origin and marked as shipped "For the U. S. Department of Energy;" (2) shipped at the maximum declared value for the lowest applicable transportation rate or classification, and the bill of lading shall so note; and (3) self-insured by the SDSTA and not insured by the Subcontractor. Airway bills shall be marked with the appropriate "Government Package" entry. Shipping costs in excess of those per the "Shipping Instructions" specified on the face of this Subcontract shall be deducted from the Subcontractor's invoice(s).

CLAUSE 10 – INVOICES

The Subcontractor shall submit its invoice at the time of final shipment or completion, unless otherwise provided in the Subcontract. All invoices shall comply with the invoice requirements specified in the Subcontract. Failure to comply with any of these requirements may result in a delay in payment or non-payment of the invoices.

CLAUSE 11 – PAYMENT

Unless otherwise provided in the Subcontract, Subcontractor shall be paid within 30 days after receipt of a properly prepared and submitted invoice, for Items delivered and accepted or services performed and accepted. Any offered discount shall be taken if payment is made within the discount period indicated by the Subcontractor. Payments may be made electronically or by check, at the option of the University, and shall

be deemed to have been made as of the date the electronic payment was made or the check was mailed.

Information on electronic payments is available at:

http://www.lbl.gov/Workplace/CFO/co/ap/electronic_payments.html.

CLAUSE 12 – WARRANTY

The Subcontractor warrants that the Items furnished under this Subcontract shall be covered by the most favorable commercial warranties the Subcontractor gives to any customer for the same or substantially similar Items. Such warranties shall include performance, workmanship, labor, materials, Subcontractor's design or engineering contributions, and the Subcontractor shall furnish copies of same to the SDSTA, upon request. Notwithstanding any other provisions of this Subcontract, the Subcontractor also warrants that the Items furnished shall be of the most suitable grade and exactly as specified in this Subcontract. The rights and remedies provided by such warranties shall be in addition to and shall not limit any rights afforded to the SDSTA by any other provision of this Subcontract.

If a defect is discovered in any Item covered in this Subcontract, the Subcontractor shall correct at its expense such defects as are reported within the Subcontractor's applicable standard warranty period for the Items. Upon expiration of the applicable warranty period, all such liability shall terminate except for fraud, or such gross mistakes as amount to fraud, latent defects, or specific failure to comply with the terms of this Subcontract.

CLAUSE 13 – LAWS, REGULATIONS, AND DOE DIRECTIVES

All delivered items and all services performed under this Subcontract shall be in compliance with all applicable federal, state, and local laws, ordinances, statutes, codes, rules, and regulations (including DOE regulations), including but not limited to those relating to wages, hours, employment, discrimination, immigration, and safety (including OSHA). The Subcontractor shall also comply with the Contractor Requirements Document (CRD) of any DOE Directive referenced within the Subcontract or these General Provisions.

Except as otherwise directed, the subcontractor shall procure all necessary permits or licenses required for the performance of work under this Subcontract.

CLAUSE 14 – NOTIFICATIONS

Subcontractor shall immediately notify the SDSTA Procurement Representative in writing of: (1) any action, including any proceeding before an administrative agency, filed against the Subcontractor arising out of the performance of this Subcontract; and (2) any claim made against the Subcontractor, the cost of which is reimbursable hereunder.

Subcontractor agrees to notify the SDSTA of any government tax, fee, or charge levied or purported to be levied on or collected from the Subcontractor in connection with this Subcontract which the Subcontractor has reason to believe may be inapplicable or invalid, and which would be reimbursable or the SDSTA has claimed an exemption hereunder. Subcontractor also agrees to refrain from paying any such tax, fee, or charge, unless otherwise authorized by the SDSTA, and to take such steps as may be required by the SDSTA to cause such tax, fee, or charge to be paid under protest and, if so directed by the SDSTA, to cause to be assigned to the SDSTA or its designee any and all rights to the abatement or refund of any such tax, fee, or charge, and to permit the SDSTA or its designee to join with the Subcontractor in any proceedings for the recovery thereof or to sue for recovery in the Subcontractor's name.

If, at any time during the performance of this Subcontract, the Subcontractor becomes aware of any circumstances which may jeopardize its performance of all or any portion of the Subcontract, it shall immediately notify the SDSTA Procurement Representative in writing of such circumstances, and the Subcontractor shall take whatever action is reasonably necessary to resolve such circumstances within the shortest possible time.

CLAUSE 15 – INSPECTION

The SDSTA reserves the right to inspect all and every part of the items and services furnished under the Subcontract, during and after completion of performance. The SDSTA shall not be obligated to inspect the items or services, and neither the inspection nor the lack of inspection by the SDSTA shall relieve the Subcontractor of its responsibility for providing the items and services in accordance with the terms and conditions of the Subcontract. The inspection of or payment for an item or service under the Subcontract, either wholly or in part, shall not be construed as an acceptance.

If any item or service or any part thereof is not in accordance with the terms and conditions of the Subcontract, the SDSTA shall notify the Subcontractor that the item or service is rejected. Thereupon, the Subcontractor shall, at its own expense, take the necessary corrective action. The SDSTA shall reject, or revoke its acceptance of, an item or service: (1) within a reasonable time after a defect is discovered or should have been discovered; and (2) before any substantial change occurs in the condition of the item or service, unless the change is due to a defect in the item or service.

CLAUSE 16 – RELEASE OF INFORMATION

The Subcontractor agrees that information regarding this Subcontract, any data developed or obtained, and the name of the SDSTA, LBNL, or the Government shall not be disclosed in any publications, news releases, advertising, speeches, technical papers, photographs, and other releases of information without prior written approval from the SDSTA Procurement Representative.

CLAUSE 17 – ASSIGNMENTS

Except as to assignment of payment due hereunder, the Subcontractor shall have no right, power or authority to sell, mortgage, transfer or assign this Subcontract, any portion hereof, any interest herein or any claim hereunder, nor allow or permit any other party or parties to have any interest in or use any part of the rights or obligations granted hereunder for any purpose whatsoever without the prior written consent of the SDSTA.

CLAUSE 18 – BANKRUPTCY

If the Subcontractor enters into any proceeding related to bankruptcy, it shall give written notice to the SDSTA Procurement Representative via certified mail within five days of initiation of the proceeding. The notification shall include the date on which the proceeding was filed, the identity and location of the court, and a listing of the SDSTA purchase orders, subcontracts, or agreements affected.

CLAUSE 19 – EXCUSABLE DELAYS

The Subcontractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Subcontractor and without its fault or negligence, such as acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, flood, epidemics quarantine, restrictions, strikes, unusually severe weather, and delays of common carriers. The Subcontractor shall notify the SDSTA in writing as soon as reasonably possible after commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give the SDSTA written notice of the cessation of such occurrence.

CLAUSE 20 – DISPUTES

Except as otherwise provided in the Subcontract, any claim under the Subcontract not resolved in the ordinary course of business shall be referred in writing to the SDSTA Procurement Representative and the executive management representative of the Subcontractor with the authority to settle the dispute. The representatives of the parties, or their designees, shall then attempt in good faith to resolve the dispute by negotiations. All negotiations shall be confidential and shall be treated as compromise and settlement negotiations, for the purposes of

application of rules of evidence. Pending resolution of the dispute, the Subcontractor shall proceed diligently with the performance of the Subcontract, in accordance with its terms and conditions.

Any unresolved dispute with a value under \$100,000 relating to the Subcontract (whether contract, tort, or both), or the breach of the Subcontract shall be arbitrated by and in accordance with the then existing commercial arbitration rules of the American Arbitration Association (AAA). Judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction.

The following modifications are made to the AAA rules: (1) the arbitrator shall be neutral and appointed by the AAA; (2) the location for all arbitrations shall be in South Dakota or other location agreed to by the parties; and (3) each party to the arbitration shall pay its pro rata share of the arbitrator's fees not including counsel fees or witness fees or other expenses incurred by a party for its own benefit.

The parties shall consider the use of a form of alternate disputes resolution (ADR), including non-binding mediation and binding arbitration, for any unresolved dispute with a value of \$100,000 or more. In the event that ADR fails or is not used for such disputes, the parties may thereafter pursue any remedy they may have, at law or in equity, in a court of competent jurisdiction, in accordance with the provision of these General Provisions entitled *GOVERNING LAW AND VENUE*.

CLAUSE 21 – GOVERNING LAW AND VENUE

The Subcontract shall be interpreted in accordance with the substantive and procedural laws of the State of South Dakota. Any action at law or judicial proceeding instituted by either party pertaining to the Subcontract shall be instituted in the State of South Dakota.

CLAUSE 22 – WORK ON SDSTA OR GOVERNMENT PREMISES

(Applicable to Subcontracts involving work on SDSTA or Government premises or for transportation.)

Liens. The Subcontractor agrees that, at any time upon the request of the SDSTA, it will submit a sworn statement setting forth the services performed or goods furnished by lower-tier subcontractors and the amount due and to become due to each, and that before the final payment called for hereunder, it will, if requested, submit to the SDSTA a complete set of vouchers showing what payments have been made for goods and labor used in connection with the work called for hereunder.

Indemnify, Defend and Hold Harmless.

The Subcontractor shall indemnify, defend and hold harmless the SDSTA and the Government from all claims, demands, causes of action, or suits, of whatever nature, arising out of the services, labor, and goods furnished by the Subcontractor or its lower-tier subcontractors under the subcontract, and from all laborers', material providers', and mechanics' liens upon the real property upon which the work is located or any other property of the SDSTA or the Government; and

Promptly notify the SDSTA, in writing, of any such claims, demands, causes of action, or suits brought to its attention. The Subcontractor shall forward with such notification copies of all pertinent papers received by the Subcontractor with respect to any such claims, demands, causes of action, suits, or liens and, at the request of the SDSTA, shall do all things and execute and deliver all appropriate documents and assignments in favor of the SDSTA or the Government of all the Subcontractor's rights and claims growing out of such asserted claims as will enable the SDSTA and the Government to protect their respective interests by litigation or other means. The final payment shall not be made until the Subcontractor, if required, shall deliver to the SDSTA a complete release of all liens arising out of the subcontract or receipts in full in lieu thereof, as the SDSTA may require, and if required in either case, an affidavit that as far as it has knowledge or information, the receipts include all the labor and goods for which a lien could be filed; but the Subcontractor may, if any lower-tier subcontractor refuses to furnish a release or receipt in full, furnish a bond satisfactory to the SDSTA to indemnify it against any claim by

lien or other means. If any lien or claim remains unsatisfied after all payments are made, the Subcontractor shall refund to the SDSTA all moneys that the latter may be compelled to pay in discharging such lien or claim, including all costs and reasonable attorney's fees.

Clean Up. The Subcontractor shall at all times keep SDSTA or Government premises and adjoining premises where the work is performed free from accumulations of waste material or rubbish caused by its work or the work of any of its lower-tier subcontractors; and shall remove all such waste material and rubbish at the completion of the work and shall leave the work area "broom clean" or its equivalent, unless more exactly specified. If the waste material and rubbish is not promptly removed as herein required, the SDSTA may remove the rubbish and charge the cost to the Subcontractor.

Employees.

The Subcontractor shall not employ for the work any unfit person or anyone not skilled in the work assigned to the person and shall devote only its best qualified personnel to work under the subcontract. Should the SDSTA deem anyone employed on the work incompetent or unfit for duty and so inform the Subcontractor, the Subcontractor shall remove such person from the work under the subcontract, and that person shall not again, without written permission of the SDSTA, be assigned to work under the subcontract.

It is understood that if employees of the SDSTA shall perform any acts for the purpose of discharging the responsibility undertaken by the Subcontractor hereunder, whether requested to perform such acts by the Subcontractor or not, such employees of the SDSTA while performing such acts shall be considered the agents and servants of the Subcontractor subject to the exclusive control of the Subcontractor.

Environment, Safety, and Health.

The Subcontractor shall take all reasonable precautions in the performance of the work under this Subcontract to protect the health and safety of employees and members of the public, to minimize danger from all hazards to life and property, and to prevent injury to any of its employees or other persons; and shall comply with all applicable environmental, safety, health, and fire protection regulations and requirements, including those of the SDSTA and DOE (including reporting requirements).

The Subcontractor shall immediately take action to correct any noncompliance with the requirements of this clause. In the event that the Subcontractor fails to comply with said regulations or requirements of the SDSTA or the DOE, the SDSTA may, without prejudice to any other legal or contractual rights of the SDSTA, issue a stop-work order stopping all or any part of the work; thereafter, a start order for resumption of the work may be issued at the discretion of the SDSTA. The Subcontractor shall make no claim for an extension of time or for compensation or damages by reason of or in connection with such work stoppage.

CLAUSE 23 – WORKER SAFETY AND HEALTH

(Applicable if the Subcontract involves performance at an SDSTA site.)

The Subcontractor and its lower-tier subcontractors performing work at an SDSTA worksite are subject to the SDSTA's Environmental Safety and Health requirements, including site-specific training. These requirements are detailed in SDSTA's ESH Manual: <https://www.sanfordlab.org/esh>. The Subcontractor is responsible for ensuring that its lower tier subcontractors comply with these requirements. Violations of these requirements may subject the Subcontractor and its lower tier subcontractors to civil penalties.

The Subcontractor shall ensure that all workers requiring unescorted/badged access to an SDSTA site have completed all required training.

CLAUSE 24 – INJURY REPORTING

(Applicable if the Subcontract involves performance by Subcontractor employees at SDSTA site.)

Subcontractor shall report all injuries to Subcontractor's employees that qualify for inclusion on Subcontractor's OSHA log to the SDSTA the day of occurrence. Subcontractor shall furnish a copy of its supplemental injury report form (OSHA form 101 or equivalent) for each such case. This report shall be provided to the SDSTA Representative.

Subcontractor shall report to the SDSTA the hours worked by Subcontractor's employees on the SDSTA Site on a monthly basis. For each quarter, the hours worked shall be reported in writing no later than the 3rd day of the following month. This report shall be emailed to: mandresen@sanfordlab.org.

CLAUSE 25 – WALSH-HEALEY PUBLIC CONTRACTS ACT

If this subcontract is for the manufacture or furnishing of materials, supplies, articles, or equipment in an amount which exceeds or may exceed \$15,000.00 and is otherwise subject to the Walsh-Healey Public Contracts Act, as amended (41 U.S.C. 35), there are hereby incorporated by reference all representations and stipulations required by said Act and regulations issued thereunder by the Secretary of Labor, such representations and stipulations being subject to all applicable rulings and interpretations of the Secretary of Labor which are now or may hereafter be in effect.

CLAUSE 26 – ENTIRE AGREEMENT AND ORDER OF PRECEDENCE

This Subcontract shall consist of the Subcontract document (including any signature page and schedule of articles), these General Provisions, and any other referenced or incorporated clauses, provisions, and documents, which is the entire agreement between the parties concerning the subject matter hereof and supersedes all prior proposals, representations, negotiations, or agreements, whether written or oral.

Any inconsistencies in the terms and conditions comprising the Subcontract shall be resolved by giving precedence in the following order: (a) the Subcontract document; (b) these General Provisions, including the FAR and DEAR clauses listed in the clause entitled *Clauses Incorporated by Reference*; (c) any specifications; (d) other documents listed in the Subcontract Article entitled *Incorporated Documents*, if any, in the order in which they are listed; and (e) any other referenced or incorporated clauses, provisions, and documents.

CLAUSE 27 – CLAUSES INCORPORATED BY REFERENCE

The FAR and DEAR clauses listed below, which are located in Chapters 1 and 9 of CFR Title 48 and available at <http://www.gpo.gov/fdsys/>, are hereby incorporated by reference as a part of these General Provisions, as prescribed below. The Subcontractor shall include the listed clauses in its subcontracts at any tier, to the extent applicable.

As used in the clauses, the term "contract" shall mean this Subcontract; the term "Contractor" shall mean the Subcontractor; the lower-case term "subcontractor" shall mean the Subcontractor's subcontractor; and the terms "Government" and "Contracting Officer" shall mean the SDSTA, except in FAR 52.227-1, 52.227-2, 52.227-3, 52.227-14, and 52.227-19, and DEAR 952.227-11, 952.227-13, 970.5227-4 and 970.5232-3, in which clauses "Government" shall mean the U. S. Government and "Contracting Officer" shall mean the DOE Contracting Officer.

THE FOLLOWING CLAUSES APPLY TO ALL SUBCONTRACTS:

DEAR 952.203-70	WHISTLEBLOWER PROTECTION FOR CONTRACTOR EMPLOYEES (DEC 2000). Applies if the work is performed on-site at a DOE-owned or leased facility.
DEAR 952.204-71	SENSITIVE FOREIGN NATIONS CONTROLS (MAR 2011). Applies to nuclear technology.

DEAR 952.204-77	COMPUTER SECURITY (AUG 2006). Applies if the Subcontractor has access to any LBNL or DOE computers.	2. Evaluation by non-government evaluators;
DEAR 970.5208-1	PRINTING (DEC 2000). Applies if printing is specified under the Subcontract.	3. Use (except for manufacture) by other contractors or subcontractors participating in the Government's program of which the specific subcontract is a part;
FAR 52.211-17	DELIVERY OF EXCESS QUANTITIES (SEP 1989). Applies if the Subcontract is for supplies.	4. Emergency repair or overhaul work; and
FAR 52.215-19	NOTIFICATION OF OWNERSHIP CHANGES (OCT 1997). Applies when it is contemplated that certified cost or pricing data will be required or for which any pre-award or post-award cost determination will be subject to Subpart 31.2.	5. Release to a foreign government, or its instrumentalities, if required to serve the interests of the U.S. Government, for information or evaluation or for emergency repair or overhaul work.
FAR 52.219-8	UTILIZATION OF SMALL BUSINESS CONCERNS (OCT 2014). Applies if the Subcontract involves any further subcontracting opportunities.	If delivery of Restricted Computer Software is required, then ALTERNATE III shall apply.
FAR 52.222-4	CONTRACT WORK HOURS AND SAFETY STANDARDS ACT – OVERTIME COMPENSATION (MAY 2014). Applies if the Subcontract involves mechanics or laborers and is for other than "commercial items."	FAR 52.227-19 COMMERCIAL COMPUTER SOFTWARE LICENSE (DEC 2007). Applies if the Subcontract involves the acquisition of commercial computer software.
FAR 52.222-21	PROHIBITION OF SEGREGATED FACILITIES (APR 2015)	DEAR 952.227-82 RIGHTS TO PROPOSAL DATA (APR 1994). Applies if the Subcontract is based upon a technical proposal.
FAR 52.222-26	EQUAL OPPORTUNITY (APR 2015) Note: Download the required EEO Poster at: http://www.dol.gov/ofccp/regs/compliance/posters/ofccpost.htm	DEAR 970.5232-3 ACCOUNTS, RECORDS, AND INSPECTION (DEC 2010), Paragraphs (a) through (h), excluding Paragraph (d). Applies if costs incurred are a factor in determining any payable amount. The records shall be retained for 3 years after final payment.
FAR 52.222-50	COMBATING TRAFFICKING IN PERSONS (MAR 2015)	FAR 52.232-11 EXTRAS (APR 1984)
FAR 52.223-3	HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA (JAN 1997), with ALTERNATE I (JUL 1995). Applies if the Subcontract involves the delivery or on-site use of any hazardous materials.	FAR 52.232-39 UNENFORCEABILITY OF UNAUTHORIZED OBLIGATIONS (JUN 2013)
FAR 52.222-55	MINIMUM WAGES UNDER EXECUTIVE ORDER 13658 (DEC 2015). Applies if FAR 52.222-41 is applicable.	FAR 52.232-40 PROVIDING ACCELERATED PAYMENTS TO SMALL BUSINESS SUBCONTRACTORS (DEC 2013)
FAR 52.223-11	OZONE-DEPLETING SUBSTANCES (MAY 2001). Applies if the Subcontract involves the delivery or use of ozone-depleting substances or supplies that may contain or be manufactured with ozone depleting substances	FAR 52.242-15 STOP-WORK ORDER (AUG 1989)
FAR 52.223-12	REFRIGERATION EQUIPMENT AND AIR CONDITIONERS (MAY 1995). Applies if the Subcontract is for services involving the maintenance, repair, or disposal of any equipment or appliance using ozone-depleting substances, as a refrigerant, such as air conditioners (including motor vehicles), refrigerators, chillers, or freezers.	FAR 52.243-1 CHANGES – FIXED PRICE (AUG 1987), with Applicable ALTERNATE.
DEAR 970.5225-1	COMPLIANCE WITH EXPORT CONTROL LAWS AND REGULATIONS (NOV 2015)	FAR 52.244-6 SUBCONTRACTS FOR COMMERCIAL ITEMS (DEC 2010)
FAR 52.225-13	RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (JUN 2008)	FAR 52.245-1 GOVERNMENT PROPERTY (APR 2012), with ALTERNATE I
DEAR 952.227-9	REFUND OF ROYALTIES (MAR 1995). Applies if "royalties" are paid under the Subcontract by the Subcontractor, or by a subcontractor at any tier.	FAR 52.247-63 PREFERENCE FOR U.S.-FLAG AIR CARRIERS (JUN 2003). Applies if the Subcontract involves international air transportation.
FAR 52.227-14	RIGHTS IN DATA-GENERAL (MAY 2014), with ALTERNATE V and DEAR 927.409(d)(3), and substituting paragraph (a) with DEAR 927.409(a). Applies if any "data" will be produced, furnished, or acquired under the Subcontract. If delivery of Limited Rights Data is required, then ALTERNATE II shall apply, with the following disclosure purposes added to the end of paragraph (a) of the Limited Rights Notice: 1. Use (except for manufacture) by support services contractors or subcontractors;	FAR 52.247-64 PREFERENCE FOR PRIVATELY OWNED U.S.-FLAG COMMERCIAL VESSELS (FEB 2006). Applies if the Subcontract involves ocean transportation of supplies other than "commercial items", except as described in paragraph (e)(4) of the clause.
		DEAR 952.247-70 FOREIGN TRAVEL (JUN 2010)
		FAR 52.249-4 TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (SERVICES) (SHORT FORM) (APR 1984)
		THE FOLLOWING CLAUSES APPLY IF THE SUBCONTRACT EXCEEDS \$2,500:
		FAR 52.222-41 SERVICE CONTRACT ACT OF 1965, AS AMENDED (MAY 2014). Applies if the Subcontract is principally for the furnishing of services through the use of "service employees", unless the Subcontract qualifies for an exemption.

THE FOLLOWING CLAUSES APPLY IF THE SUBCONTRACT > \$3,500:

FAR 52.222-54 EMPLOYMENT ELIGIBILITY VERIFICATION

(OCT 2015). Applies if the Subcontract is for construction or services in the U.S., except for commercial services that are part of the purchase of a 'commercially available off-the-shelf' (COTS) item, or a COTS item with minor modifications, normally provided for that COTS item and performed by the COTS provider.

FAR 52.223-18 ENCOURAGING CONTRACTOR POLICIES TO BAN TEXT MESSAGING WHILE DRIVING (AUG 2011)

FAR 52.225-1 BUY AMERICAN ACT-SUPPLIES (MAY 2014)

THE FOLLOWING CLAUSE APPLIES IF THE SUBCONTRACT > \$10,000:

FAR 52.222-40 NOTIFICATION OF EMPLOYEE RIGHTS UNDER THE NATIONAL LABOR RELATIONS ACT (DEC 2010)

THE FOLLOWING CLAUSE APPLIES IF THE SUBCONTRACT > \$15,000:

FAR 52.222-36 AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES (JUL 2014)

THE FOLLOWING CLAUSE APPLIES IF THE SUBCONTRACT IS FOR \$25,000 OR MORE:

DEAR 970.5223-4 WORKPLACE SUBSTANCE ABUSE PROGRAMS AT DOE SITES (DEC 2010). Applies if the Subcontract involves any of the hazardous activities stipulated in 10 CFR 707.2.

THE FOLLOWING CLAUSE APPLIES IF THE SUBCONTRACT IS FOR \$35,000 OR MORE:

FAR 52.209-6 PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (OCT 2015)

THE FOLLOWING CLAUSES APPLY IF THE SUBCONTRACT IS FOR

\$100,000 OR MORE:

FAR 52.227-1 AUTHORIZATION AND CONSENT (DEC 2007)

DEAR 970.5227-5 NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (AUG 2002)

THE FOLLOWING CLAUSES APPLY IF THE SUBCONTRACT IS LESS THAN \$150,000:

FAR 52.249-1 TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED PRICE) (SHORT FORM) (APR 1984)

THE FOLLOWING CLAUSE APPLIES IF THE SUBCONTRACT EXCEEDS \$500,000:

FAR 52.204-14 SERVICE CONTRACT REPORTING REQUIREMENTS (JAN 2014)

DEAR 952.226-74 DISPLACED EMPLOYEE HIRING PREFERENCE (JUN 1997)

THE FOLLOWING CLAUSE APPLIES IF THE SUBCONTRACT EXCEEDS \$700,000:

FAR 52.219-9 SMALL BUSINESS SUBCONTRACTING PLAN (OCT 2015). Applies unless the Subcontractor is a small business or there are no subcontracting possibilities.

THE FOLLOWING CLAUSES APPLY IF THE SUBCONTRACT > \$150,000:

FAR 52.222-35 EQUAL OPPORTUNITY FOR VETERANS (OCT 2015)

FAR 52.222-37 EMPLOYMENT REPORTS ON VETERANS (FEB 2016)

FAR 52.222-43 FAIR LABOR STANDARDS ACT AND SERVICE CONTRACT ACT-PRICE ADJUSTMENT (MULTIPLE YEAR AND OPTION CONTRACTS) (MAY 2014). Applies if FAR clause 52.222-41 is applicable and the Subcontract is for multiple years or has an option to renew.

FAR 52.222-44 FAIR LABOR STANDARDS ACT AND SERVICE CONTRACT ACT – PRICE ADJUSTMENT (MAY 2014). Applies if FAR clause 52.222-41 is applicable and FAR clause 52.222-43 does not apply.

FAR 52.227-2 NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (DEC 2007)

FAR 52.227-3 PATENT INDEMNITY (APR 1984). Applies if commercial supplies are furnished under the Subcontract.

FAR 52.229-3 FEDERAL, STATE, AND LOCAL TAXES (FEB 2013)

FAR 52.246-2 INSPECTION OF SUPPLIES-FIXED-PRICE (AUG 1996)

FAR 52.249-2 TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED PRICE) (MAY 2004)

FAR 52.249-8 DEFAULT (FIXED-PRICE SUPPLY AND SERVICE) (APR 1984)

THE FOLLOWING CLAUSES APPLY IF THE SUBCONTRACT EXCEEDS \$750,000:

FAR 52.215-10 PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA (AUG 2011). Applies if certified cost or pricing data is required.

FAR 52.215-11 PRICE REDUCTION FOR DEFECTIVE CERTIFIED COST OR PRICING DATA – MODIFICATIONS (AUG 2011). Applies if certified cost or pricing data is required.

FAR 52.215-12 SUBCONTRACTOR COST OR PRICING DATA (OCT 2010). Applies if certified cost or pricing data is required.

FAR 52.215-13 SUBCONTRACTOR COST OR PRICING DATA – MODIFICATIONS (OCT 2010)

THE FOLLOWING CLAUSES APPLY IF THE SUBCONTRACT INDICATES IT IS FOR RESEARCH, DEVELOPMENT, OR DEMONSTRATION (RD&D) WORK OR DESIGN WORK INVOLVING NON-STANDARD TYPES OF CONSTRUCTION:

DEAR 970.5227-4 AUTHORIZATION AND CONSENT (AUG 2002)

DEAR 952.227-11 PATENT RIGHTS - RETENTION BY THE CONTRACTOR (SHORT FORM) (MAR 1995).

Applies if the Subcontractor is a Domestic Small Business or Non-Profit Organization, as defined by FAR 27.301.

DEAR 952.227-13 PATENT RIGHTS - ACQUISITION BY THE GOVERNMENT (SEP 1997). Applies if the Subcontractor is not a Domestic Small Business or Non-Profit Organization, as defined by FAR 27.301.

FAR 52.227-16 ADDITIONAL DATA REQUIREMENTS (JUN 1987). Applies to all Subcontracts except those with Universities or Colleges under \$500,000.

DEAR 952.227-84 NOTICE OF RIGHT TO REQUEST PATENT WAIVER (FEB 1998)

DEAR 952.235-71 RESEARCH MISCONDUCT (JUL 2005)

FAR 52.246-7 INSPECTION OF RESEARCH AND DEVELOPMENT - FIXED PRICE (AUG 1996).

FAR 52.249-9 DEFAULT (FIXED PRICE RESEARCH AND DEVELOPMENT) (APR 1984). Applies if Subcontract is over \$100,000.

THE FOLLOWING DOE ORDERS (CONTRACTOR REQUIREMENTS DOCUMENTS ONLY) APPLY TO ALL SUBCONTRACTS:

DOE O 221.2A COOPERATION WITH THE OFFICE OF INSPECTOR GENERAL (2/25/08)

DOE O 414.1D QUALITY ASSURANCE (5/8/13)

DOE O 221.1A REPORTING FRAUD, WASTE AND ABUSE TO THE OFFICE OF INSPECTOR GENERAL (4/19/08)

END OF GENERAL PROVISIONS

Exhibit A
Bid Requirements

Exhibit B
Bid