**SANDIA NATIONAL LABORATORIES (SNL)**

***MANAGED AND OPERATED BY***

**NATIONAL TECHNOLOGY AND ENGINEERING SOLUTIONS OF SANDIA, LLC (NTESS)**

**SF 6432-RE (11/2022)**

**SECTION II**

**STANDARD TERMS AND CONDITIONS FOR**

**FIRM-FIXED PRICE REAL ESTATE LEASES**

**THE FOLLOWING CLAUSES APPLY TO THIS SUBCONTRACT AS INDICATED UNLESS SPECIFICALLY DELETED, OR EXCEPT TO THE EXTENT THEY ARE SPECIFICALLY SUPPLEMENTED OR AMENDED IN WRITING IN SECTION I.**

[**ACCEPTANCE OF TERMS AND CONDITIONS (Ts&Cs) - REAL ESTATE LEASE**](#_ACCEPTANCE_OF_TERMS)

# [ACCEPTANCE OF SPACE](#_ACCEPTANCE_OF_SPACE_2)

[**ACRONYMS AND DEFINITIONS**](#_ACRONYMS_AND_DEFINITIONS)

[**ALTERATIONS**](#_ALTERATIONS_1)

[**AMERICANS WITH DISABILITIES ACT**](#_AMERICANS_WITH_DISABILITIES)

# [APPLICABLE LAW](#_APPLICABLE_LAW_-)

[**ASSIGNMENT - REAL ESTATE LEASE**](#_ASSIGNMENT_-_REAL)

[**AUTHORIZED DISTRIBUTORS**](#_AUTHORIZED_DISTRIBUTORS_1)

[**BANKRUPTCY - REAL ESTATE LEASE**](#_BANKRUPTCY_-_REAL)

[**CANCELLATION OR TERMINATION FOR CONVENIENCE**](#_CN06_-_CANCELLATION)

# [CHANGES - REAL ESTATE LEASE](#_CHANGES_-_REAL)

[**CITIZENSHIP STATUS - REAL ESTATE**](#_CITIZENSHIP_STATUS_1)

[**COMPLIANCE WITH LAWS - REAL ESTATE LEASE**](#_COMPLIANCE_WITH_LAWS)

[**CUSTODIAL SERVICES**](#_CUSTODIAL_SERVICES)

# [DATA TRANSPARENCY REQUIREMENTS](#_DATA_TRANSPARENCY_REQUIREMENTS)

# [DEFAULT, CURE, AND REMEDIES](#_DEFAULT,_CURE,_AND)

# [DEFINITIONS - ADDITIONAL FOR REAL ESTATE LEASE](#_DEFINITIONS_-_ADDITIONAL)

**[DISPUTES - REAL ESTATE LEASE](#_DISPUTES)**

# [ELECTRICAL AND MECHANICAL SYSTEMS](#_ELECTRICAL_AND_MECHANICAL)

# [ENVIRONMENTAL, SAFETY, AND HEALTH (ES&H) SERVICES](#_ENVIRONMENTAL,_SAFETY,_AND_1)

# [ETHICAL CONDUCT](#_ETHICAL_CONDUCT_2)

**[EXCUSABLE DELAYS - REAL ESTATE LEASE](#_EXCUSABLE_DELAYS_-)**

[**EXPORT CONTROL**](#_EXPORT_CONTROL)

# [FIRE AND CASUALTY DAMAGE](#_FIRE_AND_CASUALTY)

# [GOVERNMENT PROPERTY PROTECTION - REAL ESTATE LEASE](#_GOVERNMENT_PROPERTY_PROTECTION)

[**HANDLING, PROTECTION, AND RELEASE OF INFORMATION**](#_HANDLING,_PROTECTION,_AND)

# [HAZARDOUS MATERIALS - REAL ESTATE LEASE](#_HAZARDOUS_MATERIALS_-)

# [HOLDOVER](#_HOLDOVER_1)

# [LESSEE ACCESS](#_LESSEE_ACCESS)

# [LESSEE INGRESS AND EGRESS RIGHTS](#_LESSEE_INGRESS_AND)

# [LESSEE SURRENDER OF LEASE](#_LESSEE_SURRENDER_OF)

# [LESSOR, LOWER-TIER SUBCONTRACTOR, AND VISITOR ACCESS REQUIREMENTS - REAL ESTATE LEASE](#_LESSOR,_LOWER-TIER_SUBCONTRACTOR,)

# [LESSOR'S SUCCESSORS](#_LESSOR'S_SUCCESSORS)

# [LIENS AND ENCUMBRANCES](#_LIENS_AND_ENCUMBRANCES)

[**LOWER-TIER SUBCONTRACTING**](#_LOWER-TIER_SUBCONTRACTING)

# [MAINTENANCE AND OPERATION PROCEDURES](#_MAINTENANCE_AND_OPERATION_1)

# [MUTUALITY OF OBLIGATION](#_MUTUALITY_OF_OBLIGATION_1)

**[NOTICE OF POTENTIAL DELAY - REAL ESTATE LEASE](#_NOTICE_OF_POTENTIAL_2)**

# [OCCUPANCY PERMIT](#_OCCUPANCY_PERMIT)

# [ORDER OF PRECEDENCE - REAL ESTATE LEASE](#_CN15_-_OPERATIONS,)

**[PAYMENTS - REAL ESTATE LEASE](#_PAYMENTS_-_REAL)**

# [PERFORMANCE EVALUATION PROGRAM](#_CN19_-_PAYROLLS)

# [PROGRESSIVE OCCUPANCY](#_PROGRESSIVE_OCCUPANCY)

# [PROHIBITED ACTIVITIES](#_PROHIBITED_ACTIVITIES)

# [PROTECTION OF PERSONALLY IDENTIFIABLE INFORMATION (PII)](#_PROTECTION_OF_PERSONALLY)

# [SEISMIC SAFETY REQUIREMENTS](#_SEISMIC_SAFETY_REQUIREMENTS)

[**SOFTWARE\_SERVICES\_AND\_INFORMATION\_SYSTEMS\_SECURITY\_ASSURANCE**](#SOFTWARE_SERVICES_AND_INFORMATION_SYSTEM)

# [SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT](#_SUBORDINATION,_NON-DISTURBANCE_AND_1)

# [TAXES - REAL ESTATE LEASE](#_TAXES_-_REAL)

# [UTILITIES](#_UTILITIES_1)

**[WAIVER - REAL ESTATE LEASE](#_WAIVER_-_REAL_3)**

# [WARRANTIES OF TITLE AND QUIET POSSESSION](#_WARRANTIES_OF_TITLE)

[**WARRANTY**](#_WARRANTY)

[**WRITTEN NOTICES**](#WRITTEN_NOTICES)

[**ADDITIONAL TERMS AND CONDITIONS**](#_CN34_-_ADDITIONAL)

[**APPLY TO SUBCONTRACTS AT ANY VALUE**](#_CN35_-_APPLY)

[**APPLY TO SUBCONTRACTS EXCEEDING $3,500**](#_CN37_-_APPLY)

[**APPLY TO SUBCONTRACTS EXCEEDING $10,000**](#_CN38_-_APPLY)

**[APPLY TO SUBCONTRACTS EXCEEDING $15,000](#APPLY_TO_CONTRACTS_EXCEEDING_15000)**

[**APPLY TO SUBCONTRACTS IF $25,000 OR MORE**](#APPLY_TO_CONTRACTS_IF_25000_OR_MORE)

[**APPLY TO SUBCONTRACTS IF $30,000 OR MORE**](#_APPLY_TO_CONTRACTS_1)

[**APPLY TO SUBCONTRACTS EXCEEDING $35,000**](#_CN40_-_APPLY)

**[APPLY TO SUBCONTRACTS IF $150,000 OR MORE](#APPLY_TO_CONTRACTS_IF_150000_OR_MORE)**

[**APPLY TO SUBCONTRACTS EXCEEDING $150,000**](#APPLY_TO_CONTRACTS_EXCEEDING_150000)

[**APPLY TO SUBCONTRACTS EXCEEDING $250,000**](#_APPLY_TO_SUBCONTRACTS_1)

[**APPLY TO SUBCONTRACTS EXCEEDING $500,000**](#_CN42_-_APPLY)

[**APPLY TO SUBCONTRACTS EXCEEDING $550,000**](#_APPLY_TO_SUBCONTRACTS_3)

[**APPLY TO SUBCONTRACTS EXCEEDING $750,000**](#_CN44_-_APPLY)

[**APPLY TO SUBCONTRACTS EXCEEDING $1,500,000 Awarded to Large Business**](#_CN45_-_APPLY)

[**APPLY TO SUBCONTRACTS EXCEEDING $2,000,000**](#_APPLY_TO_SUBCONTRACTS_4)

[**APPLY TO SUBCONTRACTS EXCEEDING $6,000,000**](#APPLY_TO_CONTRACTS_EXCEEDING_5500000)

[**APPLY TO ALL SUBCONTRACTS THAT MAY INVOLVE ACCESS TO CLASSIFIED INFORMATION**](#_CN47_-_APPLY)

# [APPLY TO SUBCONTRACTS TO BE PERFORMED ON A GOVERNMENT OR NTESS-CONTROLLED SITE WHENEVER THE WORK (1) COULD RESULT IN POTENTIAL EXPOSURE TO: (A) RADIOACTIVE MATERIALS; (B) BERYLLIUM; OR (C) ASBESTOS OR (2) INVOLVES A RISK ASSOCIATED WITH CHRONIC OR ACUTE EXPOSURE TO TOXIC CHEMICALS OR SUBSTANCES OR OTHER HAZARDOUS MATERIALS THAT CAN CAUSE ADVERSE HEALTH IMPACTS, IN ACCORDANCE WITH 10 CFR PART 851](#DEAR_970_5204_3)

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# ACCEPTANCE OF TERMS AND CONDITIONS (Ts&Cs) - REAL ESTATE LEASE

Lessor, by signing this lease and/or delivering the possession of the premises to Lessee under this lease, agrees to comply with all the Ts&Cs and all specifications and other documents that are incorporated into this lease by reference or attachment. Lessee hereby objects to any Ts&Cs contained in any acknowledgment of this lease that are different from or in addition to those mentioned in this lease. Failure of Lessee to enforce any of the provisions of this lease shall not be construed as evidence to interpret the requirements of this lease, nor as a waiver of any requirement, nor of the right of Lessee to enforce each and every provision. All rights and obligations shall survive final performance of this lease.

# ACCEPTANCE OF SPACE

1. When the Lessor has completed all alterations, improvements, and repairs necessary to meet the requirements of the lease, the Lessor shall notify the SP. The SP or SDR shall inspect the space within five (5) days of notification.
2. Lessee will accept the space and the lease term will begin after Lessee determines that the space is substantially complete and contains the required RSF as required in the Statement of Work (SOW).

# ACRONYMS AND DEFINITIONS

The following terms shall have the meanings set forth below for all purposes of this subcontract:

1. COMMERCIAL COMPONENT, PRODUCT, SERVICE, and COMMERCIALLY AVAILABLE OFF-THE-SHELF (COTS) ITEM as defined in FAR 52.202-1 Definitions and FAR 2.101 Definitions
2. DOE means the U.S. Department of Energy
3. GOVERNMENT means the United States of America and includes the U.S. DOE/NNSA, the Secretary of Energy of the U.S., or any duly authorized representative thereof.
4. HAZARDOUS MATERIALS means any material with the potential to cause illness, injury, or death to a person, or damage to a facility or to the environment, for the categories of radioactive material, biological agents, explosives, and hazardous chemicals.
5. NNSA means the U.S. Department of Energy - National Nuclear Security Administration
6. NTESS means National Technology and Engineering Solutions of Sandia, LLC, the management and operating Contractor for the Sandia National Laboratories under Prime Contract No. DE-NA0003525 with DOE/NNSA.
7. NTESS-DIRECTED WORK means work under a subcontract for which NTESS retains accountability for the outcome of the work performed and routinely provides work direction to the Subcontractor's work force.
8. SANDIA means Sandia National Laboratories operated by NTESS under Prime Contract No. DE-NA0003525 with DOE/NNSA.
9. SDR means Sandia Delegated Representative. The SP may delegate personnel as authorized representatives for such purposes as and to the extent specified in the delegation. Such delegation shall be in writing to the Subcontractor and shall designate by name the personnel so delegated as authorized representatives. The SDR shall exercise no supervision over the Subcontractor's employees. THE SDR's AUTHORITY IS LIMITED SOLELY TO THE AUTHORITY ENUMERATED IN SUCH WRITTEN DELEGATION. THE SDR HAS NO AUTHORITY TO CHANGE ANY TERM OR CONDITION CONTAINED IN THIS SUBCONTRACT.
10. SELLER means the person or organization that has entered into this subcontract with NTESS.
11. SNL means Sandia National Laboratories operated by NTESS under Prime Contract No. DE-NA0003525 with DOE/NNSA.
12. SP means the Subcontracting Professional or Buyer; the only person authorized to execute and/or administer this subcontract for NTESS.
13. SUBCONTRACT means subcontract at all tiers, Purchase Order, Price Agreement, Ordering Agreement, or modifications thereof.
14. SUBCONTRACTOR means the person or organization that has entered into this subcontract to sell something to NTESS or the Construction Contractor that has entered into this subcontract to perform construction & construction-related work for NTESS. (Construction Specifications may refer to this entity as “Contractor” to avoid confusion.)
15. SUBCONTRACTOR-DIRECTED WORK means work under a subcontract for which the Subcontractor is accountable for the outcome of the work performed and routinely provides work direction to the Subcontractor's work force or lower-tier subcontractors (also referred to as “Subs”).
16. U.S./US means the United States of America

Note: Sandia National Laboratories; SNL; Sandia; National Technology and Engineering Solutions of Sandia, LLC; and NTESS may be used interchangeably throughout Sections I and II of this subcontract or agreement.

# ALTERATIONS

Lessee shall have the right during the existence of this lease to make alterations, attach fixtures, and erect structures or signs in or upon the NTESS-controlled premises hereby leased, which fixtures, additions or structures so placed in, on, upon, or attached to the said NTESS-controlled premises shall be and remain the property of Lessee and may be removed or otherwise disposed of by Lessee. If the lease contemplates that Lessee is the sole occupant of the building, for purposes of this clause, the leased NTESS-controlled premises include the entire body of land (boundary line to boundary line) on which the building is sited, the building itself, and all appurtenances. Lessee shall have the right to tie into or make any physical connection with any structure located on the property as is reasonably necessary for appropriate utilization of the leased space. Lessor agrees to waive restoration of the NTESS-controlled premises if Lessee agrees to waive removal of alterations which shall be on a case by case basis and in writing as a revision to this lease for such waiver to be effective.

# AMERICANS WITH DISABILITIES ACT

Lessor shall deliver the NTESS-controlled premises to Lessee in compliance in all material respect with Title III of the Americans With Disabilities Act of 1990, any state laws governing handicapped access or architectural barriers, and all rules, regulations, and guidelines promulgated under such laws, as amended from time to time (the “Disabilities Acts”). If a non-compliance with said warranty exists Lessor shall, after receipt of written notice from Lessee setting forth with specificity the nature and extent of such non-compliance, rectify same at Lessor's expense. Lessor shall be responsible for causing the common areas of the Building (including, without limitation, all restrooms and parking areas) to comply with the Disabilities Acts.

# APPLICABLE LAW

The rights and obligations of the parties hereto shall be governed by this subcontract and construed in accordance with the law of the state of delivery, except for Federal Acquisition Regulation (FAR) and FAR supplement clauses which shall be in accordance with federal law. The parties agree to jurisdiction in the Federal District Court, with venue in the district closest to the delivery point of the items or services giving rise to the claim. In the event the requirements for jurisdiction in Federal District Court are not present, such litigation shall be brought in the State Court closest to the delivery point of the items or services giving rise to the claim.

# ASSIGNMENT - REAL ESTATE LEASE

Lessor shall not assign rights or obligations to third parties or otherwise alienate any interest of NTESS in the NTESS-controlled premises during the term of this lease without the prior written consent of NTESS. When the Subcontractor becomes aware that a change in its ownership has occurred, or is likely to occur, the Subcontractor shall notify the SP within thirty (30) days. However, the Lessor may assign rights to be paid amounts due or to become due to a financing institution if NTESS is promptly furnished a properly signed copy of the NTESS Assignment of Payments form. Payments to an assignee shall be subject to setoff or recoupment for any present or future claims of NTESS against Lessor. This lease may be assigned by NTESS to Department of Energy/National Nuclear Security Administration (DOE/NNSA) or its designee, and in case of such transfer and notice thereof to the Lessor, NTESS shall have no further responsibilities hereunder. NTESS may sublet any part of the NTESS-controlled premises but shall not be relieved from any obligations under this lease by reason of any such subletting.

# AUTHORIZED DISTRIBUTORS

The Subcontractor shall only furnish items/components provided by distributors duly authorized by the Original Equipment Manufacturer (OEM), not from independent distributors or brokers, unless specifically authorized in writing by the SP.  Items/components furnished by an independent distributor or broker shall still meet all OEM specifications and industry standards.

# BANKRUPTCY - REAL ESTATE LEASE

If the Lessor enters into any proceeding relating to bankruptcy, it shall give written notice via certified mail to the SP responsible for this lease within five days of initiation of the proceedings. The notification shall include the date on which the proceeding was filed, the identity and location of the court and a listing of the subcontract numbers for which final payment has not been made.

# CANCELLATION OR TERMINATION FOR CONVENIENCE

1. NTESS may cancel this subcontract, in whole or in part, if the Subcontractor fails to comply with any of the terms of this subcontract, or fails to provide adequate assurance of future performance. In that event, NTESS shall not be liable for any amount for item or services not yet accepted by NTESS.
2. NTESS may terminate this subcontract for the convenience of NTESS or the government, in whole or in part, for any item or services not yet accepted by NTESS. In that event NTESS shall be liable for the purchase price of item or services already completed or identified to this subcontract but not yet accepted by NTESS.
3. Subcontractor shall not be liable for delays in performance occasioned by causes beyond Subcontractor's reasonable control and without Subcontractor's fault or negligence.
4. The rights and remedies of NTESS in this clause are subject to the Disputes clause of this subcontract.

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# CHANGES - REAL ESTATE LEASE

1. Lessee may, upon concurrence, make changes within the general scope of this lease in any one or more of the  
   following:
   1. Specifications
   2. Work or services
   3. Facilities or space layout
   4. Amount of space, with Lessor's consent
2. If any such change causes a difference in the cost of, or the time required for performance, an equitable adjustment shall be made in the price and/or delivery schedule and other affected provisions.
   1. Such adjustment shall be made by written revision to this lease signed by both parties.
   2. Any claim for adjustment by Lessor must be made within thirty (30) days from the date of receipt of Lessee's change notice, although Lessee in its sole discretion may receive and act upon any claim for adjustment at any time before final payment.
3. Nothing in this clause, including any disagreement with Lessee about the equitable adjustment, shall excuse Lessor from proceeding with the lease as changed.
4. Throughout the life of the lease, Lessee may request Tenant Improvements that may be contracted through separate purchase orders.

# CITIZENSHIP STATUS - REAL ESTATE

All personnel of the Lessor and its lower-tier subcontractors who will perform work on this subcontract who will perform work on this subcontract and who will require physical and/or cyber access to NTESS-controlled, government-controlled or government-owned sites, information, technology, or cyber resources, to include remote access must be United States citizens, or foreign nationals who are legal aliens or have the required authorization to perform work in the United States and must meet rules of the site for access to the work areas in place at the time of performance of this subcontract. The Lessor agrees and shall ensure that non-United States citizen personnel, to include lower-tier subcontractor personnel, who will require physical and/or cyber access to NTESS-controlled, government-controlled or government- owned sites, information, technology, or cyber resources to perform work on this subcontract are identified and receive prior approval from NTESS Security, in accordance with all laws, regulations, policies, and site access rules, including, but not limited to DOE and NTESS security requirements, before access is granted.

# COMPLIANCE WITH LAWS - REAL ESTATE LEASE

Lessor shall comply with all federal, state, and local laws applicable to the Lessor as owner or Lessor, or both, of the building or premises, including, without limitation, laws applicable to the construction, ownership, life safety systems, alteration or operation of both or either thereof, and will obtain all necessary permits, licenses and similar items at Lessor's expense. Lessee will comply with all federal, state, and local laws applicable to and enforceable against it as a Lessee under this lease.

# CUSTODIAL SERVICES

1. Lessor shall provide all custodial services for the NTESS-controlled premises, public areas, entrances, and all other common areas.
2. Lessor shall provide replacement of supplies necessary for such custodial services.
3. Lessor shall follow the scheduled custodial services including the time frame for custodial services as designated by the proposal within the Standard Operating Procedure (SOP) document or the SOW of this lease.
4. Noncompliance of any requirements stated herein shall immediately be deemed a failure to perform as described in the clause titled Default, Cure and Remedies.

# DATA TRANSPARENCY REQUIREMENTS

# NTESS is required to report certain information on subcontract awards (classified information is excluded from disclosure) per the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109-282), as amended by section 6202 of the Government Funding Transparency Act of 2008 (Pub. L. 110-252), and other NTESS prime contract clauses. These require reported information be made publicly available; accordingly, NTESS is notifying its subcontractors that the required information will be made public.

# DEFAULT, CURE, AND REMEDIES

1. Lessor’s failure to perform under this lease as required in the SOP or in the SOW constitutes default by Lessor.
2. Lessee shall give written notice to Lessor, specifying the Lessor’s failure to perform in detail and will allow Lessor to cure the default as required per the Standard Operating Procedures for the services required
3. If Lessor’s failure to provide any service, utility, maintenance, repair or replacement required under this lease remains uncured ten (10) days after receipt of Lessee’s written notice of the failure, Lessee may, by subcontract or otherwise, perform the requirement and deduct the resulting costs including all administrative costs from any payment(s) then or thereafter due under this lease.
4. If Lessee elects to perform any such requirement, Lessee and each of its subcontractors shall be entitled to access any and all areas of the building necessary to perform any such requirement. Lessor shall afford and facilitate such access.
5. No deduction from rent pursuant to this clause shall constitute a default by Lessee under this lease.
6. If a default occurs and is not cured as provided in this clause, Lessee may, by notice to Lessor, terminate this lease for default.

# DEFINITIONS - ADDITIONAL FOR REAL ESTATE LEASE

The following terms and phrases (except as otherwise expressly provided or unless the context otherwise requires) for all purposes of this lease shall have the respective meanings hereinafter specified:

1. BENEFICIAL OCCUPANCY means the occupancy of an uncompleted but functionally usable building, structure, or facility for its intended purpose under circumstances that are advantageous to the occupant and which produce relatively little interference with the Lessor in completing construction or alterations. Prior to occupancy by the user, a written agreement between the Lessor and Lessee is executed, listing deficiencies, remaining work, and other conditions of occupancy that must be consummated.
2. COMMENCEMENT DATE means the first day of the term.
3. DAY(S) means business day(s), unless otherwise expressly noted.
4. LEASE means this subcontract which includes a cover page, a Section I, a Section II, and all other documents incorporated into this subcontract by reference thereto.
5. LEASE ADMINISTRATOR means the Subcontracting Professional.
6. LEASE TENANT REPRESENTATIVE means the Sandia Delegated Representative.
7. LESSEE means NTESS.
8. LESSOR means the person or organization that has entered into this lease.
9. LESSOR SHALL PROVIDE means the Lessor shall furnish and install at Lessor's expense.
10. NOTICE means written notice sent by certified or registered mail, express mail or comparable service, or delivered by hand. Notice shall be effective on the date delivery is accepted or refused.
11. NTESS-CONTROLLED PREMISES mean the subject of this lease as set forth in Section I of this lease.
12. RENTABLE SQUARE FOOTAGE (RSF) means the area for which a tenant is charged rent. It is determined by measuring to the inside finish of permanent outer building walls to the inside finish of corridor walls (actual or proposed) or to other permanent partitions. The rental space may include a share of building support/common areas such as elevator lobbies, building corridors, and floor service areas. It does not include vertical building penetrations and their enclosing wall, such as stairs, elevator shafts, and vertical ducts.
13. SUBCONTRACT and SUBCONTRACTOR means "lease" and "Lessor," respectively.
14. SUBSTANTIALLY COMPLETE and "SUBSTANTIAL COMPLETION" means that the work, the common and other areas of the building, and all other things necessary for NTESS’ access to the premises and occupancy, possession, use and enjoyment thereof, as provided in this lease, have been completed or obtained, excepting only such minor matters as do not interfere with or materially diminish such access, occupancy, possession, use or enjoyment. A building, space, or facility is deemed substantially complete if it can be used or occupied for its intended purpose despite the fact that some items remain uncompleted.
15. TERM as used in this Lease means and refers to the time period defined in the clause titled Period of Performance
16. USEABLE SQUARE FEET means the area where a tenant normally houses personnel and/or furniture.
17. WORK means all alterations, improvements, modifications, and anything that is required for the preparation or continued occupancy of the premises by Lessee as specified in this lease.

# DISPUTES - REAL ESTATE LEASE

Except for those circumstances provided for in the Default, Cure and Remedies clause of this subcontract, Lessor and Lessee agree to use the NTESS Acquisition Conflict Resolution Process set forth at: <http://www.sandia.gov/working_with_sandia/current_suppliers/contract_information/index.html> for resolving any and all disputes arising from this subcontract. NTESS Acquisition Conflict Resolution Process is available in the “Policies” tab.

# ELECTRICAL AND MECHANICAL SYSTEMS

1. Lessor agrees to have energy efficient operation of the Heating, Ventilation and Air Conditioning (HVAC) equipment in the NTESS-controlled premises capable of maintaining temperatures as stated in the SOP or SOW for this lease. In addition, there shall be a means of setting back the thermostats during nonoperational times as specified in the lease.
2. Lessor agrees to use water efficient plumbing fixtures (toilets, urinals, faucets) in the NTESS-controlled premises when replacement is required. At a minimum, new fixtures shall meet Energy Policy Act of 1992.
3. Lessor shall be responsible for the total maintenance and repair of the NTESS-controlled premises.
   1. Such maintenance and repairs include site and private access roads.
   2. Maintenance, testing, and inspection of appropriate equipment and systems must be done in accordance with applicable codes, and inspection certificates must be displayed as appropriate.
   3. Copies of all documentation of such maintenance and testing shall be forwarded to the SDR as requested and at no additional cost to Lessee.
   4. Without any additional charge, Lessee reserves the right to require documentation of proper operations or testing prior to occupancy of systems to include but not limited to fire alarm, sprinkler, emergency generator, HVAC, etc. to ensure proper operation. These tests shall be witnessed by the SDR, as determined by the SDR.

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# ENVIRONMENTAL, SAFETY, AND HEALTH (ES&H) SERVICES

# Lessor shall provide all ES&H services for Lessor and Lessor's lower-tier subcontractor employees performing work in the NTESS-controlled premises.

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# ETHICAL CONDUCT

The Subcontractor, including any officers, employees or lower-tier subcontractors while engaged in work related to this subcontract shall:

1. Comply with all applicable laws, regulations and the terms of the subcontract
2. Conduct themselves with the highest degree of ethics, integrity and honesty
3. Treat others with respect and dignity, and create an environment free from discrimination, harassment, threats, violence, bullying, intimidating conduct or other similar behavior
4. Promptly report violations via email to the NTESS Procurement Policy and Compliance Department Manager at ppqd@sandia.gov
5. Report any concerns relating to fraud, waste, abuse or any other ethical concerns with the Ethics Advisory and Investigative Services Anonymous Helpline (505) 845-9900.

# EXCUSABLE DELAYS - REAL ESTATE LEASE

1. Except for defaults of subcontractors at any tier, the Subcontractor shall not be in default because of any failure to perform this subcontract under its terms if the failure arises from causes beyond the control and without the fault or negligence of the Subcontractor. Examples of these causes include, but are not limited to, the following:
   1. Acts of God or of the public enemy
   2. Acts of Lessee
   3. Acts of the government in either its sovereign or contractual capacity
   4. Fires
   5. Floods
   6. Epidemics
   7. Quarantine restrictions
   8. Strikes
   9. Freight embargoes
   10. Unusually severe weather
2. Upon request of the Subcontractor, the SP shall ascertain the facts and extent of the failure. If the SP determines that any failure to perform results from one or more of the causes above, the delivery schedule shall be revised, subject to the rights of Lessor under the Default, Cure and Remedies clause of this subcontract.

# EXPORT CONTROL

1. Any export controlled item, technical data, software, or services (“Export Controlled Information”) furnished by NTESS in connection with this subcontract is supplied for use in the United States only. “Export Controlled Information” is any item, technical data, information, software, or service that is determined to be greater than Export Administration Regulations (EAR) 99. Subcontractor agrees to comply with all applicable U.S. export-control laws and regulations, specifically including, but not limited to, the requirements of the Arms Export Control Act, 22 USC 2751 - 2794, including the International Traffic in Arms Regulation (ITAR), 22 Code of Federal Regulations (CFR) 120 - 130; the Export Administration Act, 50 USC app. 2401 - 2420, including the Export Administration Regulations (EAR), 15 CFR 730 - 774; and including the requirement for obtaining any export license or agreement, if applicable. Without limiting the foregoing, Subcontractor agrees that it will not transfer any Export Controlled Information, to include transfer to foreign persons (as defined under the EAR Part 722 and ITAR 120.16), without the authority of an export license, agreement, or applicable exemption or exception. Subcontractor shall immediately notify the SP if it transfers any Export Controlled Information under this subcontract to foreign persons. Diversion contrary to U.S. export control laws and regulations is prohibited.
2. Subcontractor shall immediately notify the SP if Subcontractor is, or becomes, listed in any Denied Parties List (e.g., Denied Persons List, Entity List, Unverified List, Military End User List, AECA Debarred List, Consolidated Screening List, etc.) or if Subcontractor's export privileges are otherwise denied, suspended or revoked in whole or in part by any U.S. Government entity or agency.
3. If Subcontractor is engaged in the business of either exporting or manufacturing (whether exporting or not) defense articles or furnishing defense services, Subcontractor represents that it is registered with the Directorate of Defense Trade Controls, as required by the ITAR, and it maintains an export/import compliance program in accordance with the provisions of the ITAR.
4. The Subcontractor shall flow down the requirements of this clause to all lower-tier subcontracts.

# FIRE AND CASUALTY DAMAGE

1. If the entire NTESS-controlled premises are destroyed by fire or other casualty, this lease will immediately terminate.
2. In case of partial destruction or damage, so as to render the NTESS-controlled premises uninhabitable, as determined by Lessee, Lessee shall be entitled to terminate the lease by giving written notice to the Lessor within fifteen (15) calendar days of the fire or other casualty; if so terminated, no rent will accrue to the Lessor after such partial destruction or damage; and if not so terminated, the rent will be reduced proportionately on a prorata basis based on the percentage of the loss and the time period of the loss of use effective from the date of such partial destruction or damage.
3. Nothing in this lease shall be construed as relieving Lessor from liability for damage to or destruction of government property caused by the willful or negligent act or omission of Lessor.

# GOVERNMENT PROPERTY PROTECTION - REAL ESTATE LEASE

All personal property, equipment and materials on the NTESS-controlled premises are government owned; hence, government property. Acts of theft, illegal possession and unlawful destruction or use of government property are violations punishable under Federal laws. Every user of government property is responsible for its physical protection and for reporting to the SDR immediately the loss, theft, destruction, or damage of such property. Lessor agrees to make no claims of any ownership or any interest in any government property.

# HANDLING, PROTECTION, AND RELEASE OF INFORMATION

1. Subcontract-related information, as used in this clause, means recorded information, regardless of form or the media, and computer software. Examples of subcontract-related information include, but are not limited to:
   1. Information identified with any NTESS-applied marking (e.g., Official Use Only (“OUO”), Controlled Unclassified Information (CUI), NTESS Proprietary, Sandia Proprietary);
   2. Information directly related to subcontract and/or lower-tier subcontract administration, such as: program and planning, project management documentation, electronic or hardcopy correspondence, negotiations, financial, administrative, program office, and personnel information;
   3. Technical and design information or guidance derived from or embodied in models, diagrams, drawings or translations, analysis models, manufacturing models, and computer-aided engineering and design, related to subcontract performance, regardless of whether the information is marked;
   4. Information obtained directly from NTESS or SNL-owned electronic resources, regardless of whether the information is marked; and
   5. Computer software, in either executable or source code form, delivered to Subcontractor and related to this subcontract.
2. Handling of Information   
   Subcontractor shall:
   1. Ensure any subcontract-related information provided by or accessed through NTESS in performance of this subcontract, whether identified by a NTESS-applied marking or not, is used only for purposes of performing this subcontract, and is not used or distributed for any other purpose;
   2. Safeguard subcontract-related information from unauthorized access, use, and disclosure;
   3. Inform employees and lower-tier subcontractors who may require access to subcontract-related information about obligations to use the information only for performance of this subcontract and requirements to safeguard the information from unauthorized use and disclosure;
   4. Require that each employee with access to the information complies with the obligations included in this clause;
   5. Maintain any restrictive markings on information from NTESS and on any subsequent copies.
3. Protection of Information  
   Subcontractor agrees to implement and maintain safeguards for subcontract-related information that meet or exceed the following requirements:
   1. Protection in Use. Subcontractor shall take precautions to prevent access to subcontract-related information by persons who do not require the information to perform their jobs.
   2. Protection in Storage. Subcontractor shall store subcontract-related information as identified in this clause in a secure manner that prevents unauthorized or inadvertent access. Control of user access privileges shall occur for electronic information and physical storage locations shall be secured in a locked room or other receptacle (e.g., a locked file cabinet, desk);
   3. Review of Storage Methods. Subcontractor shall allow and participate in Operations Security (OPSEC) reviews conducted when new construction or major modifications are planned for a facility that will process or store classified or sensitive information or matter. For assistance regarding conduct of OPSEC reviews, please contact opsec@sandia.gov.
      1. Sensitive information is defined as classified or unclassified information that has been determined to have national security, governmental, proprietary, or personal privacy restrictions. Stewards of sensitive information must ensure that persons granted access have proper authorization (i.e., clearance) and Need-to-Know.
   4. Reproduction. Subcontractor shall limit reproduction of subcontract-related information (including 3-D print prototypes) and any information with restrictive markings to a minimum, by only reproducing information to the extent necessary for performance of this subcontract;
   5. Disposal or Return. Return and/or disposal of subcontract-related information shall occur via methods specified by NTESS when the information is no longer needed for performance of work under this subcontract or associated business purpose. Hard-copy subcontract-related information shall be destroyed prior to disposal via a cross-cut shredder (residue not to exceed 1mmx5mm). Disks shall be overwritten using approved software and destroyed. For assistance with authorized disposal methods, please contact the Supply Chain Risk Management Office at scrm\_ds@sandia.gov.
4. Release of Information
   1. Disclosure of subcontract-related information or other NTESS information to persons or entities outside of Subcontractor’s organization or authorized lower-tier subcontractors is prohibited without advance written approval from NTESS. Disclosure requests may be sought by writing to the SP on this subcontract.
   2. Publication proposals related to work performed or data obtained under this subcontract shall be coordinated with the SP prior to submission to any scientific, academic, technical, professional, or other publication.
      1. Subcontractor shall provide NTESS an opportunity to review publication proposals related in whole or in part to work connected to this subcontract at least forty-five (45) calendar days prior to submission;
      2. NTESS will review the proposed publication and provide a response within forty-five (45) calendar days;
      3. Subcontractor may assume NTESS has no comments after the response period has elapsed.
      4. Subcontractor agrees to address any issues or concerns identified by NTESS before submitting publication proposals.
   3. NTESS critical information shall not be released outside of the security boundary (virtual or physical) and is considered to have passed the security boundary once it is no longer under direct or exclusive control of the Subcontractor’s or NTESS’s personnel or infrastructure. NTESS critical information is identified and recorded at the program or operational level and provision of such material will be disclosed by NTESS. For assistance regarding NTESS critical information, please contact opsec@sandia.gov.
      1. Critical information is defined as specific facts about friendly (e.g., U.S., DOE, Sandia) intentions, capabilities, or activities that are vitally needed by adversaries for them to plan and act effectively in their attempts to guarantee failure of, or unacceptable consequences to, friendly objectives.
   4. Subcontractor shall ensure its employees and lower-tier subcontractors comply with this clause.
   5. In no event shall the interest of NTESS or the DOE or the government in this subcontract be indicated in any advertising or publicity without advance written approval of the SP.
5. Clause Interpretation
   1. In the event of conflict between the provisions of this clause and a Nondisclosure Agreement between NTESS and the Subcontractor, the terms and conditions of the Nondisclosure Agreement shall govern.
   2. This clause shall not prohibit Subcontractor’s fulfillment of routine internal or external reporting requirements, including the disclosure of the existence and nature of this subcontract as required by law. External reporting as used in this clause refers to reports submitted to state or federal government offices.
   3. Under a valid court or government agency order, Subcontractor may release subcontract-related information necessary to fulfill obligations, provided that Subcontractor send the written notice and a copy of order or other obligating document to NTESS within a reasonable amount of time to provide the owner of the subcontract-related information notice of such obligation and the opportunity to oppose disclosure.

# HAZARDOUS MATERIALS - REAL ESTATE LEASE

1. The NTESS-controlled premises shall be free of hazardous materials and gasses according to applicable federal, state, and local environmental regulations, except those materials that may be brought to the NTESS-controlled premises by Lessee as part of its work at the NTESS-controlled premises. Lessee shall be responsible for proper handling and disposal of hazardous materials brought by Lessee onto the NTESS-controlled premises.
2. The NTESS-controlled premises shall be free of all asbestos containing materials, except undamaged asbestos flooring or undamaged insulation, in which case an asbestos management program conforming to Environmental Protection Agency guidance shall be implemented by Lessor. Copies of all documentation regarding the Lessor’s asbestos abatement program for the NTESS-controlled premises shall be sent to the SDR, as requested by the SDR.
3. The Lessor shall be responsible for any environmental waste, hazardous waste, discharge, contamination, remediation, or other condition which either exists or is known to exist, or which may be discovered at some time in the future on the NTESS-controlled premises and its appurtenances (e.g. oil from HVAC units) discovered or generated by the Lessor or lower-tier subcontractors. All remediation shall be in accordance nationally acceptable standards; such as EPA, ANSI, etc.
4. Those hazardous materials brought into the NTESS-controlled premises by the Lessor which are job-related consumables and have not been removed from their original packaging and which have not been purchased by Lessee, shall remain the property of the Lessor and shall be removed from the NTESS-controlled premises after completion of the work.
5. Hazardous materials in the original, labeled container are not hazardous waste if the material is usable and the full or partially full container is intact and properly closed.
6. Those scrap items which are not hazardous and which have not become hazardous through co-mingling with hazardous items are owned by the Lessor and shall also be removed.

# HOLDOVER

1. If Lessee maintains possession of the premises for any period after the expiration of the term of the lease, such holding over may constitute a month-to-month extension of this lease.
2. Lessee shall pay to the Lessor a rental payment for the Holdover period in an amount equal to the monthly payment rate as determined pursuant to the clause titled Total Price Clause in Section I of this subcontract.
3. All other terms and conditions will remain in full force and effect.

# LESSEE ACCESS

Lessee shall have access to and use of the NTESS-controlled premises 24 hours per day for every day of the year.

# LESSEE INGRESS AND EGRESS RIGHTS

Lessor agrees to grant sufficient rights of ingress and egress as to permit the intended use of the NTESS-controlled premises as contemplated in this lease.

# LESSEE SURRENDER OF LEASE

At the conclusion of the lease, Lessee may elect to remove any and all government property from Lessor’s property, as determined by the SDR. At the termination of the lease, Lessee has no obligation to restore the premises to its original condition. Lessee agrees to return the NTESS-controlled premises to Lessor less ordinary wear and tear and alterations mutually agreed to in writing by both parties.

# LESSOR, LOWER-TIER SUBCONTRACTOR, AND VISITOR ACCESS REQUIREMENTS - REAL ESTATE LEASE

1. NTESS-Controlled Sites. The Lessor agrees and shall ensure that all personnel entering NTESS-controlled sites for any activity related to this lease shall at all times be subject to and shall comply with all laws, regulations, policies, and site access rules for the site including but not limited to all ES&H and Security requirements. For work performed at NTESS-controlled sites, the Security and ES&H requirements can be obtained by contacting the SDR. Requirements include, but are not limited to, those set forth in this clause for any work to be performed on an NTESS-controlled site.
   1. Submit an email request to the SDR or SP stating the company designation to be used by the Subcontractor and each lower-tier subcontractor and furnishing the following information on each Subcontractor and lower-tier subcontractor personnel requiring access to the government-controlled and government-owned site:
      1. Name
      2. Date of birth
      3. Citizenship status
      4. Completed ES&H training requirements set forth in the SOW of this subcontract
   2. Access will be granted for the period of performance as stated in Section I of this subcontract.
   3. Lessor and each lower-tier subcontractor shall complete all applicable badging and site access requirements.
   4. Lessor shall withdraw and replace any individual, including any lower-tier subcontractor employee, assigned to perform work under this lease, who in the judgment of Lessee or DOE/NNSA, is to be denied access to any NTESS-controlled site.
   5. Lessor shall submit to the SDR or the SP any proposed working schedules for its personnel and the personnel of each of its lower-tier subcontractors that deviate from Lessee's normal workday or work week schedule. The schedules will show proposed daily working hours and proposed work weeks. Schedules that deviate from Lessee's normal workday or work week must be approved by the responsible SDR.
   6. In the absence of a written authorization from the SP or DOE/NNSA, use of NTESS-controlled sites by the Lessor and its lower-tier subcontractors, pursuant to access granted under this clause, shall be limited to work required by this lease to be performed on such premises.
   7. THE USE OF THE ACCESS PRIVILEGE FOR ANY PURPOSE OTHER THAN TO PERFORM WORK UNDER THIS LEASE IS PROHIBITED AND MAY BE GROUNDS FOR TERMINATING THIS LEASE DEFAULT OR FOR FINDING THAT AN INDIVIDUAL IS UNACCEPTABLE FOR FUTURE ACCESS.
2. Lessor shall ensure that its personnel and the personnel of each of its lower-tier subcontractors assigned to work on NTESS-controlled sites comply with all applicable site policies. In addition, the Lessor, its personnel and personnel of each of its lower-tier subcontractors, shall:
   1. Not bring weapons of any kind onto the premises
   2. Not manufacture, sell, distribute, possess, use or be under the influence of controlled substances or alcoholic beverages while on the premises
   3. Not possess hazardous materials of any kind on the premises without proper authorization

Not venture into unauthorized/restricted areas

1. All persons, property, and vehicles entering or leaving SNL, KAFB or NTESS-controlled sites are subject to search by site Security Policy Officers.

# LESSOR'S SUCCESSORS

The terms and provisions of this lease and the conditions herein bind Lessor and Lessor's heirs, executors, administrators, successors, and assigns as owner (or sub Lessor, if this is a sublease) of the premises.

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# LIENS AND ENCUMBRANCES

Lessor agrees to hold Lessee harmless and indemnify Lessee from and against any and all liens or encumbrances that may attach to any government property by virtue of it being on the premises.

# LOWER-TIER SUBCONTRACTING

All lower-tier subcontracts shall be made in the name of the Subcontractor and shall not bind nor purport to bind NTESS or shall not relieve Subcontractor of any obligation under this purchase order/subcontract. If Subcontractor subcontracts any work in the performance of this subcontract, Subcontractor is responsible for reviewing NTESS's Section II Terms and Conditions applicable to this subcontract found at <http://www.sandia.gov/working_with_sandia/current_suppliers/contract_information/index.html> and incorporating all required NTESS's Section II Terms and Conditions into their lower-tier subcontracts.

# MAINTENANCE AND OPERATION PROCEDURES

During the term of this lease, Lessor shall make any necessary improvements to assure that the premises are in compliance with the applicable requirements of:

1. Occupational Safety and Health Administration (OSHA), National Fire Protection Association (NFPA), Americans with Disabilities Act (ADA) and Architectural Barriers Act (ABA) codes and standards
2. All applicable requirements of State and/or local codes and ordinances.
3. When codes conflict the more stringent standard will apply.
4. Specifically, Lessor shall:
   1. Maintain any existing elevators in the premises to the current editions of the American National Standard A17.1, Safety Code for Elevators and Escalator. Elevators shall be inspected and maintained in accordance with current requirements of the American National Standard A17.2, Inspectors Manual for Elevators. Maintenance, testing, and inspection of appropriate equipment and system shall be done in accordance with applicable codes, and inspection certificates shall be displayed as appropriate.
      1. Copies of all documentation of such maintenance and testing shall be forwarded to the SP and SDR upon request or as scheduled with SDR.
      2. Without any additional charge, Lessor shall provide documentation of proper operations or testing of such systems as fire alarm, sprinkler, emergency generator, HVAC, and the like, to assure proper operation as requested by the SDR. Lessee reserves the right to witness these tests.

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# MUTUALITY OF OBLIGATION

The obligations and covenants of Lessor, and Lessee's obligation to pay rent and other Lessee obligations and covenants, arising under or related to this lease, are interdependent. Lessee may, upon issuance of and delivery to Lessor a certified letter asserting a claim against Lessor, set off such claim, in whole or in part, as against any payment or payments then or thereafter due Lessor under this lease. No set off pursuant to this clause will constitute a breach by Lessee of this lease.

# NOTICE OF POTENTIAL DELAY - REAL ESTATE LEASE

During construction activities, whenever the Lessor has knowledge of any actual or potential delay or threatened delay in the timely performance of this lease, the Lessor shall give notice thereof within one (1) day of obtaining said knowledge, confirmed in writing, including all relevant information with respect thereto, to Lessee. Such notice shall not relieve the Lessor from compliance with all the requirements of the lease.

# OCCUPANCY PERMIT

Prior to initial occupancy and after any construction modification, the Lessor shall provide to the SDR a valid Occupancy Permit for the intended use set forth in Section I of this lease. If the local jurisdiction does not issue occupancy permits, Lessor shall consult the SDR to determine if other documentation may be needed.

# ORDER OF PRECEDENCE - REAL ESTATE LEASE

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

1. Section I
2. SF 6432-RE, Section II
3. Specifications, drawings, and other documents incorporated in the lease

# PAYMENTS - REAL ESTATE LEASE

1. Unless otherwise specified in Section I, invoices shall be submitted monthly for 1/12 of the fixed-price owed on this lease to be paid in the arrears. Unless otherwise provided, terms of payment shall be Net thirty (30) days from the receipt of Lessor's proper invoice. Payments will be made by electronic funds transfer. Payment shall be deemed to have been made as of the date on which an electronic funds transfer was made.
2. The usable square footage (USF) delivered will be confirmed by:
   1. Lessee's assessment of plans/drawings submitted by the Lessor as approved by Lessee, and an inspection of the space to verify that the delivered space is in conformance with such plans/drawings, or
   2. A mutual on-site measurement of the space, if the SP determines that it is necessary.
3. If it is determined that the amount of RSF actually delivered is less than the amount agreed to in the lease, the lease will be modified to reflect the amount of rentable space delivered and the annual rental will be adjusted as follows:
   1. RSF not delivered multiplied by the RSF rate equals the reduction in annual rent.
   2. The rate per RSF is determined by dividing the total annual rental by the USF set forth in the lease. RSF Not Delivered X Rate per RSF = Reduction in Annual Rent.
   3. Payment will not be made for space which is in excess of the amount of RSF stated in the SOW.

# PERFORMANCE EVALUATION PROGRAM

# In keeping with NTESS' goal of continuous improvement and promoting and creating an environment for superior Subcontractor performance, NTESS has established a collaborative feedback process through the Performance Evaluation Program. This program is intended to create an environment, which fosters dialog, provides feedback, and improves communication. Any subcontract awarded by NTESS is a candidate for evaluation under this program. Details on the evaluation program are internally tracked via the NextGen SCORE program. Please contact the SP for additional information.

# PROGRESSIVE OCCUPANCY

1. Lessee shall have the right to elect to occupy the space in partial increments prior to the substantial completion of the entire leased NTESS-controlled premises, and the Lessor agrees to schedule its work so as to deliver the space incrementally as elected by Lessee.
2. Lessee shall pay rent commencing with the first business day following substantial completion of the entire NTESS-controlled premise unless Lessee has elected to occupy the leased premises incrementally.
3. In case of incremental occupancy, Lessee shall pay rent pro rata upon the first business day following substantial completion of each incremental unit.
4. Rental payments shall become due on the first workday of the month following the month in which an increment of space is substantially complete, except that should an increment of space be substantially completed after the fifteenth day of the month, the payment due date will be the first workday of the second month following the month it was substantially complete.

# PROHIBITED ACTIVITIES

In addition to prohibitions elsewhere stated in this subcontract, the following activities are prohibited under this Subcontract:

1. Subcontractor does not have authority to act on behalf of NTESS. At no time shall the Subcontractor say or do anything that suggests that Subcontractor is acting with authority for NTESS or on its behalf.
2. Subcontractor shall not transfer or offer to transfer anything of value to any employee, officer, or representative of any customer or potential customer of NTESS for any purpose related to any NTESS activity or performance of this subcontract. Subcontractor commits to adhere to U.S. and foreign laws with respect to such activities, including but not limited to U.S. laws prohibiting conduct in violation of the Foreign Corrupt Practices Act, 15 U.S.C. 78dd et seq.
3. Subcontractor shall not directly solicit work or tasks for NTESS from customers or potential customers and shall not engage in the negotiation of any statement of work requirements, cost estimates or prices, or any other terms or conditions.
4. Subcontractor shall adhere to the requirements of FAR clause 52.203-12, Limitation on Payments to Influence Certain Federal Transactions, which prohibits the expenditure of federal appropriations for lobbying or lobbying-related activities.

# PROTECTION OF PERSONALLY IDENTIFIABLE INFORMATION (PII)

In performing this subcontract, the Subcontractor may be provided with PII relating to NTESS employees, subcontractor employees, and any other individuals related to the work under this subcontract. The Subcontractor shall take all reasonable steps and precautions to ensure all PII provided to the Subcontractor is adequately controlled, protected, and used only to perform work called for under this subcontract.

1. For the purposes of this subcontract, PII is defined as:
   1. Any of the information listed below that can be used to distinguish or trace an individual's identity, is collected and maintained for the purpose of conducting official NTESS business, and is not solely comprised of information that is available to the general public:
      1. social security number
      2. driver's license number
      3. passport number
      4. other federal- or state-issued identification card number
      5. bank account number (with or without routing number, access code, or Personal Identification Number [PIN])
      6. financial or benefit account number in combination with any required code permitting access; background information; verification report
      7. credit report, including consumer reports
      8. medical or health information, including biometric, bio-monitoring, or genetic information
      9. employment history including ratings, salary, wage, deduction information, and disciplinary actions
      10. security clearance history or related information
      11. criminal history
      12. date of birth or age
      13. place of birth
      14. mother’s maiden name
      15. and race or ethnicity
   2. One means of distinguishing or tracing an individual’s identity is to include the first name or the first initial and last name of an individual in combination with any information listed above.
   3. PII does not include information that is on NTESS computing resources as a result of incidental personal use of computing and information resources or other assets.
2. Loss of Control of PII. If the Subcontractor becomes aware or suspects that any NTESS-provided PII, has been inappropriately, taken, used, disclosed, and/or released or that the controls for access to the information have been compromised, the Subcontractor will immediately take steps to prohibit further disclosure and preserve related documents, records, and communications. Subcontractor shall notify NTESS of the incident within 48 hours by providing written notice to contractnotification@sandia.gov and contacting the named SP. Subcontractor shall cooperate with NTESS and provide information needed to allow NTESS to evaluate the nature and extent of the release or loss of control.
3. The provisions of this clause shall survive and continue in force following the completion of work under this subcontract until such time that any PII provided to the Subcontractor is either destroyed in its entirety in a manner that ensures it is not readable or decipherable through any means, or that the PII, including any copies, is returned to NTESS. The Subcontractor shall ensure that these provisions shall be made applicable to any lower-tier subcontractor or non-governmental third party who receives PII provided through this subcontract.

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# SEISMIC SAFETY REQUIREMENTS

The NTESS-controlled premises shall also meet seismic safety compliance per the International Building Code, Chapter 18, Soils and Foundations.

# SOFTWARE, SERVICES & INFORMATION SYSTEMS SECURITY ASSURANCE

1. Subcontractor warrants that all items, information systems, software and services, including cloud-based service models (e.g., infrastructure as a service, platform as a service, or software as a service) provided under this subcontract are free of code or other mechanisms that: collect personal information, assert control of the system without NTESS’ consent, or which may restrict NTESS’ access to or use of company data. Subcontractor further warrants that it will not knowingly introduce, via any means, spyware, adware, ransomware, rootkit, keylogger, virus, trojan, worm, or other code or mechanism designed to permit unauthorized access to the NTESS data, or which may restrict NTESS access to, or use of NTESS data or compromise NTESS data.
2. Subcontractor shall use due diligence to verify that features, functions, and capabilities of deliverables conform to specifications. Subcontractor represents that deliverables only contain features and/or functions that are disclosed.
3. If Subcontractor suspects or becomes aware of any threat events, security incidents, or vulnerabilities in Subcontractor’s operations, products, and/or services, Subcontractor shall provide written notice to [contractnotification@sandia.gov](mailto:contractnotification@sandia.gov) within 48 hours.
4. Subcontractor shall cooperate fully with NTESS to investigate all potential security incidents, threat events, and/or vulnerabilities.

NOTE: As used in this clause, the terms “threat event” and “vulnerability” have the meanings defined in NIST SP 800-30. The term “security incident” has the meaning defined in NIST SP 800-53. Security incidents include, but are not limited to: malfunctions due to design/implementation errors and omissions, targeted malicious attacks, untargeted malicious attacks, insider threats, unintended capabilities, and compromises/breaches involving information system components, information technology products, and development processes or personnel.

# SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT

In the event of any sale of the premises or any portion thereof by foreclosure of the lien of any such mortgage, deed of trust or other security instrument, or the giving of a deed in lieu of foreclosure, Lessee will be deemed to have attorned to any purchaser, purchasers, transferee or transferees of the premises or any portion thereof and its or their successors and assigns, and any such purchasers and transferees will be deemed to have assumed all obligations of Lessor under this lease which will arise from and after the date of such foreclosure or deed in lieu of foreclosure, so as to establish direct privity of estate and contract between Lessee and such purchasers or transferees, with the same force, effect and relative priority in time and right as if the lease had initially been entered into between such purchasers or transferees and Lessee; provided, further, that Lessee and such purchasers or transferees shall, with reasonable promptness following any such sale or deed delivery in lieu of foreclosure, execute all such revisions to this lease, or other writings, as may be necessary to document the foregoing relationship.

# TAXES - REAL ESTATE LEASE

Lessor shall pay any taxes, use fees, or assessments levied against the NTESS-controlled premises by any governmental entity, unless otherwise agreed to in the SOW.

# UTILITIES

The Lessor shall ensure that utilities necessary for operation of the NTESS-controlled premises are provided and all associated costs are included as a part of the established lease rate, unless otherwise noted in the SOW.

# WAIVER - REAL ESTATE LEASE

No failure by either Lessor or Lessee to insist upon strict performance of any provision of this lease or to exercise any right or remedy consequent upon a breach thereof, and no acceptance of full or partial rent or other performance by Lessor or Lessee during the continuance of any such breach shall constitute a waiver of any such breach of such provision.

# WARRANTIES OF TITLE AND QUIET POSSESSION

Lessor covenants that Lessor has the right to make this lease and that Lessee shall enjoy quiet and peaceful possession of the premises during the term of this lease. Lessor expressly warrants that there are no other agreements in force that conflict with this lease. Lessor and any successors in interest shall agree not to enter into any arrangement that could interfere with Lessee's quiet and peaceful possession of the NTESS-controlled premises during the term of this lease. Lessor expressly warrants that the premises delivered under this lease are in accordance with the description set forth in Section I and compliant with all requirements of this lease.

# WARRANTY

1. Subcontractor expressly warrants that no counterfeit item or components shall be delivered to NTESS on this subcontract.
2. Subcontractor warrants, except for exclusions elsewhere in this clause, that work performed under this subcontract conforms to the subcontract requirements and is free of any defect in equipment, material, or design furnished, or workmanship performed by the Subcontractor or any subcontractor or supplier at any tier.
3. Subcontractor expressly warrants that all items provided under this subcontract shall have a rightful transfer of good title thereto and are delivered free of any rightful claims of any third person by way of infringement of any intellectual property right.
4. Warranty period
   1. The warranty for products delivered under this subcontract shall begin upon receipt of conforming items and extend for a period of:
      1. The manufacturer's warranty period or six (6) months, whichever is longer, if the Subcontractor is not the manufacturer and has not modified the item, or
      2. One (1) year or the manufacturer's warranty period, whichever is longer, if the Subcontractor is the manufacturer of the item or has modified it.
   2. The warranty for services performed under this subcontract shall:
      1. Continue for a period of one (1) year from date of final acceptance of the work.
      2. If NTESS or the government takes possession of any part of the work before final acceptance, this warranty shall continue for a period of one (1) year from the date NTESS takes possession.
5. Within the warranty period, Subcontractor shall
   1. Promptly repair or replace any nonconforming product at Subcontractor's election, or
   2. Re-perform any nonconforming or defective service.
6. Subcontractor shall remedy, at Subcontractor's expense, any damage to government-owned or controlled real or personal property, when that damage is the result of:
   1. Subcontractor's failure to conform to subcontract requirements, or
   2. Any defect of equipment, material, workmanship, or design furnished.
7. Transportation of replacement item(s), return of nonconforming item(s), and reperformance of nonconforming services shall be at Subcontractor's expense.
8. Subcontractor's warranty with respect to work repaired or replaced will run for one (1) year from the date of repair or replacement.
9. NTESS will notify Subcontractor within a reasonable time after the discovery of any nonconformance, failure, defect, or damage. Subcontractor shall notify NTESS of whether it chooses to make repairs, furnish replacements, or schedule for reperformance of services within three (3) working days after receiving NTESS' notice of nonconformity.
10. If repair, replacement, or re-performance of services is not timely, NTESS may elect to return the nonconforming item, re-procure or repair a nonconforming product or re-procure or self-perform nonconforming services at Subcontractor's expense.
11. With respect to all warranties, express or implied, from lower-tier subcontractors, manufacturers, or suppliers for work performed and/or materials furnished under this subcontract, the Subcontractor shall:
    1. Obtain all warranties that would be given in standard commercial practice;
    2. Require all warranties to be executed, in writing, for the benefit of the government, if directed by NTESS; and
    3. Enforce all warranties for the benefit of the government, if directed by NTESS
12. In the event the Subcontractor's warranty under this clause has expired, the government or NTESS may bring suit at its expense to enforce a subcontractor's, manufacturer's, or supplier's warranty at any tier.
13. Unless a defect is caused by the negligence or intentional misconduct of the Subcontractor or lower-tier subcontractor or supplier at any tier, the Subcontractor shall not be liable for the repair of any defects of material or design furnished by NTESS nor for the repair of any damage that results from any defect in Government-Furnished Material/Property or design.
14. This warranty shall not limit NTESS' rights under the "Inspection and Acceptance" clause, if included, in this subcontract with respect to latent defects, gross mistakes, or fraud.
15. Defects in design or manufacture of equipment specified by NTESS on a "brand name and model" basis, shall not be included in this warranty. In this event, the Subcontractor shall require any lower-tier subcontractors, manufacturers, or suppliers at any tier thereof to execute their warranties, in writing, directly to NTESS.

# WRITTEN NOTICES

1. The Subcontractor shall immediately notify the SP 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
   2. Any claim against the Subcontractor, the cost and expense of which is allowable under the terms of this subcontract
2. 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 SP in writing of such circumstances, and the Subcontractor shall take whatever action is necessary to cure such defect within the shortest possible time.

# ADDITIONAL TERMS AND CONDITIONS

This subcontract incorporates by reference, with the same force and effect as if they were given in full text, the following cited FAR clauses and DEAR clauses. The FAR and DEAR clauses which are flowed down to subcontracts are as dated in Section I of the NTESS Prime Contract in effect at “Revision 0 – award” of this subcontract; available at <http://www.sandia.gov/working_with_sandia/current_suppliers/contract_information/index.html> under the “Policies” tab. The NTESS Prime Contract (DE-NA0003525) is available for reference at <https://nnsa.energy.gov/aboutus/ouroperations/apm/mosupportdept/sandia-national-laboratories>. The full text of these clauses may be found under Title 48 of the CFR at <http://www.ecfr.gov> or at Acquisition.gov at <https://www.acquisition.gov/content/regulations>. Where the FAR/DEAR clauses refer to government and Contracting Officer, substitute NTESS and SP, except:

1. In the phrases “Government Property,” “Government-Furnished Property,” and “Government-Owned Property”;
2. In any patent clauses incorporated herein;
3. When a right, act, authorization or obligation can be granted or performed only by the Government or the Prime Contract Contracting Officer or his/her duly authorized representative;
4. When title to property is to be transferred directly to the Government;
5. In any duty-free entry clauses incorporated herein; and
6. Where specifically modified herein.

For authorized audit rights, the term “Contracting Officer or an authorized representative of the Contracting Officer” shall also include “NTESS, or an authorized representative of NTESS”.

# APPLY TO SUBCONTRACTS AT ANY VALUE

FAR 52.203-15 Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009

FAR 52.203-19 Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements

FAR 52.204-9 Personal Identity Verification of Contractor Personnel

FAR 52.204-21 Basic Safeguarding of Covered Contractor Information Systems

FAR 52.208-8 Required Sources for Helium and Helium Usage Data

FAR 52.209-10 Prohibition on Contracting with Inverted Domestic Corporations

FAR 52.211-5 Material Requirements

FAR 52.219-8 Utilization of Small Business Concerns

FAR 52.222-1 Notice to the Government of Labor Disputes

FAR 52.222-29 Notification of Visa Denial

FAR 52.222-50 Combating Trafficking in Persons (including Alt I)

FAR 52.223-18 Encouraging Contractor Policies to Ban Text Messaging While Driving

FAR 52.225-8 Duty-Free Entry

FAR 52.225-13 Restrictions on Certain Foreign Purchases

FAR 52.225-26 Contractors Performing Private Security Functions Outside the United States

FAR 52.226-1 Utilization of Indian Organizations and Indian-Owned Economic Enterprises

FAR 52-227-16 Additional Data Requirements

FAR 52.227-23 Rights to Proposal Data (Technical)

FAR 52.232-39 Unenforceability of Unauthorized Obligations

FAR 52.232-40 Providing Accelerated Payments to Small Business Subcontractors (Deviation)

FAR 52.242-15 Stop-Work Order

FAR 52.244-6 Subcontracts for Commercial Products and Commercial Services

FAR 52.245-1 Government Property

FAR 52.247-64 Preference for Privately Owned U.S. Flag Commercial Vessels

FAR 52.252-6 Authorized Deviations in Clauses

DEAR 952.204-77 Computer Security

DEAR 952.211-71 Priorities and Allocations (Atomic Energy)

DEAR 952.217-70 Acquisition of Real Property

DEAR 952.250-70 Nuclear Hazards Indemnity Agreement

DEAR 970.5204-1 Counterintelligence

DEAR 970.5204-2 Laws, Regulations, and DOE Directives (Class Deviation)

DEAR 970.5208-1 Printing

DEAR 970.5225-1 Compliance with Export Control Laws and Regulations (Export Clause)

DEAR 970.5227-1 Rights in Data - Facilities

DEAR 970.5227-6 Patent Indemnity

DEAR 970.5227-8 Refund of Royalties

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# APPLY TO SUBCONTRACTS EXCEEDING $3,500

FAR 52.222-54 Employment Eligibility Verification

# APPLY TO SUBCONTRACTS EXCEEDING $10,000

FAR 52.222-21 Prohibition of Segregated Facilities

FAR 52.222-26 Equal Opportunity

FAR 52.222-40 Notification of Employee Rights under the National Labor Relations Act

FAR 52.225-1 Buy American - Supplies

FAR 52.225-9 Buy American - Construction Materials

# APPLY TO SUBCONTRACTS EXCEEDING $15,000

FAR 52.222-36 Equal Opportunity for Workers with Disabilities

# APPLY TO SUBCONTRACTS IF $25,000 OR MORE

DEAR 970.5223-4 Workplace Substance Abuse Programs at DOE Sites

# APPLY TO SUBCONTRACTS IF $30,000 OR MORE

FAR 52.204-10 Reporting Executive Compensation and First-Tier Subcontract Awards

# APPLY TO SUBCONTRACTS EXCEEDING $35,000

FAR 52.209-6 Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment

# APPLY TO SUBCONTRACTS IF $150,000 OR MORE

FAR 52.222-35 Equal Opportunity for Veterans

FAR 52.222-37 Employment Reports on Veterans

# APPLY TO SUBCONTRACTS EXCEEDING $150,000

FAR 52.203-12 Limitation on Payments to Influence Certain Federal Transactions

FAR 52.222-4 Contract Work Hours and Safety Standards - Overtime Compensation

# APPLY TO SUBCONTRACTS EXCEEDING $250,000

FAR 52.203-6 Restrictions on Subcontractor Sales to the Government

FAR 52.203-7 Anti-Kickback Procedures excluding paragraph (c)(1)

FAR 52.203-10 Price or Fee Adjustment for Illegal of Improper Activity

FAR 52.203-17 Contactor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights

FAR 52.215-2 Audit and Records – Negotiation FAR 52.227-1 Authorization and Consent Alt I

FAR 52.227-1 Authorization and Consent

FAR 52.227-2 Notification and Assistance Regarding Patent and Copyright Infringement

FAR 52.244-5 Competition in Subcontracting

FAR 52.247-63 Preference for U.S. Flag Air Carriers

DEAR 970.5227-4 Authorization and Consent (Deviation) – This clause applies to subcontracts for research and development.

DEAR 970.5227-5 Notice of Assistance Regarding Patent and Copyright Infringement (Deviation)

# APPLY TO SUBCONTRACTS EXCEEDING $500,000

FAR 52.204-14 Service Contract Reporting Requirements

DEAR 952.226-74 Displaced Employee Hiring Preference

DEAR 970.5226-2 Workforce Restructuring under Section 3161 of the National Defense Authorization Act for Fiscal Year 1993

# APPLY TO SUBCONTRACTS EXCEEDING $550,000

FAR 52.222-50 Combatting Trafficking in Persons (including Alt I) - Compliance Plan

# APPLY TO SUBCONTRACTS EXCEEDING $750,000

FAR 52.219-9 Small Business Subcontracting Plan, Alt II - Non-Construction

FAR 52.219-10 Incentive Subcontracting Program - Non-Construction

FAR 52.219-16 Liquidated Damages Subcontracting Plan - Non-Construction

FAR 52.230-2 Cost Accounting Standards

FAR 52.230-6 Administration of Cost Accounting Standards

DEAR 970.5232-5 Liability with Respect to Cost Accounting Standards

# APPLY TO SUBCONTRACTS EXCEEDING $1,500,000 AWARDED TO LARGE BUSINESS

FAR 52.219-9 Small Business Subcontracting Plan, Alt II - Construction

FAR 52.219-10 Incentive Subcontracting Program - Construction

FAR 52.219-16 Liquidated Damages - Subcontracting Plan - Construction

# APPLY TO SUBCONTRACTS EXCEEDING $2,000,000

FAR 52.215-10 Price Reduction for Defective Cost or Pricing Data

FAR 52.215-11 Price Reduction for Defective Certified Cost or Pricing Data - Modifications

FAR 52.215-12 Subcontractor Certified Cost or Pricing Data

FAR 52.215-13 Subcontractor Certified Cost or Pricing Data - Modifications

FAR 52.215-15 Pension Adjustments and Asset Reversions

FAR 52.215-18 Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other Than Pensions

FAR 52.215-19 Notification of Ownership Changes

# APPLY TO SUBCONTRACTS EXCEEDING $6,000,000

FAR 52.203-13 Contractor Code of Business Ethics and Conduct

FAR 52.203-14 Display of Hotline Poster(s)

# APPLY TO ALL SUBCONTRACTS THAT MAY INVOLVE ACCESS TO

# CLASSIFIED INFORMATION

DEAR 952.204-2 Security

DEAR 952.204-70 Classification/Declassification

DEAR 970.5227-12 Management and Operating Contracts, For-Profit Contractor, Patent Waiver, with Alternate I (Deviation)

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# APPLY TO SUBCONTRACTS TO BE PERFORMED ON A GOVERNMENT OR NTESS-CONTROLLED SITE WHENEVER THE WORK (1) COULD RESULT IN POTENTIAL EXPOSURE TO: (A) RADIOACTIVE MATERIALS; (B) BERYLLIUM; OR (C) ASBESTOS OR (2) INVOLVES A RISK ASSOCIATED WITH CHRONIC OR ACUTE EXPOSURE TO TOXIC CHEMICALS OR SUBSTANCES OR OTHER HAZARDOUS MATERIALS THAT CAN CAUSE ADVERSE HEALTH IMPACTS, IN ACCORDANCE WITH 10 CFR PART 851

DEAR 970.5204-3 Access to and Ownership of Records (Deviation)

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