

**SANDIA CORPORATION  
SF 6432-CL (07/2013)  
SECTION II**

**STANDARD TERMS AND CONDITIONS FOR COMMERCIAL LEASES**

THE FOLLOWING CLAUSES APPLY TO THIS LEASE AS INDICATED UNLESS SPECIFICALLY DELETED, OR EXCEPT TO THE EXTENT THEY ARE SPECIFICALLY SUPPLEMENTED OR AMENDED IN WRITING IN THE COVER PAGE OR SECTION I OF THIS LEASE. (CTRL+CLICK ON A LINK BELOW TO ADVANCE DIRECTLY TO THAT SECTION)

[ACCEPTANCE OF TERMS AND CONDITIONS \(Ts&Cs\)](#)

[ACCESSIBILITY AND SEISMIC SAFETY](#)

[ALTERATIONS](#)

[AMERICANS WITH DISABILITIES ACT](#)

[APPLICABLE LAW](#)

[ASSIGNMENT](#)

[BANKRUPTCY](#)

[CANCELLATION OR TERMINATION FOR CONVENIENCE](#)

[COMPLIANCE WITH LAWS](#)

[DEFINITIONS](#)

[ELECTRICAL AND MECHANICAL SYSTEMS](#)

[ENTIRE AGREEMENT](#)

[EXPORT CONTROL](#)

[FIRE AND CASUALTY DAMAGE](#)

[GOVERNMENT PERSONAL PROPERTY](#)

[HAZARDOUS MATERIALS](#)

[HEADINGS](#)

[INDEPENDENT CONTRACTOR RELATIONSHIP](#)

[JANITORIAL SERVICES](#)

[LIABILITY](#)

[LIENS AND ENCUMBRANCES](#)

[MODIFICATIONS](#)

[OCCUPANCY PERMIT](#)

[ORDER OF PRECEDENCE](#)

[PAYMENTS](#)

[PROHIBITED USES](#)

[RIGHTS AND INTERESTS](#)

[SANDIA ACCESS](#)

[SANDIA INGRESS AND EGRESS RIGHTS](#)

[SANDIA SURRENDER OF LEASE](#)

[SUBCONTRACTING](#)

[SUSPECT/COUNTERFEIT ITEMS \(S/CI\)](#)

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

Control #: SF 6432-CL

Title: Standard Terms & Conditions for  
Commercial Leases  
Release Date: 07/31/13

Owner: Procurement Policy & Quality Dept

Page 1 of 21

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SUPERINTENDENT  
TAXES  
UTILITIES  
WAIVERS  
WARRANTIES OF TITLE AND QUIET POSSESSION  
WORK FOR HIRE  
ADDITIONAL TERMS AND CONDITIONS  
APPLY TO ALL LEASES  
APPLY TO LEASES EXCEEDING \$3,000  
APPLY TO LEASES IF \$25,000 OR MORE  
APPLY TO LEASES EXCEEDING \$30,000  
APPLY TO LEASES EXCEEDING \$100,000  
APPLY TO LEASES EXCEEDING \$5,000,000  
APPLY TO ALL SANDIA-CONTROLLED PREMISES  
AUTHORIZED DISTRIBUTORS  
CONTRACTOR, SUBCONTRACTOR, AND VISITOR ACCESS TO SANDIA-CONTROLLED PREMISES  
CONTRACTOR, SUBCONTRACTOR, AND VISITOR ACCESS REQUIREMENTS  
CITIZENSHIP STATUS  
ENVIRONMENTAL, SAFETY, AND HEALTH (ES&H) SERVICES  
HAZARDOUS MATERIALS HANDLING  
HAZARDOUS MATERIALS REMOVAL  
VEHICLE MARKINGS  
ACCESS TO SANDIA INFORMATION  
GOVERNMENT PERSONAL PROPERTY PROTECTION  
CLASSIFIED INFORMATION ACCESS REQUIREMENTS  
PERFORMANCE EVALUATION PROGRAM  
PROGRESSIVE OCCUPANCY  
ACCEPTANCE OF SPACE  
FAILURE IN PERFORMANCE  
SPRINKLER SYSTEM

**ACCEPTANCE OF TERMS AND CONDITIONS (Ts&Cs)**

Lessor, by signing this lease and/or delivering the possession of the premises to Sandia 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. Sandia 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 Sandia 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 Sandia to enforce each and every provision. All rights and obligations shall survive final performance of this lease.

Control #: SF 6432-CL

Title: Standard Terms & Conditions for  
Commercial Leases  
Release Date: 07/31/13

Owner: Procurement Policy & Quality Dept

Page 2 of 21

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## **ACCESSIBILITY AND SEISMIC SAFETY**

The Sandia-controlled premises shall be accessible to the handicapped in accordance with the Americans With Disabilities Act Accessibility Guidelines (36 Code of Federal Regulations (CFR) Part 36, App. A) and the Uniform Federal Accessibility Standards (41 CFR 101-19.6, App. A). Where standards conflict, the more stringent shall apply. The Sandia-controlled premises shall also meet seismic safety compliance.

## **ALTERATIONS**

Sandia shall have the right during the existence of this lease to make alterations, attach fixtures, and erect structures or signs in or upon the Sandia-controlled premises hereby leased, which fixtures, additions or structures so placed in, on, upon, or attached to the said Sandia-controlled premises shall be and remain the property of Sandia and may be removed or otherwise disposed of by Sandia. If the lease contemplates that Sandia is the sole occupant of the building, for purposes of this clause, the leased Sandia-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. Sandia 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 Sandia-controlled premises if Sandia 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**

Landlord shall deliver the Sandia-controlled premises to Tenant 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 Landlord shall, after receipt of written notice from Tenant setting forth with specificity the nature and extent of such non-compliance, rectify same at Landlord's expense and not includable in Operating Expenses. Landlord 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 lease and construed in accordance with federal law for Federal Acquisition Regulations (FAR) clauses or Department of Energy Acquisition Regulations (DEAR) clauses incorporated into this lease. State laws, ordinances, regulations and rules as enacted in the state the Sandia-controlled premises are located in shall govern all other clauses Claims shall be brought in the State Court closest to the Sandia-controlled premises giving rise to the claim.

**Control #:** SF 6432-CL

**Title:** Standard Terms & Conditions for  
Commercial Leases  
**Release Date:** 07/31/13

**Owner:** Procurement Policy & Quality Dept

**Page 3 of 21**

*Printed copies of this document are uncontrolled. Retrieve latest version electronically.*

## **ASSIGNMENT**

Lessor shall not assign rights or obligations to third parties or otherwise alienate any interest of Sandia in the Sandia-controlled premises during the term of this lease without the prior written consent of Sandia. However, the Lessor may assign rights to be paid amounts due or to become due to a financing institution if Sandia is promptly furnished a properly signed copy of the Sandia Assignment of Payments form. Payments to an assignee shall be subject to setoff or recoupment for any present or future claims of Sandia against Lessor. This lease may be assigned by Sandia 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, Sandia shall have no further responsibilities hereunder. Sandia may sublet any part of the Sandia-controlled premises but shall not be relieved from any obligations under this lease by reason of any such subletting.

## **BANKRUPTCY**

If the Lessor enters into any proceeding relating to bankruptcy, it shall give written notice via certified mail to the Sandia Contracting Representative (SCR) responsible for this agreement within five (5) 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 agreement numbers for which final payment has not been made.

## **CANCELLATION OR TERMINATION FOR CONVENIENCE**

(a) Either party shall have the right to cancel this lease without judicial resolution upon written notice to the other after a breach of any provision by the other party has gone uncorrected for thirty (30) days after the other party has been notified in writing of such breach. In the event of cancellation, Sandia's payment for this lease shall be prorated based on the months of actual use divided by twelve (12) and multiplied by the annual rent set forth above and Sandia shall not be liable for any other services that were not accepted by Sandia for payment as of the date of such cancellation. (b) Sandia may terminate for the convenience of Sandia this lease, upon 120 days of advanced written notice to the Lessor after the initial term of this lease. In that event Sandia shall not be liable for any costs that become due after the effective date of the termination except any stated penalty set forth in Section I of this lease. (c) The rights and remedies of Sandia in this clause are in addition to any other rights and remedies provided by law or equity or under this lease.

## **COMPLIANCE WITH LAWS**

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, alteration or operation of both or either thereof, and will obtain all necessary permits, licenses and similar items at Lessor's expense. Sandia will comply with all federal, state, and

Control #: SF 6432-CL

Title: Standard Terms & Conditions for  
Commercial Leases  
Release Date: 07/31/13

Owner: Procurement Policy & Quality Dept

Page 4 of 21

*Printed copies of this document are uncontrolled. Retrieve latest version electronically.*

local laws applicable to and enforceable against it as a tenant under this lease; provided that nothing in this lease shall be construed as a waiver of any sovereign immunity of the government.

## **DEFINITIONS**

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:

(a) Government means the United States of America (U.S.A.) and includes the United States (U.S.) DOE/NNSA or any duly authorized representative thereof.

(b) Lease means this agreement which includes a cover page, a Section I, a Section II, and all other documents incorporated into this agreement by reference thereto.

(c) Lessee means Sandia Corporation.

(d) Lessor means the person or organization that has entered into this lease.

(e) Sandia-controlled premises mean the subject of this lease as set forth in Section I of this lease.

(f) Sandia means Sandia Corporation which manages and operates the Sandia National Laboratories under Contract No. DE-AC04-94AL85000 with the U.S. DOE/NNSA.

(g) SCR means Sandia Contracting Representative, the only person authorized to negotiate, execute and/or administer this lease for Sandia.

(h) SDR means Sandia Delegated Representative, the person(s) who has been delegated limited authority as defined in Section I of this lease.

(i) Commencement date means the first day of the term.

(j) "Contract" and "Contractor" means "lease" and "Lessor," respectively.

(k) Delivery date means the date specified in or determined pursuant to the provisions of this lease for delivery of the premises to Sandia, improved in accordance with the provisions of this lease and substantially complete, as such date may be modified in accordance with the provisions of this lease.

(l) Delivery time means the number of days provided by this lease for delivery of the premises to Sandia, as such number may be modified in accordance with the provisions of this lease.

(m) Excusable delays mean delays arising without the fault or negligence of Lessor and Lessor's subcontractors and suppliers at any tier, and shall include, without limitation: (1) acts of God or of the public enemy; (2) acts of the U.S.A. in either its sovereign or contractual capacity; (3) acts of another Contractor in the performance of a contract with Sandia; (4) fires; (5) floods; (6) epidemics' (7) quarantine restrictions; (8) strikes; (9) freight embargoes' (10) unusually severe weather; or (11) delays of subcontractors or suppliers at any tier arising from unforeseeable causes beyond the control and without the fault or negligence of both the Lessor and any such subcontractor or supplier.

(n) Lessor shall provide means the Lessor shall furnish and install at Lessor's expense.

**Control #: SF 6432-CL**

**Title: Standard Terms & Conditions for  
Commercial Leases**

**Owner: Procurement Policy & Quality Dept**

**Release Date: 07/31/13**

**Page 5 of 21**

*Printed copies of this document are uncontrolled. Retrieve latest version electronically.*

(o) 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.

(p) Substantially complete and "substantial completion" means that the work, the common and other areas of the building, and all other things necessary for Sandia's 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.

(q) Work means all alterations, improvements, modifications, and other things required for the preparation or continued occupancy of the premises by Sandia as specified in this lease.

(r) 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 Contractor in completing construction or alterations. Prior to occupancy by the user, a written agreement between the Contractor and Sandia is executed, listing deficiencies, remaining work, and other conditions of occupancy that must be consummated.

(s) Operating cost means the expenses incurred by the Lessor as part of the operation and management of office buildings. The major costs include: interior and exterior cleaning; snow removal; maintenance of building systems; light bulb and tube replacement; replacement of minor parts to building systems; security systems and guard services; electricity for lighting and operation of mechanical systems; natural gas or oil for heating; water and sewage expenses; and payments for professional property management.

(t) Usable square feet means the area where a tenant normally houses personnel and/or furniture.

(u) Rentable area 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.

(v) Normal wear and tear means the physical deterioration that occurs with the normal use of a property without negligence, carelessness, accident with, or abuse of the Sandia-controlled premises, equipment, or personal property by Sandia. Time of occupancy shall be taken into account to determine normal wear and tear.



## **ELECTRICAL AND MECHANICAL SYSTEMS**

Lessor agrees to have the most energy efficient operation of the Heating, Ventilation and Air Conditioning (HVAC) equipment in the Sandia-controlled premises capable of maintaining temperatures between 65-70 degrees Fahrenheit during the heating season, and 76-80 degrees during the cooling season, regardless of outside temperatures, during the hours of operation specified in the lease. In addition, there shall be a means of setting back the thermostats during nonoperational times as specified in the lease (e.g., 60 degrees in winter, 80 degrees in summer). (a) Lessor agrees to maintain the landscape in the most water efficient manner by only planting drought tolerant plantings and to minimize irrigation when possible. Local watering restrictions shall be followed. (b) Lessor agrees to use the most water efficient plumbing fixtures (toilets, urinals, faucets) in the Sandia-controlled premises when replacement is required. At a minimum, new fixtures shall meet Energy Policy Act of 1992:

- (1) Toilets: 1.6 gallons per flush
- (2) Urinals: 1.0 gallons per flush
- (3) Faucets: 2.2 gallons per minute

In existing facilities, where it is feasible, change out the fixtures and/or flush valves to meet these criteria. In many locations, this can be accomplished via rebate programs. (c) Lessor shall be responsible for the total maintenance and repair of the Sandia-controlled premises. Such maintenance and repairs include site and private access roads. All equipment and systems shall be maintained to provide reliable, energy efficient service without interruption, disturbing noises, exposure to fire or safety hazards, uncomfortable drafts, excessive air velocities, or unusual emissions of dirt. Lessor's maintenance responsibility includes initial supply and replacement of all supplies, materials, and equipment necessary for such maintenance. Consider purchasing Energy Star™ products or products that are in the top twenty percent (20%) of their field in energy efficiency. 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. Copies of all documentation of such maintenance and testing shall be forwarded to the SCR. Without any additional charge, Sandia reserves the right to require documentation of proper operations or testing prior to occupancy of such systems as fire alarm, sprinkler, emergency generator, HVAC, etc. to ensure proper operation. These tests shall be witnessed by the SDR.

## **ENTIRE AGREEMENT**

Lessor and Sandia represent that the execution and delivery of this lease has not been induced by any promises, representations, warranties or other agreements, other than those specifically expressed. This lease embodies the entire understanding between the parties with respect to the subject matter described

**Control #: SF 6432-CL**

**Title: Standard Terms & Conditions for  
Commercial Leases  
Release Date: 07/31/13**

**Owner: Procurement Policy & Quality Dept**

**Page 7 of 21**

*Printed copies of this document are uncontrolled. Retrieve latest version electronically.*

herein. This lease shall bind and inure to the benefit of the parties to this lease and their respective heirs, executors, administrators, successors, and assigns.

### **EXPORT CONTROL**

(a) Any item, technical data, or software furnished by Sandia in connection with this purchase order/contract is supplied for use in the U.S. only. Contractor 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 U.S. Code (USC) 2751 - 2794, including the International Traffic in Arms Regulation (ITAR), 22 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, Contractor agrees that it will not transfer any export controlled item, data, or services, to include transfer to foreign persons employed by or associated with, or under contract to Contractor or Contractor's lower-tier suppliers, without the authority of an export license, agreement, or applicable exemption or exception. Contractor shall immediately notify the SCR if it transfers any export controlled item, data, or services to foreign persons. Diversion contrary to U.S. export laws and regulations is prohibited. (b) Contractor shall immediately notify the SCR if Contractor is, or becomes, listed in any Denied Parties List or if Contractor's export privileges are otherwise denied, suspended or revoked in whole or in part by any U.S. Government entity or agency. (c) If Contractor is engaged in the business of either exporting or manufacturing (whether exporting or not) defense articles or furnishing defense services, Contractor represents that it is registered with the Directorate of Defense Trade Controls, as required by the ITAR, and it maintains an effective export/import compliance program in accordance with the ITAR.

The Contractor shall flow down the requirements of this clause to all subcontracts.

### **FIRE AND CASUALTY DAMAGE**

If the entire Sandia-controlled premises are destroyed by fire or other casualty, this lease will immediately terminate. In case of partial destruction or damage, so as to render the Sandia-controlled premises uninhabitable, as determined by Sandia, Sandia 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. 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.

**Control #:** SF 6432-CL

**Title:** Standard Terms & Conditions for  
Commercial Leases  
**Release Date:** 07/31/13

**Owner:** Procurement Policy & Quality Dept

**Page 8 of 21**

*Printed copies of this document are uncontrolled. Retrieve latest version electronically.*



## **GOVERNMENT PERSONAL PROPERTY**

The Sandia-controlled premises will contain personal property all of which is government property which shall be removed by Sandia at the conclusion of the lease. Lessor agrees to make no claims of any ownership or any interest in any government property.

## **HAZARDOUS MATERIALS**

(a) The Sandia-controlled premises shall be free of hazardous materials according to applicable federal, state, and local environmental regulations, except those materials that may be brought to the Sandia-controlled premises by Sandia as part of its work at the Sandia-controlled premises. Sandia shall be responsible for proper handling and disposal of hazardous materials brought by Sandia onto the Sandia-controlled premises. (b) The Sandia-controlled premises shall be free of all asbestos containing materials, except undamaged asbestos flooring or undamaged boiler or pipe 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 Sandia-controlled premises shall be sent to the SCR. (c) If the Sandia-controlled premises are on the second floor above grade or lower, the Lessor shall, prior to occupancy, test the Sandia-controlled premises for 2 to 3 days using charcoal canisters or Electret Ion Chambers to ensure radon in air levels are below the Environmental Protection Agency's action concentration of 4 Pico Curies/liter. After the initial testing, a follow up test for a minimum of ninety (90) days using Alpha Track Detectors or Electret Ion Chambers must be completed. Copies of all documentation of these tests shall be sent to the SCR.

## **HEADINGS**

The headings used in this lease are for reference purposes only and shall not be used to restrict the meaning or interpretation of the provisions of this lease.

## **INDEPENDENT CONTRACTOR RELATIONSHIP**

(a) Contractor is an independent contractor in all its operations and activities related to this contract. The employees used by Contractor to perform Work under this Contract shall be Contractor's employees without any relation whatsoever to Sandia Corporation.

(b) Contractor shall be responsible for all losses, costs, claims, causes of action, damages, liabilities, and expenses, including attorneys' fees, all expenses of litigation and/or settlement, and court costs, arising from any act or omission of Contractor, its officers, employees, agents, suppliers, or subcontractors at any tier, in the performance of any of its obligations under this Contract.

(c) Contractor shall indemnify and hold harmless Sandia from and against any actual or alleged liability, loss, costs, damages, fees of attorneys, and other expenses which Sandia may sustain or incur in consequence of:

**Control #:** SF 6432-CL

**Title:** Standard Terms & Conditions for  
Commercial Leases  
**Release Date:** 07/31/13

**Owner:** Procurement Policy & Quality Dept

**Page 9 of 21**

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- (i) Contractor's failure to pay any employee for the Work rendered under this Contract, or
  - (ii) any claims made by Contractor's personnel against Sandia.
- The Contractor shall flow down the requirements of this clause to any applicable subcontracts for services.

**JANITORIAL SERVICES**

Lessor shall provide janitorial services for the Sandia-controlled premises, public areas, entrances, and all other common areas and provide replacement of supplies necessary for such janitorial services.

**LIABILITY**

It is mutually understood and agreed that the Lessor and Sandia shall not be liable for any damage or injury, to the person or property of Lessor, Sandia, any third party, or any of the Sandia's employees, guests, or invitees due to the act or negligence of any other person, or as may be caused by fire, water, steam, gas, snow, ice, frost, sewerage or electric current, or by the breaking, leaking or obstruction of pipes, or resulting from any other cause whatsoever. All government property which is placed on the Sandia-controlled premises by Sandia shall be at Sandia's sole risk. Sandia shall not be liable for any damage or loss to Lessor's Sandia-controlled premises except in the event of Sandia's tortious conduct proximately causing such damage to Lessor's property.

**LIENS AND ENCUMBRANCES**

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

**MODIFICATIONS**

No modification of this lease shall be valid or binding upon any party, unless the modification is made in writing and signed by duly authorized representatives of both parties to this lease.

**OCCUPANCY PERMIT**

The Lessor shall provide to the SCR 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 SCR to determine if other documentation may be needed.

**ORDER OF PRECEDENCE**

Any inconsistencies shall be resolved in accordance with the following descending order of precedence: (1) Section I Lease Terms and Conditions, (2) SF 6432-CL, Section II Standard Terms and Conditions For Commercial Leases, and (3) incorporated by reference provisions of Section II.

<b>Control #:</b> SF 6432-CL	<b>Title:</b> Standard Terms & Conditions for Commercial Leases
<b>Owner:</b> Procurement Policy & Quality Dept	<b>Release Date:</b> 07/31/13
<b>Page 10 of 21</b>	

*Printed copies of this document are uncontrolled. Retrieve latest version electronically.*

## **PAYMENTS**

(a) 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 may be made either by check or electronic funds transfer, at the option of Sandia. Payment shall be deemed to have been made as of the date of mailing or the date on which an electronic funds transfer was made. (b) When space is offered and accepted, the usable square footage (USF) delivered will be confirmed by:

(1) Sandia's measurement of plans submitted by the successful Offeror as approved by Sandia, and an inspection of the space to verify that the delivered space is in conformance with such plans, or

(2) a mutual on-site measurement of the space, if the Contracting Officer determines that it is necessary.

(c) Payment will not be made for space which is in excess of the amount of (USF) stated in the lease. (d) If it is determined that the amount of USF actually delivered is less than the amount agreed to in the lease, the lease will be modified to reflect the amount of usable space delivered and the annual rental will be adjusted as follows:

USF not delivered multiplied by the USF rate equals the reduction in annual rent. The rate per USF is determined by dividing the total annual rental by the USF set forth in the lease.  $USF \text{ Not Delivered} \times \text{Rate per USF} = \text{Reduction in Annual Rent}$ .

## **PROHIBITED USES**

Sandia agrees that Sandia's uses of the Sandia-controlled premises shall be in accordance with laws and regulations governing the uses of property in the jurisdiction in which the Sandia-controlled premises are located.

## **RIGHTS AND INTERESTS**

All rights and interests resulting from this lease shall pass directly from the Lessor to the government. The Sandia-controlled premises shall be operated as government premises in accordance with this lease.

## **SANDIA ACCESS**

Sandia shall have access to and use of the Sandia-controlled premises 24 hours per day for every day of the year. Sandia agrees to pay for excessive use of utilities consumed if ordered by the SCR in writing from Lessor at the negotiated cost set forth in Section I of this lease and billed to Sandia on a monthly basis within sixty (60) days of such actual excessive consumption.

## **SANDIA INGRESS AND EGRESS RIGHTS**

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

Control #: SF 6432-CL

Title: Standard Terms & Conditions for  
Commercial Leases  
Release Date: 07/31/13

Owner: Procurement Policy & Quality Dept

Page 11 of 21

*Printed copies of this document are uncontrolled. Retrieve latest version electronically.*

## **SANDIA SURRENDER OF LEASE**

At the conclusion of the lease, Sandia agrees to remove any and all government property from Lessor's property. Sandia agrees to return the Sandia-controlled premises to Lessor less ordinary wear and tear and alternations mutually agreed to in writing by both parties.

## **SUBCONTRACTING**

All subcontracts shall be made in the name of the Contractor and shall not bind nor purport to bind Sandia or shall not relieve Contractor of any obligation under this purchase order/contract. If Contractor subcontracts any work in the performance of this contract, Contractor shall incorporate into every such contract an appropriate set of Sandia Ts&Cs found at: [http://www.sandia.gov/working\\_with\\_sandia/procurement/current\\_suppliers/contractor\\_bidder/](http://www.sandia.gov/working_with_sandia/procurement/current_suppliers/contractor_bidder/) or may use the latest revision of SF6432-CI for the purchase of Commercial Items that are products or SF 6432-CS for commercial services, into any such subcontract.

## **SUSPECT/COUNTERFEIT ITEMS (S/CI)**

Suspect/counterfeit items or services are a serious concern to Sandia because they present a potential threat to personal safety, equipment and system reliability and/or compliance with regulatory environmental standards. Failure of a safety or mission critical system due to an S/CI could also have security implications at DOE facilities. Notwithstanding other warranty provisions of this Contract, Contractor expressly warrants that all items provided under this Contract are suitable for the intended or specified use and that no suspect or suspect counterfeit items, component parts or materials have been furnished or delivered to Sandia under this Contract. Unless otherwise specified in this contract the contractor shall purchase directly from product manufacturers or authorized manufacturer distributors.

Contractor's warranty also extends to labels and/or trademarks or logos affixed, or designed to be affixed, to items supplied or delivered to the Sandia. In the event that a suspect or suspect counterfeit item, as defined herein, is identified and/or delivered to Sandia, Contractor agrees to comply with all requirements stated in this Clause.

### **Definitions**

Suspect Item: A suspect item is an item in which there is an indication by visual inspection, testing, or other verifiable information, that the item may not conform to established U.S. Government or industry-accepted specifications and national consensus standards.

Counterfeit Item: A counterfeit item is one that has been copied or substituted without legal right or authority or whose material, performance, or characteristics have been misrepresented by the vendor, supplier, distributor, or manufacturer. Contractor shall only provide items and services that meet or exceed all requirements specified in this Contract including verifiable compliance with all applicable quality, safety and manufacturing standards including all U.S.

**Control #:** SF 6432-CL

**Title:** Standard Terms & Conditions for  
Commercial Leases  
**Release Date:** 07/31/13

**Owner:** Procurement Policy & Quality Dept

**Page 12 of 21**

*Printed copies of this document are uncontrolled. Retrieve latest version electronically.*

Government or industry-accepted specifications and national consensus standards. Examples of such standards include, but are not limited to: Underwriter's Laboratory (UL) Listing, National Fire Protection Association (NFPA), Standard of Mechanical Engineers (ASME), Institute of Electrical and Electronics Engineers (IEEE), Occupational Safety and Health Act (OSHA), American Society for Testing Material (ASTM), Nationally Recognized Testing Laboratory (NRTL), etc.

Types of material, parts, and components known to have been misrepresented include (but are not limited to) semiconductors and other electronic components, fasteners, hoisting, rigging, and lifting equipment; cranes, hoists, valves, pipe and fittings, electrical equipment and devices, plate, bar, shapes, channel members, and other heat treated materials and structural items, welding rod and electrodes. Additional detailed information is available at the DOE Training Manual on Suspect/Counterfeit Awareness

<http://www.hss.doe.gov/sesa/corporatesafety/sci/trainingmanual.html>.

Contractor is responsible to have a quality assurance program that detects and prevents suspect/counterfeit items from being furnished or used in the performance of work under this Contract. If requested by Sandia, Contractor shall furnish a certificate of compliance with delivery stating that all items fully comply with all requirements of this Contract.

In the event that the Contractor identifies or suspects that a suspect/counterfeit item may have been delivered under this Contract, Contractor shall immediately notify the SCR and the Sandia end-user or delegated representative identified in the Contract. Contractor shall document and provide all available information regarding any item or service furnished under this Contract that is suspected to be a suspect/counterfeit item, component, subcomponent part or material. Sandia shall impound the item(s) and notify the local DOE and will comply with all other applicable notification and reporting requirements. The Contractor may be required to replace such item(s) with item(s) acceptable to Sandia and shall be liable for all costs relating to the impoundment, removal, and replacement of the item(s). Contractor shall indemnify Sandia, its agents, and third parties for any financial loss, injury, or property damage resulting directly or indirectly from material, components, or parts that are not genuine, original, and unused, or not otherwise suitable for the intended purpose. This includes, but is not limited to, materials that are defective, suspect, or counterfeit; materials that have been provided under false pretenses; and materials or items that are materially altered, damaged, deteriorated, degraded, or result in product failure.

Detection of any suspect or suspect/counterfeit item(s) leading to evidence of deliberate misrepresentation of any supplied item(s), including components, subcomponent parts or materials used in the item(s), may result in an investigation into the validity of certification, fraud, and/or forgery. Because falsification of information or documentation may constitute criminal conduct, Sandia will notify cognizant DOE officials and the Office of the Inspector General.

**Control #:** SF 6432-CL

**Title:** Standard Terms & Conditions for  
Commercial Leases  
**Release Date:** 07/31/13

**Owner:** Procurement Policy & Quality Dept

**Page 13 of 21**

*Printed copies of this document are uncontrolled. Retrieve latest version electronically.*

Note: If this Contract provides for the use of credit cards, their use in no way relieves the Contractor from complying with all requirements of this Clause.

## **PROTECTION OF PERSONALLY IDENTIFIABLE INFORMATION (PII)**

In performing this contract the Contractor may be provided with PII relating to Sandia employees, contractor employees, and any other individuals related to the work under this contract. The Contractor agrees that the Contractor will take all reasonable steps and precautions to ensure this provided PII is adequately controlled, protected and only used to perform work called for under this contract. For the purposes of this agreement PII is defined as: 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 Sandia business, and is not solely comprised of information that is available to the general public: social security number, driver's license number, passport number, other federal- or state-issued identification card number, bank account number (with or without routing number, access code, or Personal Identification Number [PIN]), financial or benefit account number in combination with any required code permitting access, background information or verification reports or credit report, including consumer reports, medical or health information, including biometric, biomonitoring, or genetic information, employment history including ratings, salary, wage, deduction information, and disciplinary actions, security clearance history or related information, criminal history, date of birth or age, place of birth, mother's maiden name, race or ethnicity.

Notes:

1. 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.
2. PII does not include information that is on Sandia computing resources as a result of incidental personal use of computing and information resources or other assets.

Loss of Control of PII: If the Contractor becomes aware or suspects that any Sandia provided PII, has been inappropriately, taken, used, disclosed, and/or released or that the controls for access to the information have been compromised, the Contractor will immediately take steps to prohibit further disclosure and will give verbal notice to Sandia's Security Incident Management Program (SIMP) by calling and reporting the incident at either at (505) 283-SIMP (7467) or for contracts issued in California call (925) 294-3238 (these are manned 7 days a week 24 hours a day). After notifying SIMP, also verbally notify the SCR and SDR (if one is identified in this contract). In addition to the immediate verbal notifications, written notification will be provided to the SCR and SDR (if one is identified in the contract,) within 72 hours of the Contractor's learning of the situation. The Contractor will cooperate with Sandia and provide information needed to allow Sandia to evaluate the nature and extent of the release or loss of control.

**Control #:** SF 6432-CL

**Title:** Standard Terms & Conditions for  
Commercial Leases  
**Release Date:** 07/31/13

**Owner:** Procurement Policy & Quality Dept

**Page 14 of 21**

*Printed copies of this document are uncontrolled. Retrieve latest version electronically.*



The provisions of this clause shall survive and continue in force following the completion of work under this agreement until such time that any provided PII is either destroyed in its entirety in a manner that ensures it is not readable or decipherable through any means, or that the information including all copies is returned to Sandia. The Contractor shall ensure that these provisions shall be made applicable to any subcontractor or non-governmental third party who receives PII provided through this agreement.

### **SUPERINTENDENT**

Lessor agrees to have a Sandia-controlled premises superintendent or a locally designated representative available to promptly correct deficiencies upon notification from the SDR.

### **TAXES**

Lessor shall pay any taxes, use fees, or assessments levied against the Sandia-controlled premises by any governmental entity.

### **UTILITIES**

The Lessor shall ensure that utilities necessary for operation of the Sandia-controlled premises are provided and all associated costs are included as a part of the established lease rate.

### **WAIVERS**

No failure by either Lessor or Sandia 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 Sandia 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 is the legal owner of premises and that Lessor has the right to make this lease and that Sandia 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 Sandia's quiet and peaceful possession of the Sandia-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.

### **WORK FOR HIRE**

Contractor hereby acknowledges that all duties performed hereunder are specifically ordered or commissioned by Sandia Corporation ("Work"); that Contractor has required all of its employees who will do the Work to assign all intellectual property generated in the course of employment to the Contractor;

**Control #:** SF 6432-CL

**Title:** Standard Terms & Conditions for  
Commercial Leases  
**Release Date:** 07/31/13

**Owner:** Procurement Policy & Quality Dept

that the Work constitutes and shall constitute a work-made-for-hire as defined in the United States Copyright Act of 1976; that Sandia Corporation is and shall be the author of said work-made-for-hire and the owner of all rights in and to the Work. To the extent that the Work is not recognized as a work-made-for-hire, Contractor hereby assigns, transfers, and conveys to Sandia Corporation, without reservation, all of Contractor's rights, title and interest in the Work, including, without limitation, all rights of copyright and copyright renewal in said Work or any part thereof. Contractor agrees to execute all papers and to perform such other proper acts as Sandia Corporation may deem necessary to secure for Sandia Corporation the rights herein assigned.

### **ADDITIONAL TERMS AND CONDITIONS**

This lease incorporates by reference with the same force and effect as if they were given in full text, the following FAR clauses and DEAR clauses.. The full text of these clauses may be found at Title 48 of the CFR at <http://www.ecfr.gov> or at the FARSite at <http://farsite.hill.af.mil> under regs - FAR or DEARS. Where the FAR/DEAR clauses refer to government and Contracting Officer, substitute Sandia and SCR. Where the FAR/DEAR clauses refer to Contractor, substitute Lessor.

### **APPLY TO ALL LEASES**

FAR 52.222-26 Equal Opportunity (E.O. 11246)  
FAR 52.222-36 Affirmative Action for Workers with Disabilities (29 USC 793)  
FAR 52.222-50 Combating Trafficking in Persons  
FAR 52.244-6 Subcontracts for Commercial Items  
DEAR 970.5204-1 Counterintelligence

### **APPLY TO LEASES EXCEEDING \$3,000**

FAR 52.222-54 Employment Eligibility Verification

### **APPLY TO LEASES EXCEEDING \$10,000**

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

### **APPLY TO LEASES IF \$25,000 OR MORE**

DEAR 970.5223-4 Workplace Substance Abuse Programs at DOE Sites

### **APPLY TO LEASES EXCEEDING \$30,000**

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

### **APPLY TO LEASES EXCEEDING \$100,000**

FAR 52.222-35 Equal Opportunity for Veterans  
FAR 52.222-37 Employment Reports on Veterans

Control #: SF 6432-CL

Title: Standard Terms & Conditions for  
Commercial Leases  
Release Date: 07/31/13

Owner: Procurement Policy & Quality Dept

Page 16 of 21

*Printed copies of this document are uncontrolled. Retrieve latest version electronically.*

**APPLY TO LEASES EXCEEDING \$5,000,000**

FAR 52.203-13 Contractor Code of Business Ethics and Conduct, applies when POP is 120 days or more.

**APPLY TO ALL SANDIA-CONTROLLED PREMISES**

DEAR 952.204-2 Security Requirements  
DEAR 952.223-72 Radiation Protection and Nuclear Critically  
DEAR 952.223-75 Preservation of Individual Occupational Radiation Exposure Records  
DEAR 952.203-70 Whistleblower Protection For Contractor Employees  
DEAR 970.5223-1 Integration of Environment, Safety and Health into Work Planning and Execution. Lessor may use the Sandia Integrated Safety Management System (ISMS) or tailor the ISMS standard form set forth at [http://www.sandia.gov/working\\_with\\_sandia/procurement/current\\_suppliers/contractor\\_bidder/](http://www.sandia.gov/working_with_sandia/procurement/current_suppliers/contractor_bidder/) under the tab titled "Policies" to the particular lease requirements, to be approved by the SDR prior to beginning any work.

**AUTHORIZED DISTRIBUTORS**

Unless specifically authorized by the SCR in writing, the contractor shall only furnish items/components provided by authorized distributors and not independent distributors. Any item/components furnished from an independent distributor shall meet all OEM specifications and industry standards.

**CONTRACTOR, SUBCONTRACTOR, AND VISITOR ACCESS TO SANDIA-CONTROLLED PREMISES**

The SDR shall establish and administer the provisions of contractor, subcontractor, and visitor access and control for the Sandia-controlled premises.

**CONTRACTOR, SUBCONTRACTOR, AND VISITOR ACCESS REQUIREMENTS**

Permission to enter the Sandia-controlled premises shall at all times be subject to all laws, regulations, and Sandia-controlled premises access rules for the Sandia-controlled premises. The requirements include but are not limited to, all of the requirements set forth in this section for any work to be performed in the Sandia-controlled premises. To obtain access to Sandia-controlled premises, Lessor shall write a letter to the SDR or the SCR stating the company designation to be used by Lessor and each subcontractor and furnishing the following information on each individual requiring access to the Sandia-controlled premises: name, date of birth, and citizenship status. Access will be granted for the period of performance of the work only. Lessor shall withdraw and replace any individual, including any subcontractor employee, assigned to perform work under this lease, who in the judgment of Sandia is to be denied access to the Sandia-controlled premises. Lessor shall submit to the SDR or the SCR proposed working schedules for its personnel and the personnel of each of its subcontractors. The schedules will show proposed daily working hours and

Control #: SF 6432-CL	Title: Standard Terms & Conditions for Commercial Leases
Owner: Procurement Policy & Quality Dept	Release Date: 07/31/13
Page 17 of 21	

proposed work weeks. Schedules that deviate from Sandia's normal work day or work week must be approved by the responsible SDR. In the absence of a written authorization from the SCR or DOE/NNSA, use of the Sandia-controlled premises by the Lessor and its subcontractors of any tier, pursuant to access granted under this clause, shall be limited to work required by this lease to be performed on Sandia-controlled premises. 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 FOR 10 DEFAULT OR FOR FINDING THAT AN INDIVIDUAL IS UNACCEPTABLE FOR FUTURE ACCESS.

Contractor shall ensure that its personnel and the personnel of each of its subcontractors assigned to work on the Sandia-controlled premises comply with all applicable site policies. In addition the contractor, its personnel and personnel of each of its subcontractors, shall:

- 1) Not bring weapons of any kind onto the Sandia-controlled premises;
- 2) Not manufacture, sell, distribute, possess, use or be under the influence of controlled substances or alcoholic beverages while on the Sandia-controlled premises;
- 3) Not possess hazardous materials of any kind on the Sandia-controlled premises without proper authorization;
- 4) Remain in authorized areas only;
- 5) Not conduct any non-Sandia related business activities (such as interviews, hires, dismissals or personal solicitations) on the Sandia-controlled premises;
- 6) Not send or receive non-Sandia related mail through Sandia's or Government's mail systems; and
- 7) Not sell, advertise or market any products or memberships, distribute printed, written or graphic materials on the Sandia-controlled premises without the SCR's written permission or as permitted by law.

All persons, property, and vehicles entering or leaving the Sandia-controlled premises are subject to search. Contractor will promptly notify Sandia and provide a report of any accidents or security incidents involving loss of or misuse or damage to Sandia's or Government's intellectual or physical assets, and all physical altercations, assaults, or harassment.

### **CITIZENSHIP STATUS**

All personnel of the Lessor and its subcontractors who require access to the Sandia-controlled premises must be U.S. citizens, or foreign nationals who are legal aliens or have the required authorization to perform work in the U.S. and must meet rules of the site for access to the work areas in place at the time of performance of this contract.

**Control #:** SF 6432-CL

**Title:** Standard Terms & Conditions for  
Commercial Leases  
**Release Date:** 07/31/13

**Owner:** Procurement Policy & Quality Dept

**Page 18 of 21**

*Printed copies of this document are uncontrolled. Retrieve latest version electronically.*

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

Lessor shall provide all ES&H services for Lessor or Lessor subcontractor employees performing work in the Sandia-controlled premises.

## **HAZARDOUS MATERIALS HANDLING**

The Lessor shall be responsible for any environmental waste, hazardous waste, discharge, contamination or other condition which either exists or is known to exist, or which may be discovered at some time in the future on the Sandia-controlled premises and its appurtenances (e.g. oil from HVAC units).

## **HAZARDOUS MATERIALS REMOVAL**

Those hazardous materials brought in to the Sandia-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 Sandia, shall remain the property of the Lessor and shall be removed from the Sandia-controlled premises after completion of the work. 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. 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.

## **VEHICLE MARKINGS**

All vehicles used by either the Lessor or its subcontractors in and around the Sandia-controlled premises shall be marked clearly to indicate company name of user. Vehicles which do not bear permanent markings may be temporarily marked as follows. Signs, no longer than the vehicle door is wide, with a white or lighter background, showing the Lessor's name in one inch high, or larger, dark colored letters, may be temporarily attached to the vehicle's front door panels so that the signs appear in the approximate center of each door panel.

## **ACCESS TO SANDIA INFORMATION**

Lessor or subcontractor personnel who enter the Sandia-controlled premises may be exposed to Sandia or third party information and as part of the access requirements shall cause each person assigned to work in the Sandia-controlled premises to execute a proprietary information agreement that will be furnished by the SDR to Lessor or their subcontractors before such persons will be allowed to enter the Sandia-controlled premises.

## **GOVERNMENT PERSONAL PROPERTY PROTECTION**

All personal property, equipment and materials on the Sandia-controlled premises are government owned. 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.

**Control #:** SF 6432-CL

**Title:** Standard Terms & Conditions for  
Commercial Leases  
**Release Date:** 07/31/13

**Owner:** Procurement Policy & Quality Dept

**Page 19 of 21**

*Printed copies of this document are uncontrolled. Retrieve latest version electronically.*

## **CLASSIFIED INFORMATION ACCESS REQUIREMENTS**

DEAR 952.204-70 Classification/Declassification

### **PERFORMANCE EVALUATION PROGRAM**

In keeping with Sandia's goals of continuous improvement, and promoting and creating an environment for superior contractor performance, Sandia 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 contract awarded by Sandia is a candidate for evaluation under this program. Please contact your buying representative for additional information.

### **PROGRESSIVE OCCUPANCY**

Sandia shall have the right to elect to occupy the space in partial increments prior to the substantial completion of the entire leased Sandia-controlled premises, and the Lessor agrees to schedule its work so as to deliver the space incrementally as elected by Sandia. Sandia shall pay rent commencing with the first business day following substantial completion of the entire Sandia-controlled premise unless Sandia has elected to occupy the leased premises incrementally. In case of incremental occupancy, Sandia shall pay rent pro rata upon the first business day following substantial completion of each incremental unit. 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. The commencement date of the firm lease term will be a composite determined from all rent commencement dates.

### **ACCEPTANCE OF SPACE**

(a) When the Lessor has completed all alterations, improvements, and repairs necessary to meet the requirements of the lease, the Lessor shall notify the SCR. The SCR or designated representative shall promptly inspect the space. (b) Sandia will accept the space and the lease term will begin after determining that the space is substantially complete and contains the required USF as indicated in the Request for Proposals.

### **FAILURE IN PERFORMANCE**

The covenant to pay rent and the covenant to provide any service, utility, maintenance, or repair required under this lease are interdependent. In the event of any failure by the Lessor to provide any service, utility, maintenance, repair or replacement required under this lease when such failure remains uncured for a period of ten (10) days after receipt of notice of the failure Sandia may, by contract or otherwise, perform the requirement and deduct from any payment or

**Control #:** SF 6432-CL

**Title:** Standard Terms & Conditions for  
Commercial Leases  
**Release Date:** 07/31/13

**Owner:** Procurement Policy & Quality Dept

**Page 20 of 21**

*Printed copies of this document are uncontrolled. Retrieve latest version electronically.*



payments under this lease, then or thereafter due, the resulting cost to Sandia including all administrative costs. If Sandia elects to perform any such requirement, Sandia and each of its contractors shall be entitled to access to any and all areas of the building, access to which is necessary to perform any such requirement, and the Lessor shall afford and facilitate such access. Alternatively, Sandia may deduct from any payments under this lease, then or thereafter due, an amount which reflects the reduced value of the contract requirement not performed. No deduction from rent pursuant to this clause shall constitute a default by Sandia under this lease. These remedies are not exclusive and are in addition to any other remedies which may be available under this lease or at law.

### **SPRINKLER SYSTEM**

(a) Below-grade space to be occupied by Sandia and all areas in a building referred to as "hazardous areas" in National Fire Protection Association Standard 101, known as the "Life Safety Code," or any successor standard thereto, must be protected by an automatic sprinkler system or an equivalent level of safety. (b) If offered space is three (3) stories or more above grade, the Lessor shall provide written documentation that the building meets egress and fire alarm requirements as established by NFPA Standard No. 101 or equivalent. However, if: (1) offered space is 5 stories or less above grade, (2) the total Sandia leased space in the building (all leases combined) will be less than 35,000 square feet, and (3) the building is sprinklered, this documentation is not required. (c) If offered space is six (6) stories or more above grade, additional fire and life safety requirements may apply. Therefore, the Offeror must advise Sandia in its offer whether or not the offered space or any part thereof, is on or above the sixth floor of the offered building.

**Control #: SF 6432-CL**

**Title: Standard Terms & Conditions for  
Commercial Leases  
Release Date: 07/31/13**

**Owner: Procurement Policy & Quality Dept**

**Page 21 of 21**

*Printed copies of this document are uncontrolled. Retrieve latest version electronically.*