

**SANDIA CORPORATION
SF 6432-CR (06/14/11)
SECTION II
STANDARD TERMS AND CONDITIONS FOR
COST-REIMBURSEMENT CONTRACTS**

THE FOLLOWING CLAUSES APPLY TO THIS CONTRACT AS INDICATED UNLESS SPECIFICALLY DELETED, OR EXCEPT TO THE EXTENT THEY ARE SPECIFICALLY IDENTIFIED AS BEING CHANGED, SUPPLEMENTED, OR AMENDED IN WRITING ISSUED BY THE SANDIA CONTRACTING REPRESENTATIVE.

CR01 - ACCEPTANCE OF TERMS AND CONDITIONS (Ts&Cs)

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

CR02 - ALLOWABLE COSTS AND FEE

(a) Payment for allowable cost as hereinafter defined, and of fee, if any, shall constitute full and complete compensation for the performance of the work under this contract. **(b)** The fee, if any, payable to the Contractor for the performance of the work under this contract is set forth in Section I. **(c)** "Allowable cost" of performing the work under this contract shall be the costs and expenses (less applicable income and other credits) that are actually incurred by the Contractor, are applicable and properly chargeable, either as directly incident or as allocable through appropriate distribution or apportionment, to the performance of the contract work in accordance with its terms, and are determined by the Sandia Contracting Representative (SCR) to be allowable pursuant to this contract, including the additional provisions, if any, contained elsewhere in this contract relating to Advance Understanding on Particular Cost Items, and pursuant to Federal Acquisition Regulation (FAR) Part 31 as supplemented by Part 931 of the Department of Energy Regulations (DEAR) in effect on the effective date of this contract, subject to the following: **(1)** With respect to billing for indirect cost, Contractor shall bill for indirect cost at rates as close as possible to costs being experienced during contract performance. Contractor understands that contract overruns, due to under recovered indirect cost, may not be reimbursed by Sandia; and, over recoveries of indirect cost shall be payable upon demand, at any time, by the SCR. Contractor may, with the SCR's approval, bill at predetermined overhead and general and administrative rates applied to bases agreed upon by any government agency, which are determined in 2

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accordance with FAR Part 31 as supplemented by the DEAR in effect on the effective date of this contract; provided, however, that the Contractor shall adjust the indirect billing to conform to actual cost within sixty (60) days or the Contractor's normal monthly accounting cycle, whichever is earlier. **(2)** In the absence of predetermined overhead rates as provided for in subparagraph (1) above, if at any time prior to the final determination of costs hereunder there exists a rate or rates established by any government agency, based on audit of actual costs for the period of performance of the work hereunder or any substantial portion thereof, such rate or rates may, at the SCR's option, be used (after adjustment by Sandia if deemed appropriate, to reflect the application of cost principles contained in this Allowable Costs Clause and the DEAR and FAR subparts referred to above) in determining allowable indirect costs hereunder. **(3)** In the absence of predetermined overhead rates as provided for in subparagraph (1) above and in the absence of a rate or rates acceptable to Sandia as provided for in subparagraph (2) above, indirect cost shall be determined in accordance with FAR Part 31, as supplemented by Part 931 of the DEAR by a Sandia audit. **(4)** No overtime premium costs, shift differential, holiday, or other premium pay for time worked on direct labor are authorized as direct charges to this contract except when paid for work: Necessary to cope with emergencies such as those resulting from accidents, natural disasters, breakdowns, of production equipment, or occasional production bottlenecks of a sporadic nature; by indirect labor employees such as those performing duties in connection with administration, protection, transportation, maintenance, standby plant protection, operation of utilities, or accounting; and in the performance of tests, industrial processes, laboratory procedures, loading or unloading of transportation media, and operations in flight or afloat, which are continuous in nature and cannot reasonably be interrupted or otherwise completed; or which will result in lower cost to Sandia. **(5)** As used in FAR Part 31 and DEAR 931 the words: "Contracting Officer" or "Field Office Manager" shall mean the SCR, "Department of Energy/National Nuclear Security Administration (DOE/NNSA)" or "Sponsoring Agency" shall mean Sandia; "federal government" or "government," in connection with government agencies or government property, shall mean the United States of America.

CR03 - APPLICABLE LAW

The rights and obligations of the parties hereto shall be governed by this contract and construed in accordance with the law of the state of delivery, except for 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.

CR04 - ASSIGNMENT

Contractor shall not assign rights or obligations to third parties without the prior written consent of the SCR. However, the Contractor may assign rights to be paid amounts due or to become due if the SCR is promptly furnished an executed

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Assignment of Payments form. Administration of this contract may be transferred from Sandia to 3 DOE/NNSA- or its designee, and in case of such transfer and notice thereof to the Contractor, Sandia shall have no further responsibilities hereunder.

CR05 AUTHORIZED DISTRIBUTORS

Unless specifically authorized in this contract, 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.

CR06 – BANKRUPTCY

If the Contractor enters into any proceeding relating to bankruptcy, it shall give written notice via certified mail to the SCR responsible for this contract 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 contract numbers for which final payment has not been made.

CR07 – CLAIM OF COSTS INCURRED

Contractor shall provide a claim of costs incurred (Electronic Cost Claim or “ECC”) to the Sandia Contract Audit Department annually within ninety (90) days after end of the contractor’s fiscal year. An ECC is prepared by the Contractor and provided to the Contract Audit Department in preparation for an audit of the costs incurred and claimed by the Contractor. It is used to compare and reconcile previously billed and paid amounts that are shown in Sandia’s accounting system. It also provides the Contractor with an additional opportunity to review previous billings to ensure there have not been omissions or errors. The ECC shall include all costs incurred on this contract during the fiscal year just ended. Additionally, an ECC shall be submitted for any adjustment to any previously reported cost for any prior year within 90 days of the date the adjustment is made. The Contractor may obtain templates and instructions for submission of the ECC from the Contract Audit Department upon request the following website: <http://www.sandia.gov/bus-ops/scm/Contractor/ContractAudit.html>. With the agreement of the Sandia Auditor assigned to perform the audit, the Contractor may provide the required information in a different manner or format.

CR08 – DEFINITIONS

The following terms shall have the meanings set forth below for all purposes of this contract.

(a) AUTHORIZED DISTRIBUTORS – distributors who have contractual agreements with manufacturer to represent them in the sales of their parts.

(b) CONTRACT means Purchase Order, Contract, Price Agreement, Subcontract, Ordering Agreement, or modifications thereof. **(c) CONTRACTOR** means the person or organization that has entered into this contract to sell something to Sandia.

(c) COMMERCIAL ITEM means commercial items, commercial services, and commercial components as defined in FAR 52.202-1.

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(d) Independent distributors (often called brokers) – distributors who buy and sell parts (note: they have no contractual agreement with manufacturers and get parts where they can)

(e) GOVERNMENT means the United States of America and includes the U.S. Department of Energy/National Nuclear Security Agency (DOE/NNSA) or any duly authorized representative thereof.

(f) SANDIA means Sandia Corporation, the management and operating contractor for the Sandia National Laboratories under Contract No. DE-AC04-94AL85000 with DOE/NNSA.

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

(h) SDR means Sandia Delegated Representative. The SCR 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 Contractor, and shall designate by name the personnel so delegated as authorized representatives. The SDR shall exercise no supervision over the Contractor'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 CONTRACT.

(i) SUBCONTRACT means any lower tier contract under this contract.

CR009 – DISPUTES

Contractor and Sandia agree to use the Sandia Acquisition Conflict Resolution Process set forth at <http://www.sandia.gov/bus-ops/scm/Contractor/Contractor-info.html> for resolving any and all disputes arising from this contract. Sandia Acquisition Conflict Resolution Process available in “Policies” tab.

CR10 - EXCESS FREIGHT CHARGES

When Sandia pays any amounts for freight charges in connection with this contract, Contractor is responsible for and shall pay to Sandia the amount of any excess freight charges if the routing specified in writing by the Sandia Contracting Representative (SCR) is not used. If the specified routing cannot be used, Contractor shall promptly notify the SCR before shipment, and obtain new routing directions from the SCR.

CR11 – EXCUSABLE DELAYS

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(a) Except for defaults of subcontractors at any tier, the Contractor shall not be in default because of any failure to perform this contract under its terms if the failure arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of these causes are (1) acts of God or of the public enemy, (2) acts of Sandia, (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, and (10) unusually severe weather. In each instance, the failure to perform must be beyond the control and without the fault or negligence of the Contractor. "Default" includes failure to make progress in the work so as to endanger performance.

(b) If the failure to perform is caused by the failure of a subcontractor at any tier to perform or make progress, and if the cause of the failure was beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be deemed to be in default, unless- (1) The subcontracted supplies or services were obtainable from other sources; (2) The SCR ordered the Contractor in writing to purchase these supplies or services from the other source; and (3) The Contractor failed to comply reasonably with this order.

(c) Upon request of the Contractor, the SCR shall ascertain the facts and extent of the failure. If the SCR 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 Sandia or the Government under the Termination Clause of this contract.

CR12 - EXTRAS AND VARIATION IN QUANTITY

Except as otherwise provided in this contract no payment for extras shall be made unless such extras and their prices have been authorized in writing by the SCR. No variation in the quantity of any item called for by this contract will be accepted unless such variation has been caused by conditions of loading, shipping, or packing, or allowances in manufacturing processes, and then only to the extent, if any, specified elsewhere in this contract.

CR13 - GOVERNMENT PROPERTY MATERIAL AND EQUIPMENT Except as provided for in Section I, Contractor must list the government material/equipment Contractor will use in the performance of the Statement of Work (SOW) in this contract and provide details concerning its use. Identification, inspection, maintenance, protection, and disposition of government property shall conform with the policies and principles of FAR Part 45, 48 CFR (DEAR) 945, the Federal Property Management Regulations 41 CFR 101, the DOE Property Management Regulations 41 CFR 109, and DEAR 970.5245-1 Property.

CR14 - INDEPENDENT CONTRACTOR RELATIONSHIP

(a) Contractor is an independent contractor in all its operations and activities related to this contract. The workers used by Contractor to perform Work under this Contract shall be Contractor's employees, agents or subcontractors, 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

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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: (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

CR15 - NOTICE OF POTENTIAL DELAY

Contractor shall strictly comply with the delivery requirements of this contract. Whenever the Contractor has knowledge of any actual or potential delay or threatened delay in the timely performance of this contract, the Contractor shall immediately give notice thereof, confirmed in writing, including all relevant information with respect thereto, to the SCR.

CR16 - ORDER OF PRECEDENCE

Any inconsistencies shall be resolved in accordance with the following descending order of precedence: (1) Section I; (2) SF 6432-CR, Section II, (3) other incorporated documents.

CR17 - PAYMENT (a) Payments on Account of Allowable Costs

(a) Once each month (or at more frequent intervals, if approved by the SCR) the Contractor may submit to Sandia, Accounts Payable Department, in such form and reasonable detail as may be required by the SCR, an invoice or voucher supported by a statement of costs incurred by the Contractor in the performance of this contract and claimed to constitute allowable costs. "Allowable costs" includes, but is not limited to, actual indirect rate cost experience during the period of performance unless Section I of this contract indicates otherwise. Promptly after receipt of each invoice or voucher Sandia shall, subject to the provisions of (b) below, make payment thereon in accordance with contract provisions. 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. Costs for items of Capital Property (48 CFR Part 45, 48 CFR 945, the Federal Property Management Regulations 41 CFR Chapter 101, the DOE Property Management Regulations 41 CFR Chapter 109,) if applicable, shall be separately listed in invoices. Discount time will be computed from the date the correct invoice or voucher is received in the office specified in the contract, or date of completion of work under this contract, whichever is later. Payment is deemed to be made, for the purpose of earning the discount, on the date of mailing of Sandia's check or date on which electronic funds transfer was made Sandia may take contract or invoice prompt payment discount. Any travel outside the United States by Contractor personnel, in connection with work under this contract, requires advance written approval by the SCR. **(b) Payments on Account of Fee, if any.** The fee shall become due and payable in periodic installments in amounts based on the proportion of the work then completed as determined by the SCR. **(c)**

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Audit Adjustments. At any time or times prior to settlement under this contract the SCR may have invoices or vouchers and statements of cost audited. Each payment theretofore made shall be subject to reduction for amounts included in the related invoice or voucher which are found by the SCR, on the basis of such audit, not to constitute allowable cost. Any payment may be reduced for overpayments, or increased for underpayments, on preceding invoices or vouchers. **(d) Completion Voucher.** On receipt and approval of the invoice or voucher designated by the Contractor as the "completion invoice" or "completion voucher" and upon compliance by the Contractor with all the provisions of this contract (including, without limitation, the provisions relating to patents and provisions of (e) below) Sandia shall promptly pay to the Contractor any balance of allowable cost and fee. The completion invoice or voucher shall be submitted by the Contractor promptly following completion of the work under this contract but in no event later than sixty (60) days (unless the SCR grants a further specific period of time) from the date of such completion. Sandia may, at its own discretion, perform an administrative close of contracts upon completion of the period of performance; such an action does not relieve either party of any rights or responsibilities with respect to final audit activities and settlements. **(e) Applicable Credits.** The Contractor agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the Contractor or any assignee under this contract shall be paid by the Contractor to Sandia to the extent that they are properly allocable to costs for which the Contractor has been reimbursed by Sandia under this contract. Reasonable expenses incurred by the Contractor for the purpose of securing such refunds, rebates, credits, or other amounts shall be allowable costs hereunder when approved by the SCR. **(f) Financial Settlement.** Prior to final payment under this contract, the Contractor and each assignee whose assignment is in effect at the time of final payment under this contract shall execute and deliver: **(1)** an assignment to Sandia in form and substance satisfactory to the SCR of refunds, rebates, credits or other amounts (including any interest thereon) properly allocable to costs for which the Contractor has been reimbursed by Sandia under this contract; and **(2)** a release discharging Sandia and the government, their officers, agents and employees from all liabilities, obligations, and claims arising out of or under this contract, subject only to the following exceptions: **(i)** specified claims in stated amounts or in estimated amounts where the amounts are not susceptible of exact statement by the Contractor; **(ii)** claims, together with reasonable expenses incidental thereto, based upon liabilities of the Contractor to third parties arising out of performance of this contract; provided that such claims are not known to the Contractor on the date of the execution of the release; and provided further that the Contractor gives notice of such claims in writing to the SCR not more than three (3) years after the date of the release or the date of any notice to the Contractor that Sandia is prepared to make final payment, whichever is earlier; and **(iii)** claims for reimbursement of costs (other than expenses of the Contractor by reason of any indemnification of Sandia or the government against patent liability), including reasonable expenses incidental thereto, incurred by the Contractor under the provisions of this contract relating to patents. The Contractor and each such assignee hereby agree that the failure to execute and deliver the aforesaid assignment and release within sixty (60) days of a written

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request therefore by Sandia shall be deemed to be and shall have the same effect as a release as set forth above in item (2), including a release of all claims set forth in sub-items (i)(iii) of such item (2). **(g) Payments.** 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.

CR18 - 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.

CR19 - PRICING OF CONTRACT AND SUBCONTRACT MODIFICATIONS

The cost principles and procedures set forth in FAR Part 31 as modified by DEAR Part 931 shall be used to price contract and subcontract modifications, if any, whenever cost analysis is performed to negotiate the price of any such modification.

CR20 - QUALITY ASSURANCE PROGRAM If Section I of this contract includes Clause 109-QSP- Quality Significant Purchase, the Contractor shall have a Quality Assurance (QA) program which provides for control of activities affecting quality of the item(s) or service(s) specified in the Statement of Work (SOW) to an extent consistent with their importance. Such program shall be documented by written policies, procedures, or instructions and shall be carried out by the Contractor in accordance with those policies, procedures, or instructions. The Contractor's QA program shall be in accordance with 10 CFR 830 and DOE O 414.1C <http://www.directives.doe.gov>

CR21 - RECYCLED AND/OR NEW MATERIALS Unless otherwise specified in this contract, all items delivered shall consist of recycled and/or new materials. New is defined as previously unused which may include residual inventory or unused former government surplus property.

Contractor shall give preference to the use of recycled materials.

CR22 - RELEASE OF INFORMATION

(a) No invention, export control or classified information relating to this contract shall be released other than to Contractor's employees or those of Contractor's subcontractors requiring the information for performance of the SOW of this contract without advance written approval of the SCR. In no event shall the interest of Sandia or the DOE/NNSA or the government in this contract be indicated in any advertising or publicity without advance written approval of the SCR. This shall not be construed to prohibit Contractor from fulfilling routine internal or external reporting of its activities, including the disclosure of the existence and nature of this contract as required by law. External reporting as used in this clause refers to reports submitted to state or federal government offices. **(b)** The Contractor shall closely coordinate

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with the SCR regarding any proposed scientific, technical, or professional publication of the results of the work performed or any data developed under this contract. The contractor shall provide Sandia an opportunity to review any proposed manuscripts describing, in whole or in part, the results of the work performed or any data developed under this contract at least forty-five (45) days prior to their submission for publication. Sandia will review the proposed publication and provide comments. A response shall be provided to the Contractor within forty-five (45) days; otherwise, the Contractor may assume that Sandia has no comments. Subject to the security requirements of this contract, the Contractor agrees to address any concerns or issues identified by Sandia prior to submission for publication. **(c)** The Contractor may acknowledge the Contractor and government sponsorship of the work as appropriate. **(d)** The Contractor shall insure that the recipient of any information provided by the Contractor complies with the provisions of this clause.

CR23 - RELEASES VOID

Sandia's and the government's representatives shall not be required to waive or release any personal rights in connection with any visits to Contractor's premises and Contractor agrees that no such waiver or release shall be pleaded by Contractor in any action or proceeding.

CR24 - REPORTS REQUIRED BY THIS CONTRACT

Final reports following completion of the work required by this contract and interim reports as may be required by this contract constitute deliverables under this contract and shall be submitted in an electronic format such as Microsoft Word or other format commonly used at Sandia along with any paper format required by this contract and shall be submitted on, CD ROM, DVD ROM, or other media requested by the SDR .

CR25 - RIGHTS AND INTERESTS

All rights and interests resulting from this contract shall pass directly from the Contractor to the government. FAR 52.227-17 applies to all deliverables which are copyrightable works produced as part of the performance of this contract.

CR26 - RISK OF LOSS

If Sandia is responsible for the risk of loss during transportation of compliant items, Sandia shall compensate Contractor the lesser of: **(1)** the agreed price of such Items, or **(2)** the Contractor's cost of replacing such items; and such loss shall entitle the Contractor to an equitable adjustment in delivery schedule obligations.

CR27 – SANDIA-PROVIDED INFORMATION

Any and all physical forms of designs, design data, specifications, technical, scientific data, and other information furnished by Sandia to the Contractor shall remain the property of the government.. Any and all such information provided by Sandia to the Contractor shall be used only for the purpose of enabling performance of this contract and the Contractor shall use its best efforts to prevent disclosure to

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others except when necessary in the performance of this contract. The provisions of this clause shall be included in any subcontract where information provided by Sandia shall be made available to the lower tier subcontractor(s).

CR28 – SUBCONTRACTS

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/bus-ops/scm/Contractor/Contractor-info.html> 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.

CR29 - 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.

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.

Suspect/Counterfeit Item: A counterfeit item is an item that is suspected to be a copy or substitute without legal right or authority to do so, or its material, performance, characteristics or identity do not appear to be authentic and/or is knowingly misrepresented by the supplier, manufacturer or distributor.

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. 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.

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Types of material, parts, and components known to have been misrepresented include (but are not limited to) 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, and computer memory modules. Additional detailed information is available at the Department of Energy (DOE) Training Manual on Suspect/Counterfeit_Awareness

www.directives.doe.gov/pdfs/doe/doetext/neword/440/g4401-6.pdf

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 Sandia Contracting Representative 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 Department of Energy 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, the Contractor will notify cognizant Department of Energy officials and the Office of the Inspector General.

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.

CR30 - PROTECTION OF PERSONALLY IDENTIFIABLE INFORMATION (PII)

In performing this contract the Contractor may be provided with Personally Identifiable Information (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

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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: 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. 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 Personally identifiable Information, 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) 540-2382 or for contracts issued in California call 1-888-932-9710 (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.

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.

CR31 – TAXES

For many purchases, Sandia can provide Transaction Exemption Certificates for both New Mexico and California, and certificates for other states may also be available. Direct any request for Transaction Exception Certificates to taxes@sandia.gov. FAR 52.229-10 State of New Mexico Gross Receipts and

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Compensating Tax as modified by DEAR 970.2904-1 (a) is applicable in New Mexico. Sandia holds California Contractor's Permit Number OH-98033576. Purchases made under this contract are exempt from California Sales and Use Taxes if performance occurs in California. Prices include all applicable federal taxes.

CR32 – TRANSPORTATION

All transportation shall be "FOB Destination" unless otherwise specified in this contract. If transportation is specified "FOB Origin": **(a)** no insurance cost shall be allowed unless authorized in writing, and **(b)** the bill of lading shall indicate that transportation is for DOE/NNSA and the actual total transportation charges paid to the carrier(s) shall be reimbursed by the government pursuant to Contract No. DE-AC04-94-AL85000. Confirmation will be made by Sandia.

CR33 - WARRANTY

Contractor expressly warrants that no counterfeit items or components in items shall be delivered to Sandia on this contract. Contractor expressly warrants that all items provided under this contract 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. The warranty 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 Contractor 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 Contractor is the manufacturer of the item or had modified it. If any nonconformity with item appears within that time, Contractor shall promptly repair, replace, or reperform such items at Contractor's election. Transportation of replacement items and return of nonconforming items and repeat performance of services shall be at Contractor's expense. Sandia shall notify Contractor of such nonconformity within a reasonable time after discovery, and Contractor shall notify Sandia of whether it chooses to make repairs or replacements within three (3) working days after Sandia's notice of nonconformity. If repair or replacement or reperformance of services is not timely, Sandia may elect to return the nonconforming items or repair or replace them or reprocure the services at Contractor's expense.

CR34 - ADDITIONAL TERMS AND CONDITIONS

This contract incorporates by reference with the same force and effect as if they were given in full text, the following cited Federal Acquisition Regulation (FAR) clauses and Department of Energy Acquisition Regulation (DEAR) clauses. The full text of these clauses may be found at Title 48 of the Code of Federal Regulations (CFR). Where the FAR/DEAR clauses refer to Government and Contracting Officer, substitute Sandia and Sandia Contracting Representative (SCR). Upon request the SCR will make the full text available.

CR35 - APPLY TO CONTRACTS AT ANY VALUE

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

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FAR 52.222-21 Prohibition of Segregated Facilities
FAR 52.222-26 Equal Opportunity (E.O. 11246)
FAR 52.222-29 Notification of Visa Denial
FAR 52.225-13 Restrictions on Certain Foreign Purchases
FAR 52.227-3 Patent Indemnity
FAR 52.227-23 Rights to Proposal Data (Technical) This clause applies only in any subcontract awarded based on consideration of a technical proposal.
FAR 52.229-10 State of New Mexico Gross Receipts and Compensating Tax as modified by DEAR 970.2904-1(a)
FAR 52.244-6 Subcontracts for Commercial Items
FAR 52.246-1 Contractor Inspection Requirements
FAR 52.246-3 Inspection of Supplies -- Cost-Reimbursement
FAR 52.246-5 Inspection of Services -- Cost-Reimbursement
FAR 52.247-64 Preference for Privately Owned U.S. Flag Commercial Vessels
FAR 52.249-6 Termination (Cost-Reimbursement), as modified by DEAR 970.4905-1(b)
DEAR 952.204-71 Sensitive Foreign Nations Controls
DEAR 952.204-77 Computer Security
DEAR 952.211-71 Priorities and Allocations (Atomic Energy) This clause applies only if Section I designates a Government Priority.
DEAR 952.247-70 Foreign Travel
DEAR 952.250-70 Nuclear Hazards Indemnity Agreement (This clause is applicable to any subcontract which may involve the risk of public liability, as that term is defined in the Act and further described in paragraph (d)(2) of the clause. However, this clause is not applicable to contracts in which the contractor is subject to Nuclear Regulatory Commission (NRC) financial protection requirements under section 170b. of the Act or NRC agreements of indemnification under section 170c. or k. of the Act for the activities under this contract)
DEAR 970.5204-2 Laws, Regulations, and DOE Directives (Deviation)
DEAR 970.5232-3 Accounts, Records and Inspections -Alternate II
DEAR 970.5208-1 Printing
DEAR 970.5243-1 Changes
DEAR 970.5245-1 Property

CR36 - APPLY TO CONTRACTS EXCEEDING \$2,500

FAR 52.222-41 Service Contract Act of 1965
FAR 52.225-1 Buy American Act-Supplies

CR37 - APPLY TO CONTRACTS EXCEEDING \$3,000

FAR 52.222-54 Employment Eligibility Verification, applies if POP is 120 days or more

CR38 - APPLY TO CONTRACTS EXCEEDING \$10,000

FAR 52.222-36 Affirmative Action Workers with Disabilities

CR39 – APPLY TO CONTRACTS IF \$25,000 OR MORE

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DEAR 970.5223-4 Workplace Substance Abuse Programs at DOE Sites

CR40 – APPLY TO CONTRACTS EXCEEDING \$30,000

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

CR41 - APPLY TO CONTRACTS EXCEEDING \$100,000

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 or Improper Activity

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

FAR 52.215-2 Audit and Records--Negotiation

FAR 52.215-23 Limitations on Pass Through Charges

FAR 52.219-8 Utilization of Small Business Concerns

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

FAR 52.222-35 Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans

FAR 52.222-37 Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era and Other Eligible Veterans

FAR 52.222-39 Notification of Employee Rights Concerning Payment of Union Dues or Fees

FAR 52.227-1 Authorization and Consent This clause is not applicable where both complete performance and delivery are outside the United States, its possessions or Puerto Rico.

FAR 52.227-2 Notice of Assistance Regarding Patent and Copyright Infringement

FAR 52.242-14 Suspension of Work

FAR 52.242-15 Stop Work Order FAR 52.244-5 Competition in Subcontracting

FAR 52.246-16 Responsibility for Supplies

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

DEAR 952.209-8 Organizational Conflicts of Interest-Disclosure.

DEAR 952.209-72 Organizational Conflicts of Interest (It is the responsibility of Contractor to determine if this clause is applicable and to report any potential conflicts to the SCR under DEAR 952.209-8.The term for 952.209-72 shall be five (5) years.)

DEAR 970.5227-4 Authorization and Consent

DEAR 970.5227-5 Notice and Assistance Regarding Patent and Copyright Infringement

DEAR 970.5227-8 Refund of Royalties

CR42- APPLY TO CONTRACTS EXCEEDING \$500,000

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

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CR43 - APPLY TO CONTRACTS EXCEEDING \$650,000 Awarded to Large Businesses

FAR 52.219-9 Small Business Subcontracting Plan including Alternate II
FAR 52.219-16 Liquidated Damages - Subcontracting Plan

CR44 - APPLY TO CONTRACTS EXCEEDING \$650,000.

FAR 52.215-15 Pension Adjustments and Asset Reversions
FAR 52.230-2 Cost Accounting Standards
FAR 52.230-6 Administration of Cost Accounting Standards

Compliance with Cost Accounting Standards.

In accordance with DEAR 970.5232-5 Liability With Respect To Cost Accounting Standards the Contractor shall be liable to the Government for increased costs or interest resulting from the subcontractor's failure to comply with the clauses at FAR 52.230-2, "Cost Accounting Standards," and FAR 52.230-6, "Administration of Cost Accounting Standards".

CR45 - APPLY TO CONTRACTS EXCEEDING \$700,000.

[52.215-10 -- Price Reduction for Defective Cost or Pricing Data.](#)
[52.215-11 -- Price Reduction for Defective Cost or Pricing Data – Modifications.](#)
[52.215-12 -- Subcontractor Certified Cost or Pricing Data.](#)
[52.215-13 – Subcontractor Certified Cost or Pricing Data – Modifications.](#)

CR46 - APPLY TO CONTRACTS EXCEEDING \$2,000,000

DEAR 970.5204-3 Access to and Ownership of Records

CR47 – APPLY TO CONTRACTS EXCEEDING \$5,000,000

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

CR48 - APPLY TO ALL CONTRACTS THAT MAY INVOLVE ACCESS TO CLASSIFIED INFORMATION OR MATERIAL

DEAR 952.204-2 Security Requirements
DEAR 952.204-70 Classification/Declassification

CR49 - APPLY TO ALL CONTRACTS WHICH INCLUDE ANY EXPERIMENTAL, RESEARCH, DEVELOPMENTAL, OR DEMONSTRATION WORK

FAR 52.227-14 Rights in Data General-Rights in modified in accordance with DEAR 927.409 and including Alternate V
FAR 52-227-16 Additional Data Requirements
FAR 52.246-8 Inspection of Research and Development -- Cost-Reimbursement
DEAR 952.227-11 Patent Rights, Retention by the Contractor (Short Form) This clause is to be used in all contracts in which the Contractor is a domestic small business or nonprofit organization as defined at FAR, 48 CFR 27.301.
DEAR 952.227-13 Patent Rights Acquisition by the Government This clause shall be used in all contracts that are not covered by the provisions of DEAR 952.227-11.

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

CR50 - APPLY TO ALL WORK PERFORMED ON A GOVERNMENT SITE UNDER THIS CONTRACT

DEAR 970.5223-1 Integration of Environment, Safety, and Health into Work Planning and Execution

DEAR 952.203-70 Whistleblower Protection for Contractor Employees

THE REMAINING CLAUSES APPLY TO ALL CONTRACTS WHERE ANY WORK WILL BE PERFORMED ON A GOVERNMENT SITE

CR51 - CITIZENSHIP STATUS

All personnel of the Contractor and its subcontractors who require 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 contract.

CR52 - CONTRACTOR OR SUBCONTRACTOR USE OF GOVERNMENT-OWNED VEHICLES

The following provisions apply if work under this contract requires Contractor or subcontractor personnel to operate government-owned vehicles either on or off government sites. Contractor shall maintain, at Contractor's expense, during the period of performance of work under this contract, third-party vehicle liability insurance which shall cover the use of such government-owned vehicles with limits of at least \$200,000/\$500,000 public liability and \$20,000 property damage. Medical payments coverage, comprehensive and collision insurance, uninsured motorist, and personal injury protection will not be required under this clause unless required by state statute. All Contractor's agents, employees and subcontractors of any tier shall obey all rules and regulations pertaining to the use of government-owned vehicles. In the event of a motor vehicle accident, the Contractor shall submit a completed Motor Vehicle Accident Reporting Form SF 91 to the SCR together with any additional supplemental forms required by instructions given on the General Service Agreement (GSA) Form Packet 1627. A GSA Form Packet 1627 normally is located either in the headliner or glove box of the GSA vehicle. Contractor's personnel shall assure that a GSA Form Packet 1627 is available in a GSA vehicle prior to accepting and driving a GSA vehicle.

CR53 - ENVIRONMENTAL SAFETY AND HEALTH (ES&H) REQUIREMENTS

(a) Service Providers. Sandia-directed work, Sandia shall provide those workers with any and all necessary safety authorization documents, personal protective equipment, industrial hygiene monitoring, medical surveillance, and radiation protection services. For Contractor employees performing Contractor-Directed work, Contractor shall provide its workers with all ES&H services, with the exception of Contractor employees performing Contractor-Directed work on Government sites for whom Sandia shall provide radiation dosimetry services and survey of record, as

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appropriate. **(b) Training Requirements.** Any contractor personnel who will enter a Government site to perform work shall have completed all of the ES&H training required by the SOW prior to any attempts to enter a government site as shown by written records of such training furnished to the SDR or to the Requester if no SDR is named in Section I of this contract. Contractor shall certify to Sandia completion of all required training on the Completion Record for Contractor Administered Training form. This form is located on the Web at <http://www.sandia.gov/bus-ops/scm/Contractor/Contractor-info.html> or obtained from the SDR. Contractor shall provide the completion record form for the initial ESH100 training to the SDR on the first day of work. Contractor shall provide the completion records for any other training required above to the SDR before starting the affected work activity. Any person not having completed all ES&H training requirements may be denied access to any government site and Contractor may be terminated for default of this contract as well as every other contract the Contractor has with Sandia.

CR54- HAZARDOUS MATERIALS

(a) Handling Requirements. For contracts that require the performance of work on government sites, the Contractor shall coordinate with the SDR all activities associated with the acquisition (including reporting hazardous materials used on government sites), handling, storage, accidental spills, and/or disposal of hazardous materials and/or waste. The Contractor shall notify the SDR of all hazardous and/or radioactive waste generated during performance of work. Such materials become Sandia-owned waste and the Contractor shall notify the SDR for proper disposal by Sandia. Contractor's assistance in disposal may be required by Sandia. **(b) Removal Requirements.** Those hazardous materials brought onto Sandia-controlled premises by the Contractor 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 Contractor and shall be removed from Sandia 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 Contractor and shall also be removed.

CR55 - PROTECTION OF GOVERNMENT PROPERTY

All Sandia National Laboratories information, information technologies and information systems are United States Government Property. Please read the notice at: <http://www.sandia.gov/bus-ops/scm/forms/policy/2902ntu.pdf> All facilities, personal property, existing vegetation, structures, equipment, utilities, improvements, materials and work at Sandia National Laboratories are Un United States government property. Acts of theft, improper use and/or unlawful destruction of United States government property are punishable under one or more Federal Criminal Laws

CR56 - REQUIREMENTS FOR ACCESS

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(a) Government Sites. The Contractor agrees and shall ensure that all personnel entering Government sites for any activity related to this agreement 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. Many, but not all, of the Security and ES&H requirements are outlined in Sandia's ES&H Manual and Security Manual that can be accessed from the following site or by contacting the SDR. The government requirements include but are not limited to, all of the requirements set forth in this clause for any work to be performed on a government site. To obtain access to such premises, the Contractor shall write a letter to the SDR or the SCR stating the company designation to be used by the Contractor and each subcontractor and furnishing the following information on each individual requiring access to such premises: name, date of birth, and citizenship status, completed ES&H training requirements set forth in the SOW. Access will be granted for the period of performance of the work only. Contractor shall withdraw and replace any individual, including any subcontractor employee, assigned to perform work under this contract, who in the judgment of Sandia or DOE/NNSA, is to be denied access to any government site. Contractor shall submit to the SDR or the SCR any proposed working schedules for its personnel and the personnel of each of its subcontractors that deviate from Sandia's normal workday or work week schedule. The schedules will show proposed daily working hours and 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 government sites by the Contractor and its subcontractors of any tier, pursuant to access granted under this clause, shall be limited to work required by this contract to be performed on such premises. **THE USE OF THE ACCESS PRIVILEGE FOR ANY PURPOSE OTHER THAN TO PERFORM WORK UNDER THIS CONTRACT IS PROHIBITED AND MAY BE GROUNDS FOR TERMINATING THIS CONTRACT DEFAULT OR FOR FINDING THAT AN INDIVIDUAL IS UNACCEPTABLE FOR FUTURE ACCESS.** **(b) Sandia Sites.** The organizations listed below are responsible for coordinating and administering the provisions of visitor access and control for the sites as listed. Sandia National Laboratories, Albuquerque, New Mexico – Badge Office, Sandia Corporation, Innovation Parkway Office Complex (IPOC) Building. Sandia National Laboratories, Livermore, California - Visitor Control and Administration Section, Sandia Corporation, Building 911. Tonopah Test Range, Tonopah, Nevada - Office of the Tonopah Test Range Manager. **(c)** Contractor will ensure that its personnel and the personnel of each of its subcontractors assigned to work on Sandia's or Government 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 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;

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- 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 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 premises without the SCR's written permission or as permitted by law.

(d) All persons, property, and vehicles entering or leaving Sandia's KAFB or Government's premises are subject to search. **(e)** 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.

CR57 - VEHICLE INSURANCE

All vehicles, owned or operated by the Contractor, subcontractors or their agents and employees, having access to government sites shall be covered by at least \$200,000/\$500,000 public liability and \$20,000 property damage insurance.

CR58 - VEHICLE MARKINGS

All vehicles used by either the Contractor or its subcontractors shall be marked clearly to indicate company name of user. Vehicles which do not bear permanent markings may be temporarily marked as follows: **(1)** Signs, no longer than the vehicle door is wide, with a white or lighter background, showing the Contractor's name in one inch high, or larger, dark colored letters, may be made from sheet metal, cardboard or other suitable material and temporarily attached to the vehicle's front door panels so that the signs appear in the approximate center of each door panel. Words such as "Company," "Corporation" or "Division" may be abbreviated.

(2) No signs shall be attached to the vehicle's glass area for safety reasons.