



**PARSONS FEDERAL SERVICES GROUP**  
**US DOMESTIC SERVICES FIRM FIXED PRICE SUBCONTRACT AGREEMENT**

SUBCONTRACTOR:	SUBCONTRACT NO:  SUBCONTRACT TYPE: Firm Fixed Price
SUBCONTRACTOR ADDRESS:	PROJECT NAME: PRIME CONTRACT NO: DPAS RATING:
TYPE OF LEGAL ENTITY: STATE OF INCORPORATION: TAX ID NO:	Ceiling Not-To-Exceed: \$ Funding Not-To-Exceed: \$
BUSINESS SIZE/TYPE:	
PERIOD OF PERFORMANCE (Base Year):	

**Section A - Contract Form/Cover Page**

**A.1 SUBCONTRACT AGREEMENT**

THIS SUBCONTRACT AGREEMENT (hereinafter referred to as this “**Subcontract**”) is effective as of \_\_\_\_\_ (the “**Effective Date**”) by and between \_\_\_\_\_ [type name of Parsons entity and state of incorporation], having its principal offices at \_\_\_\_\_ [type address of Parsons entity], (hereinafter referred to as “**Buyer**”) and \_\_\_\_\_ [type Subcontractor’s name and state of incorporation], having its principal offices at \_\_\_\_\_ [type Subcontractor’s address], (hereinafter referred to as “**Seller**”). Buyer and Seller are hereinafter referred to jointly as the “**Parties**” and individually as a “**Party**.”

**WHEREAS**

- I. [type in name of government entity] (the “**Client**”) has awarded a contract to Buyer identified as [prime contract number] (the “**Prime Contract**”); and
- II. Buyer seeks to subcontract a portion of the work to be performed under the Prime Contract to Seller, in accordance with the terms and provisions of this Subcontract.

**A.2 CONTENTS OF SUBCONTRACT**

**NOW, THEREFORE**, in consideration of the promises and mutual covenants contained herein, the Parties hereto agree to be bound by the terms and conditions contained herein, as well as to the following sections, attachments, and exhibits which are attached hereto and incorporated herein by this reference:

- Section A – Contract Form/Cover page
- Section B – Prices, Costs and Invoicing
- Section C – Statement of Work
- Section D – Packaging and Marking
- Section E – Inspection and Acceptance
- Section F – Deliveries and Performance
- Section G – Subcontract Administration Data
- Section H – Special Contract Requirements/General Conditions
- Section I – Contract Clauses
- Section J – List of attachments

**A.3 ORDER OF PRECEDENCE**

**Different Sections of the Subcontract:** In the event of an inconsistency or conflict between the terms and provisions of one of the following sections of this Subcontract and the terms and provisions of another one of the following sections of



this Subcontract, the inconsistency / conflict shall be resolved in the following order of precedence, from highest to lowest:

1. Special Contract Requirements/General Conditions (Section H)
2. Statement of Work (Section C)
3. Deliveries and Performance (Section F)
4. Prices, Costs and Invoicing (Section B)
5. Subcontract Administration Data (Section G)

In the event of an inconsistency or conflict between the terms and provisions contained within one section of this Subcontract, or the terms and provisions contained in more than one section of this Subcontract that is not resolved pursuant to the above order of precedence, the more stringent provision, as determined by Buyer, shall apply (unless waived by Buyer, in writing). In the event Seller discovers any ambiguities, discrepancies or conflicts in the specifications, drawings, or other documents, or between the terms and provisions of this Subcontract, Seller shall immediately submit the matter in writing to Buyer for its determination and shall comply with the determination.

Anything that may be called for in the specifications and not shown on the drawings or shown on the drawings and not called for in the specifications, shall be of like effect as if called for and shown in both.

**A.4 CERTIFICATIONS AND DISCLOSURES**

By signing below, Seller represents and certifies:

- In accordance with FAR 52.209-6, it or its principals, are not debarred, suspended, or proposed for debarment by the Federal Government
- It is compliant with paragraphs (c) and (d) of the provision at FAR 52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions
- By acceptance of this Subcontract, the Seller certifies that its Annual Representations and Certifications on file with Buyer are current, accurate and complete as of the date of acceptance of this Subcontract and are hereby incorporated by reference.

In accordance with FAR 52.211-15 this is a rated order certified for national defense, emergency preparedness, and energy program use, and Seller shall follow all the requirement of the Defense Priorities and Allocations System regulation (15 CFR 700). The Subcontract is rated: \_\_\_\_\_

This Subcontract in its entirety supersedes any prior agreements related to this work that may have been established, including, but not be limited to, Teaming Agreements, Notices of Intent to award a subcontract, and Letter Subcontracts in their entirety.

**IN WITNESS WHEREOF**, the Parties hereto have executed this Subcontract, effective as of the month, day, and year set forth above.

**BUYER**

**SELLER**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Note: By signing above, the parties agree that no change, modification, or revision to this Subcontract shall be valid and binding unless in writing and signed by the authorized representative of Buyer.

## Section B - Prices, Costs, and Invoicing

### **B.1 CONTRACT TYPE**

#### **Option 1**

This Subcontract is issued on a Firm Fixed Price basis. The total firm fixed price for the performance of Seller's obligations hereunder is \_\_\_\_\_ (the "Firm Fixed Price").

#### **Option 2**

This Subcontract is issued on a Firm Fixed Price Level of Effort basis. The total firm-fixed-price, level-of-effort of this Agreement is \$ \_\_\_\_\_ (the "Firm Fixed Price").

Seller shall furnish \_\_\_\_ direct labor hours of effort for the specified period of performance. Seller shall make its best efforts to achieve the requirements and shall not expend above the level of effort agreed upon prior to the end of performance. Seller shall notify Buyer 30 days in advance if Seller anticipates exceeding the level of effort prior to the end of performance. Seller shall not exceed the level of effort unless Buyer issues a written modification to this Subcontract. If the Seller does not fully expend the level of effort unless due to a termination by Buyer, Buyer and Seller shall agree to a reduction in the price corresponding to the number of direct labor hours not expended.

*If any costs are to be billed on a cost reimbursable (e.g., cost-plus-no-fee) basis, they need to be identified in this clause.*

### **B.2 AUTHORIZED FUNDING**

Buyer may incrementally fund this Subcontract. The total funding amount, as indicated on the cover sheet, is presently available for payment and allotted to this Subcontract. When the Subcontract is fully funded, the Seller may not exceed the ceiling price.

Seller agrees to perform up to the point at which the total amount payable by Buyer, including reimbursement in the event of termination of the Subcontract for Buyer's convenience, approximates the total value of the Subcontract. Seller will not be obligated to continue work on the Subcontract beyond that point. Buyer will not be obligated in any event to reimburse Seller in excess of the amount allotted in the Subcontract regardless of anything to the contrary in the clause entitled "Termination for Convenience." As used in this clause, the total amount payable by Buyer in the event of termination of the Subcontract for convenience includes costs and profit on the Services (as defined in Section C1) that are properly performed up through the date of termination, plus estimated termination settlement costs for the Subcontract; provided, however, that Seller shall not be entitled to any overhead or profit on any "unexecuted" Services.

Seller will notify Buyer in writing at least ninety (90) days prior to the date when, in Seller's best judgment, the Services will reach the point at which the total amount payable by Buyer, including any cost for termination for convenience, will approximate eighty-five (85) percent of the total amount of the Subcontract. The notification will state (1) the estimated date when that point will be reached and (2) an estimate of additional funding, if any, needed to continue performance the Subcontract through completion. If after such notification additional funds are not allotted by the date identified in Seller's notification, or by an agreed substitute date, Buyer will terminate the Subcontract for which additional funds have not been allotted, pursuant to the clause of this Subcontract entitled "Termination for Convenience."

Nothing in this clause affects the right of Buyer to terminate the Subcontract pursuant to the clause of this Subcontract entitled "Termination for Convenience."

Seller shall use the authorized Subcontract Line Item Numbers (SLINs) identified under this Subcontract for invoicing and reporting.

### **B.3 PAYMENT TERMS**

Invoices may be submitted no more frequently than monthly and shall include sufficient detail to justify payment authorization.

Invoices not received within five (5) days prior to the end of Buyer's billing cycle (insert billing cycle date) will be processed for payment the following billing cycle.

Invoices will be paid within ten (10) days after Buyer receives payment from the Client for the Services invoiced by Seller. *If terms other than pay-when-paid are required (e.g., Seller is a small business, Prime is not fixed price), other payment terms need to be defined here.*

Payment shall be deemed to have been made as of the date of mailing payment or electronic funds transfer.

*(Include this paragraph only if discount terms are applicable)* Discount terms will be calculated the first day of the next billing cycle. If invoices are returned to Seller because of errors or omissions, discount terms will then date from the date of receipt by Buyer of corrected invoices.

*(Always include the following)* Any indebtedness of Seller to Buyer may, at Buyer's option, be credited against amounts owed by Buyer to Seller.

**B.4 REQUESTS FOR PAYMENT**

*(if we intend to reimburse only after completion of all work)* Seller shall invoice on a Firm Fixed Price basis upon completion of the work.

*(if we intend to reimburse based on milestones use this clause)* Upon the completion of the corresponding milestone, Buyer shall notify Seller in writing, accompanied by a voucher and certification, that the milestone event has been completed. Seller's written notification shall contain a brief narrative of the work activity accomplished for the particular milestone event. Seller shall promptly verify that successful completion of the milestone event has occurred, it being acknowledged, however, that Seller's determination of successful completion shall be subject to Seller's sole and absolute discretion.

Description of Milestone	Firm Fixed Price of Milestone	Date Milestone to be Completed

*(if we intend to reimburse based on percent complete use this clause)* Buyer will make progress payments to Seller when requested as work progresses, but not more frequently than monthly in amounts of \$2,500 or more, approved by Buyer, under the following conditions:

- Seller's request for progress payments shall be based on an estimate of work accomplished. Along with its request for progress payments, Seller must certify that the request is only for performance in accordance with the Subcontract, that lower-tier subcontractors and suppliers have been paid from previous contract payments, that timely payments will be made from the proceeds of the current payment, and that the request does not include any amounts that Buyer has notified Seller that it intends to withhold or retain from Seller.
- If Seller discovers that a portion of the performance covered by its certified request is nonconforming, it must notify Buyer of the performance deficiency and pay Buyer interest on the unearned amount.
- If Buyer finds that satisfactory progress was achieved during any period for which a progress payment is to be made, payment will be made in full. If satisfactory performance has not been made, Buyer may retain a maximum of 10 percent of the payment. When the work is substantially complete, Buyer may retain an amount adequate for protection of Buyer, but release to Seller the remaining withheld funds. Upon completion of all work, all retained funds will be released.

Invoicing shall be by each separately funded Subcontract Line Item (SLIN) or charge number. If multiple SLINs or charge numbers under the Subcontract are being invoiced on the same invoice, a summary page must be attached. Each invoice shall reference the following:

- A unique invoice number
- The Subcontract Agreement Number
- The SLIN or charge number
- The date of the invoice
- The total amount of the current invoice (by SLIN/charge number, and summary)
- The total amount billed to date (by SLIN/charge number, and summary)
- The current amount due (by SLIN/charge number, and summary)

*Payment terms for any costs billed on a Cost Reimbursable basis must be defined in this clause.*

**B.5 INVOICING INSTRUCTION**

*[If Subcontractor will use Costpoint T&E to record labor hours, keep the highlighted sections and turn off the highlight. If Subcontractor is not using T&E to record labor hours, delete the highlighted sections.]*

**Labor**

Seller shall use Buyer's Costpoint Time and Expense ("T&E") system to enter Seller's direct labor hours expended under this Subcontract. Buyer shall provide Seller with instructions and shall train Seller's employees on using T&E. Buyer shall use the data in T&E to create a report at the end of Buyer's billing cycle that details Seller's employee hours, hourly rates and total labor cost. Buyer shall process a payment to Seller using the report with the payment terms commencing based on the report date. Seller shall reconcile the report and report to Buyer any discrepancies between the report and the Seller's billing system. If the discrepancy is due to incorrect labor hours in T&E, Seller shall enter corrections in T&E for inclusion on the next report. If the discrepancy is due to incorrect data in the Seller's billing system, Seller shall make the necessary corrections in its system. Buyer shall not make any payments until Seller reconciles all outstanding reconciliation reports older than 60 days.

This process does not supplant or replace Seller's existing accounting or billing systems. Seller shall not rely on the report as the source document for any claimed costs on Seller's incurred cost submissions or other audits.

**ODC's and Travel**

Seller shall submit invoices via electronic mail as follows:

Email invoice to: invoices.FED@parsons.com

Email Subject Title: Seller Name, Subcontract #, BUYER's SLIN #, Month of Invoice POP

Invoice Certifications:

Must be marked "Original" or "Treat as Original".

Must include an electronic signature or scanned signature by an authorized representative of Seller.

Buyer will not accept hard copy invoices.

**B.6 SUBCONTRACT CLOSE-OUT**

Unless otherwise specified, Seller shall submit closeout documentation to Buyer within 30 calendar days from the date of the Buyer request. Buyer shall provide the forms necessary for Seller to complete this requirement.

**Final invoice (Does not apply to firm-fixed-price items)**

Within 120 days (or longer period, if approved in writing by Buyer) after Seller settles its final annual indirect cost rates with the Government for all years of a physically complete Statement of Work, Seller shall submit a final invoice to Buyer reflecting the settled rates. Upon approval of that final invoice by Buyer and upon Seller's compliance with all terms of this Subcontract, Buyer shall pay the balance of allowable costs and that part of the fee not previously paid (if any) up to available funding (if any). If Seller requires additional funding, Buyer shall make a good faith effort to obtain additional funding from the Client but does not guarantee any additional funding beyond current available funding. If the final invoice results in a credit, Seller shall remit payment to Buyer within 30 days of the final invoice date.

**Unilateral closeout (Does not apply to firm-fixed-price items)**

If Seller fails to submit a final invoice within the period specified above (or longer period, if approved in writing by Buyer), then Buyer shall determine the amounts due to Seller and issue a unilateral modification recording this determination. Such failure by Seller not to submit a final invoice to the Buyer constitutes Seller's express agreement that the amounts paid pursuant to this Subcontract by Buyer to Seller up to the date Seller's submissions are due as set forth in the above paragraph and as determined by the Buyer records, constitute the full, complete and final extent of the Buyer financial obligation to Seller. Further, Seller does forever fully and finally release and discharge Buyer, its officers, agents and employees, of and from any and all liabilities, obligations, claims, and demands whatsoever arising under or relating to this Subcontract, and Seller authorizes Buyer to rely on the foregoing representations and release in connection with the Buyer closeout of or other actions taken with respect to the Prime Contract with the Government.

**Quick closeout (Does not apply to firm-fixed-price items)**

If directed by Buyer, the parties shall use the quick closeout procedure authorized by FAR 42.708, or any referenced language in Section H, Special Contract Requirements/General Conditions, as the basis for closeout.

Seller shall pay to Buyer any refunds, rebates, credits or other amounts accruing to or received by Seller or any assignee under this Subcontract to the extent that those amounts are properly allocable to costs for which Buyer has



reimbursed Seller. If approved by Buyer, Buyer shall consider reasonable expenses incurred by Seller for securing refunds, rebates, credits or other amounts as allowable costs.

**Completion invoice (Does not apply to firm-fixed-price items)**

If Buyer elects not to use the quick closeout procedure, Seller shall submit a completion invoice, designated as such, using Seller's proposed annual indirect cost rates submitted on its indirect cost rate proposals no later than 60 days after submission of its indirect cost rate proposals for all years of a physically complete Statement of Work. Seller shall also submit a final invoice in accordance with the requirements of this Subcontract.

**B.7 TAXES, DUTIES, PERMITS AND FEES**

Seller shall pay (a) all sales, use, value-added and similar taxes levied on any goods or services used or consumed by Seller in the course of providing the Services, except for such taxes as may be levied on assets owned or leased by Buyer, (b) all real and personal property, ad valorem and similar taxes on real, personal, and intangible property it owns, leases or licenses, (c) franchise and privilege taxes on its business operations, (d) taxes based on its net income or gross receipts, and (e) all taxes, duties, permits, or fees necessary for the performance of the Services.

Seller shall itemize applicable state, county, and/or city taxes and use taxes on Seller's invoices, unless otherwise specified, regardless of whether they are included in the total price.

**B.8 ACCESS TO RECORDS AND AUDIT RIGHTS**

Seller shall maintain (and shall cause its subcontractors at all tiers to maintain) complete and accurate records of all work performed under this Subcontract and of all amounts billable to and payments made by Buyer hereunder, in accordance with generally accepted accounting principles. Seller shall also maintain (and shall cause its subcontractors at all tiers to maintain) complete and accurate records of all time worked by and compensation paid to Seller's employees (and the employees of Seller's subcontractors at all tiers) for each day of work, including a record of the start and stop times of any meal breaks provided in the performance of the work that are required by any law.

Buyer's duly authorized representatives and the Client shall have access at all reasonable times to all records, documents, files, facilities and personnel, as well as access to Seller's premises and the work site, as may be necessary to audit and verify Seller's charges to Buyer and/or to inspect and/or determine Seller's compliance with its obligations under this Subcontract, including but not limited to its compliance with all applicable laws, and to verify Seller's (and its subcontractors') processes and quality systems, quality control, delivery performance, and compliance with labor and employment laws. Seller shall without delay or additional cost, take such appropriate remedial measure as may be requested in connection with such audit and inspection. The obligations under this paragraph shall survive for a period of four (4) years after the earlier of completion or termination of this Subcontract.

Moreover, if, as the result of an audit hereunder, Seller is determined to have charged Buyer for amounts that are not allowable, allocable, or verifiable, then in addition to all legal and equitable remedies, Seller shall promptly reimburse Buyer for said amounts.



## Section C - Statement of Work

### **C.1 PERSONNEL, SUPPLIES, FACILITIES, AND SERVICES**

Seller, as an independent contractor and not as an agent for the Buyer, shall provide personnel, supplies, facilities, and services required to perform, complete, and support Buyer in delivering, the Statement of Work described in Exhibit C-1 attached hereto (the "Services"). Notwithstanding the foregoing, the Services shall also include any personnel, supplies, facilities and services that are incidental to, or are customarily performed as part of, the Services, even if not expressly specified in the Statement of Work.

### **C.2 PLACE OF PERFORMANCE**

The majority of the support will be performed at \_\_\_\_\_. Seller personnel will work in a Client facility located in \_\_\_\_\_.

### **C.3 ACQUISITION OF FACILITIES (as applicable)**

Seller agrees to provide all necessary facilities for the performance of this Subcontract. The term facilities include all general-purpose office equipment, associated furniture, cell phones, and automated data/information processing equipment and software, and so-on. All necessary facilities as defined in this clause shall be included in the Firm Fixed Price unless otherwise agreed to.

### **C.4 SUBCONTRACT PERSONNEL**

"Key Personnel" are any Seller employees or lower-tier consultants or subcontractors who the parties identify as essential to the services Seller provides under this Subcontract.

In performing this Subcontract, Seller shall use only experienced and technically proficient personnel.

If the Client or Buyer determines that Seller personnel assigned under this Subcontract are not performing satisfactorily, Buyer reserves the right to fill the position itself or request and receive a satisfactory personnel replacement from Seller within fourteen (14) calendar days of written notification. If Buyer fills the position itself, then there will be an equitable adjustment in price or time of performance, or both, in favor of Buyer pursuant to Section H, Changes clause.

*(include this sentence as applicable)* All Seller personnel proposed and/or assigned to this subcontract shall be U.S. Citizens, unless otherwise allowed under the Prime Contract or by law.

*(Include first paragraph as standard language unless due to market considerations (and PM concurrence) it is not feasible in which case replace with the second paragraph. Program Manager can approve changes to the days in either paragraph should subcontractor object.)*

If a Key Personnel position becomes vacant for any reason, then Seller shall fill that vacated position within 14 calendar days of the vacancy. For all other personnel, Seller has 30 calendar days from the vacancy to fill the position. If Seller does not fill the position within the prescribed timeframe, then Buyer has the option to fill the replacement position with either a qualified Buyer employee or another subcontractor.

If a Key Personnel position becomes vacant for any reason, then Seller shall identify a qualified candidate with a firm start date to fill the vacated position within 15 working days of the vacancy. For all other personnel, Seller has 30 working days from the vacancy to identify a qualified candidate with a firm start date to fill the vacated position. If Seller does not fill the position within the prescribed timeframe, then Buyer has the option to fill the replacement position with either a qualified Buyer employee or another subcontractor.

### **C.5 PARTS OBSOLESCENCE (as applicable)**

Buyer may desire to place additional orders for work purchased hereunder. Seller shall provide Buyer with a "Last Time Buy Notice" at least twelve (12) months prior to any action to discontinue any work purchased under this Subcontract.

### **C.6 TITLE**

Title to all materials purchased, manufactured, or otherwise acquired hereunder by Seller to effect performance under this Subcontract will vest in Buyer upon acceptance of such materials by Buyer, and pursuant to Seller's delivery and/or Buyer's right of possession of such materials under TERMINATION FOR DEFAULT. Except as otherwise expressly provided herein, title to and risk of loss on all conforming supplies shipped by Seller to Buyer shall pass to Buyer upon final acceptance of the supplies by Buyer.



If, in connection with the performance of this Subcontract, Buyer or the Client furnishes any property to, Seller shall assume the risk of, and be responsible for, any loss or destruction of or damage to the property while in Seller's possession or control. Seller shall return all such property in good condition, except for reasonable wear and tear, in accordance with the provisions of the Prime Contract.

All data acquired in accordance with the Subcontract and other information furnished to or generated by Seller for purposes of the Subcontract, will be considered Proprietary Information as defined in Section H.10, DISCLOSURE OF INFORMATION AND PUBLICITY, and shall remain the property of Buyer, and shall be delivered to Buyer during the performance of the Services if requested by Buyer or upon completion or termination of the Subcontract. Seller shall use its best efforts to prevent disclosure of such data to third parties without the knowledge and consent of Buyer.

### **C.7 SAFETY AND HEALTH REQUIREMENTS (as applicable)**

#### General Safety and Health

Seller will take all precautions in the performance this Subcontract to protect the safety and health of Seller's employees, other persons on the work Site and members of the general public.

#### Safety Plan Submittal

Seller shall, within 10 working days after the Effective Date, submit to Buyer a Health and Safety Plan applicable to Seller's scope of work that identifies the risks and hazards of such work. Seller's Health and Safety Plan (SHSP) also shall describe the control measures in the form of an Activity Hazard Analysis (AHA) that Seller will implement to mitigate the risk and hazards associated with its work. The SHSP, at a minimum, will include personnel responsibilities, compliance requirements, communication procedures, hazard assessment, accident exposure and investigation processes and procedures, hazard correction processes, training and instruction, recordkeeping, emergency and medical procedures, modified work program, safety incentive/reward program and any additional requirements in accordance with OSHA CFR1910/1926 and all state and local safety regulatory requirements.

Upon request of Seller, Buyer will provide to Seller a Model Safety Plan for guidance. Seller understands that Buyer's Model Safety Plan is not intended to cover all contingencies, applicable regulations, and the specific safety issues of this project. Seller must perform its own internal review of the Model Safety Plan for legal sufficiency and to meet the needs of Seller's organization and this Project. The use of Buyer's Model Safety Plan shall not diminish Seller's responsibility to manage the safety of its operations and employees.

Seller shall be solely responsible for the safety of its personnel and its subcontractors.

#### Additional Safety and Health Requirements

Seller also will comply with Buyer's Project Safety Plan (PSP), a copy of which is either included in Section J (List of Attachments) or will be provided by Buyer to Seller at Seller's written request.

Seller warrants that it has reviewed the safety requirements of the Prime Contract and will comply with those requirements.

To the extent that Seller's Health and Safety Plan conflicts with Buyer's Project Safety Plan, or the safety requirements of the Prime Contract, the more stringent requirements will govern.

Seller shall ensure that its employees and sub-tier subcontractors are provided with a job site orientation and are aware of, trained in, and follow the PSP, SHSP and the Prime Contract safety requirements. Documentation of such orientation and training will be kept by Seller and submitted to Buyer upon request.

### **C.8 SELLER'S SAFETY RESPONSIBILITIES (as applicable)**

#### Health and Safety Plan Compliance

Seller and its lower tier subcontractors shall abide by and enforce Buyer's and Client's emergency and safety rules and regulations that are in force at the work site, as set forth in the PSP, SHSP and the Prime Contract. Seller shall fully acquaint itself with these rules and regulations before starting the work. Buyer may require Seller to remove from a work site any of Seller's employees or lower-tier subcontractors for committing a serious safety violation or demonstrating a continuous disregard for the Project health and safety regulations as outlined in Buyer's and/or Seller's PSP and SHSP, respectively.

Seller shall also comply with the following requirements:





- Seller must identify at least two employees trained in First Aid and CPR per shift.
- Seller must identify in writing a competent person for all work activities when and as required by regulatory statutes.
- Seller will administer substance abuse testing on a pre-employment, just cause and post incident basis. Random testing will be performed where allowed by law.

#### Safety Representative

Seller shall designate a qualified and experienced safety representative at the work site whose duties and responsibilities shall be the prevention of accidents and the maintaining and supervising of safety precautions and safety programs.

The resume of Seller's Safety Representative will be forwarded to Buyer at least 14 days prior to commencement of work, for review and approval.

Approval of a qualified Safety Representative will be based on safety experience, qualifications associated with the project scope of work, type of degree to include safety certifications and safety management experience.

The qualified Safety Representative will have no other duties than full-time safety management of Seller's and its subcontractors' work unless approved by Buyer.

#### Laws and Regulations

Seller, its employees, representatives, and lower tier subcontractors shall comply with all applicable federal, state, and local laws, ordinances, statutes, rules, and regulations, relating to safety and health ("**Health and Safety Laws**"), including, but not limited to, (i) the Occupational Safety and Health Act of 1970, (b) the Construction Safety Act, and (c) the requirements for training and record keeping and for preventing accidents and injuries to persons on, about, or adjacent to the work site, as required by any applicable Health and Safety Laws. Nothing contained in this Subcontract shall relieve Seller or its subcontractors from compliance with their obligations related to safety and health as required by applicable laws, rules and regulations.

#### Work Rules and Site Security

Seller shall comply with and enforce applicable job work rules and any job site security requirements, as set forth in the PSP, SHSP and Prime Contract. Seller shall erect and properly maintain, as required by the conditions and progress of the work, necessary safeguards to include fencing, demarcation, and warning signage for the protection of workers and the public.

#### Safety Clean up and Removal of Debris and Waste Materials

At all times during the progress of the work, Seller shall maintain a good state of housekeeping on the project by keeping its work area(s), including exit ways, rights-of-way, streets, passageways, stairs and all other grounds and areas occupied by Seller, clear of all refuse/debris resulting from Seller's operations.

#### Submission of Safety Reports

Seller will submit to Buyer:

- A monthly report that includes man-hours worked during the prior period, the Total Recordable Incident Rate for injuries during the period, and the Days Away from Work Rate for Seller's operations and those of its' lower tier subcontractors.
- Bi-weekly records of tailgate meetings required by OSHA.
- Weekly copies of safety audits conducted by Seller's Safety Representative

Seller will notify Buyer immediately following any job site incident (injury and/or property damage) or near-miss.

Seller will submit to Buyer a copy of the project incident report within 24 hours of the incident or near-miss. Buyer shall provide to Seller in a timely manner after completion of Seller's investigation follow-up paperwork, including a Root Cause Analysis and a Corrective Action Report.

#### Failure to Comply

If Seller fails to comply with the safety requirements set out in this Subcontract or any other applicable safety regulations, Buyer may at its discretion, without prejudice to any other legal and contractual rights, take reasonable

actions to secure a safe environment, including but not limited to suspending or terminating this Subcontract. Any costs incurred by Buyer in taking such remedial actions, due to failure by Seller or its subcontractors to comply with all the contractual safety requirements shall be at Seller's expense and to Seller's account. Alternatively, Buyer may, at its discretion deduct from payments to Seller the amount of liquidated damages (or if liquidated damages do not apply, any actual damages) incurred by Buyer as a result of Seller's failure to cure any safety violations. Seller shall not be entitled to, nor make, any claim for an extension of time or for compensation for damages or otherwise by reason of, or in connection with, Buyer's work stoppage due to Seller's non-compliance."

### **C.9 QUALITY REQUIREMENTS *(as applicable)***

Seller shall:

- Develop a Quality Control (QC) program for all services performed under this Subcontract and implement it under a Quality Manual.
- Provide and maintain a Quality system that, at a minimum, meets the requirements of this Subcontract and Seller's Quality Management System.

Seller shall submit the Quality Manual for Buyer's review and acceptance and establish, document, and maintain procedures to implement the requirements of the Quality Manual. The Quality Manual shall identify Seller's personnel, procedures, control, instructions, tests, records, and forms to be used by Seller to implement the QC system. Buyer shall not have, nor accept, any liability or responsibility for the quality of the Services provided, nor for the sufficiency of Seller's QC program, as a result of Buyer's review and acceptance of the Seller's QC program, it being acknowledged that the Seller is solely responsible for the quality of the Services and the sufficiency of Seller's QC program.

Seller shall identify a QC manager and a sufficient number of qualified Quality personnel to ensure that adequate QC is maintained for the duration of this Subcontract.

Buyer, or its designated representative, reserves the right to evaluate, review, audit, survey, or inspect the operations and work of Seller, including its lower tier subcontractors and suppliers, to ensure that the products, services, or operations comply with specified requirements and are of acceptable quality. Any such evaluations, reviews, audits, surveys, or inspections shall not relieve Seller of its responsibility for the Services. Seller shall provide Buyer or its designated representative with access to information, records, facilities, and equipment.

EXHIBIT C-1  
STATEMENT OF WORK

*[Attach scope of work with applicable specification references]*

SAMPLE

## Section D - Packaging and Marking

### D.1 PACKAGING AND MARKING OF DELIVERABLE ITEMS

Deliverables are to be provided or submitted as stated and/or directed by Buyer Program Manager.

Packaging and Marking of Unclassified Data - Unless otherwise specified hereunder, packaging and marking of all items for delivery shall be in accordance with best commercial practices, adequate to ensure safe and timely arrival at the destination, in accordance with any applicable security requirements, and at the most economical rate(s). The delivery point for all items to be delivered by Seller shall be determined by Buyer's Program Manager.

Packaging and Marking of Classified Data - Classified data submitted as required herein shall be wrapped and marked in accordance with the requirements per Attachment 1 of Exhibit H - DD254 Security Classification Specification.

SAMPLE

## Section E - Inspection and Acceptance

### E.1 INSPECTION AND ACCEPTANCE

The following FAR clauses are hereby made a part of this Subcontract by reference. Refer to Article I.1 for the interpretation of the clauses as related to this Subcontract.

FAR Reference	Clause Title	Date	Notes/Deviations
52.246-2	Inspection of Supplies—Fixed Price	AUG 1996	None
52.246-4	Inspection of Services—Fixed-Price	AUG 1996	None
52.246-16	Responsibility for Supplies	APR 1984	None

All articles, whether equipment or materials or components thereof (“**Articles**”) will be subject to inspection and testing as prescribed in this Subcontract by Buyer and its Client or assignees at the manufacturer’s plant, as well as at the place of destination. Said costs of testing shall be borne by Seller to substantiate that the Articles and Services provided under the Subcontract conform to the drawings, specifications, and Subcontract requirements listed.

All Work performed pursuant to this Subcontract is subject to Buyer’s right of inspection and must meet with Buyer’s approval, which approval may be withheld in Buyer’s sole and absolute discretion. The inspection or acceptance or payment by Buyer for any part or percentage of the Articles or Services described herein will not relieve or release Seller from any obligations or liabilities under this Subcontract. Until complete acceptance by Buyer, risk of loss will be upon Seller unless loss results from the sole negligence of Buyer.

SAMPLE

## Section F - Deliveries and Performance

### F.1 PERIOD OF PERFORMANCE

The period of performance for the Subcontract shall be as follows: *(define the period of performance (start and end date) – if subcontract has base year and options, each needs to be defined separately)*

This Subcontract may be renewed by Buyer, in its sole and absolute discretion, for up to \_\_\_\_ option periods of \_\_\_\_ months each. The options shall be exercised by issuance of a modification (prior to the end of the current Subcontract period) of a unilateral modification for the subsequent option requirements. *(include this paragraph only if base year and options)*

### F.2 DELIVERY OF SUPPLIES/SERVICES

Seller shall deliver to Buyer all reports or other deliverables, as may be specified in the Statement of Work within the timeframes specified. The following FAR clauses are hereby made a part of this Subcontract by reference. Refer to Article I.1 for the interpretation of the clauses as related to this Subcontract.

FAR Reference	Clause Title	Date	Notes/Deviations
52.247-34	F.O.B. Destination	NOV 1991	None
52.247-48	F.O.B. Destination – Evidence of Shipment	FEB 1999	None
52.242-15	Stop Work Order	AUG 1989	None

Notwithstanding the foregoing, Seller shall comply with any revisions to the schedule that may be subsequently issued by Buyer in its discretion. The delivery of all such reports or other documents in accordance with the specified timeframes, as may be revised by Buyer, is of the essence of this Subcontract. Revisions to the schedule, including any delay to the notice to proceed that result in increased cost to Seller are not reimbursable unless Buyer can obtain reimbursement from the Client for the same.

Within 30 days after completion of performance, Seller shall submit to the Buyer’s Subcontract Administrator or designee the following documentation:

- Government Property Inventory
- Patents Report
- Security Memo

Forms for the above documentation are available upon request from the Buyer’s Subcontract Administrator.

### F.3 WARRANTIES AND GUARANTEES OF SELLER

Seller expressly represents and warrants that all articles, whether equipment or materials or components thereof (collectively “**Article(s)**”) ordered pursuant to Buyer’s specifications will conform thereto and to the drawings, samples, or other descriptions furnished or adopted by Buyer. Seller represents and guarantees that all Articles furnished by Seller will be new as of the acceptance date and free from defects in design, material, and workmanship for a period described below, unless otherwise specified, and all Articles will be merchantable and fit for their intended purpose.

Seller warrants that Seller’s Services will be performed in a skillful and workmanlike manner, in accordance with good practices used by similar Sellers in Seller’s industry.

Seller guarantees all Articles and workmanship for a period of one (1) year from date of first operation at final destination, or eighteen (18) months from date of shipment, or for Seller’s standard warranty period, or for a period as proposed by Seller, or for the period required by the terms of the Prime Contract with respect to such Articles and workmanships, whichever is longer; normal wear and tear excepted.

To the extent any guarantees of design or performance of Articles or Services are set forth herein or in any proposal of Seller referred to herein, or in the Prime Contract, such guarantees shall extend for the same period.

Seller agrees to repair, replace, or re-perform all defective or nonconforming items, components, Articles or Services, and such repair, replacement, and re-performance will be made free of charge. A new warranty of the same duration as the original warranty will issue on all warranted items that are repaired, replaced, or re-performed commencing from date of acceptance of such repair, replacement or re-performance.





Seller is responsible for conformance to specifications, performance, and guarantees of auxiliary apparatus, equipment, and components furnished by Seller through suborders to sub-vendors or subcontractors as part of this Subcontract.

Seller warrants that (1) it has full right, title and ownership of the Articles purchased by Buyer, or (2) right, title, and interest to the Articles is transferred through Seller from a third party from which Seller procures the Articles on Buyer's behalf, and Seller has the full right to do so; and (3) the Articles sold hereunder by Seller to Buyer are not subject to a security interest, lien, or other encumbrance; and (4) with respect to any licensed Software provided and incorporated into the Articles by Seller, Seller warrants that it holds a valid license which allows Seller to sublicense the licensed Software to Buyer without any infringement of Seller's license, as applicable.

Seller shall obtain the right to pass through or assign and shall pass through or assign to Buyer or Buyer's designee any third-party warranties for equipment or software which Seller procures for Buyer or incorporates into the Articles ordered hereunder and will provide to Buyer or Buyer's designee copies of the purchase agreements and service agreements for such Articles and the license and maintenance agreements for any such third-party software. In addition, Seller will use reasonable efforts to assist Buyer or its designee to enforce such third-party warranties regarding any Articles, and further agrees to enforce for the benefit of Buyer every warranty, whether assigned under this Subcontract.

The warranties described in this Subcontract should be in addition to all other express or implied warranties made by the vendor or the manufacturer or otherwise required herein.

If Seller has obtained equipment or materials from third-party vendors to incorporate into the Articles, Seller confirms that it has selected the same.

#### **F.4 HAZARDOUS MATERIALS / TOXIC SUBSTANCES**

Seller warrants that all Articles containing hazardous materials or toxic substances shall be tested, registered, fabricated, certified, transported, packaged, labeled, marked, and otherwise handled in accordance with all applicable federal, state and local laws pertaining thereto including, but not limited to, the Federal Hazardous Materials Transportation Act, the Federal Toxic Substances Control Act, the Federal Poison Prevention Packaging Act of 1970, and the Occupational Safety and Health Act of 1970 and all amendments, rules, regulations, standards, and rulings issued thereunder, including the Department of Transportation's hazardous materials regulations (49 CFR Parts 107, 171-177) and the IATA's restricted articles and radioactive materials regulations issued by the International Air Transport Association for air shipments, as, from time to time, supplemented modified and/or superseded.

Seller will submit to Buyer for review and approval, a Hazard Communications Plan and Material Safety Data Sheets (Department of Labor Form OSHA-20), as prescribed in Title 29, Code of Federal Regulations, Part 1910.1200 for all hazardous materials that will be provided by Seller and its lower tier subcontractors, at least two (2) days before delivery, or planned use of the material at the work site whether such material(s) is listed in Subpart Z (Toxic and Hazardous Substances). Seller shall be responsible for coordinating the exchange or delivery of Material Safety Data Sheets or other hazard communication information, for which it is responsible and that is required to be made available to, or exchanged between or among, employers at the work site, in accordance with applicable law. Seller will ensure that all personnel that could have potential exposure to these hazardous materials be properly notified and trained per regulatory requirements.

Seller agrees to defend, indemnify, and hold Buyer, its affiliates, and the Client harmless from and against all liabilities, losses, damages, costs, fees, including attorney's fees, and costs of investigation, claims, fines, and penalties that may arise out of the fabrication, storage, handling, transportation or delivery by Seller, including by definition its employees, contractors, representatives and agents, of Articles, or the using, handling, storing, and distribution of such Articles by Buyer, its affiliates, and the Client, resulting from Seller's violation of applicable federal, state and local laws.

The requirements of this clause, or any act of failure to act by Buyer in surveillance or enforcement of this paragraph shall not affect or relieve Seller of any responsibility or liability for the safety of the personnel or property of Buyer, Seller, the Client, or any other third party.

This clause is required to be flowed down to subcontractors at all tiers.

#### **F.5 LIQUIDATED DAMAGES *(include only if applicable)***

The parties acknowledge and agree that the damages that are to be expected as a result of Seller's delay in performing its obligations under this Subcontract may be uncertain in amount or very difficult to prove. The parties agree that the amount set forth for such liquidated damages is reasonable and an appropriate remedy as liquidated damages (and not



as a penalty) for Seller’s delay in fulfilling its contractual obligations with respect to the Items set forth below. If Seller fails to fulfill its contractual obligations with respect to the below items within the time periods specified, then Seller shall pay Buyer as liquidated damages the amount set forth below **each calendar day of delay related to each listed item.**

Item: \_\_\_\_\_

Dollar amount for each day of delay: \_\_\_\_\_

If the above Item and/or dollar amount is not completed or is left blank, or if the liquidated damages amount is specified as “zero” or “NA”, then the above liquidated damages clause is of no force and effect.

**F.6 COUNTERFEIT WORK**

The following DFARS clause is hereby made a part of this Subcontract by reference. Refer to Article I.1 for the interpretation of the clause as related to this Subcontract.

DFARS Reference	Clause Title	Date	Notes/Deviations
252.246-7007	Contractor Counterfeit Electronic Part Detection and Avoidance System	AUG 2016	None

For purposes of this clause, Work consists of those parts delivered under this Subcontract that are the lowest level of separately identifiable items (e.g., articles, components, goods, and assemblies). "Counterfeit Work" means Work that is misrepresented as having been designed and/or produced under an approved system or other acceptable method. The term also includes approved work that has reached a design life limit or has been damaged beyond possible repair but is altered and misrepresented as acceptable.

Seller shall not deliver Counterfeit Work to Buyer under this Subcontract.

Seller shall only purchase products to be delivered or incorporated as work to Buyer directly from the Original Component Manufacturer (OCM)/Original Equipment Manufacturer (OEM), or through an OCM/OEM authorized distributor chain. Work shall not be acquired from independent distributors or brokers unless approved in advance in writing by Buyer.

Seller shall immediately notify Buyer with the pertinent facts if Seller becomes aware or suspects that it has furnished Counterfeit Work. When requested by Buyer, Seller shall provide OCM/OEM documentation that authenticates traceability of the affected items to the applicable OCM/OEM.

This clause applies in addition to any quality provision, specification, statement of work or other provision included in this Subcontract addressing the authenticity of Work. To the extent such provisions conflict with this clause, this clause prevails.

In the event that Work delivered under this Subcontract constitutes or includes Counterfeit Work, Seller shall, at its expense, promptly replace such Counterfeit Work with genuine Work conforming to the requirements of this Subcontract. Notwithstanding any other provision in this Subcontract, Seller shall be liable for all costs relating to the removal and replacement of Counterfeit Work, including without limitation Buyer's costs of removing Counterfeit Work, of installing replacement Work and of any testing necessitated by the reinstallation of Work after Counterfeit Work has been exchanged. The remedies contained in this paragraph are in addition to any remedies Buyer may have at law, equity or under other provisions of this Subcontract.

Seller shall include this clause or equivalent provisions in lower tier subcontracts for the delivery of items that will be included in or furnished as work to Buyer.

## Section G - Subcontract Administration

### CONTRACTUAL DIRECTION / BUYER'S SUBCONTRACT ADMINISTRATOR

Sub-contractual direction shall be issued only by an authorized Buyer's Subcontract Administrator.

- Buyer's Subcontract Administrator for this Subcontract is **XXXXXXXXXX**. The Subcontract Administrator's contact information is as follows:

Telephone: **XXXXXXXXXXXX**  
Facsimile: **XXXXXXXXXXXX**  
Email: **XXXXXXXXXXXX**  
Address: Parsons Government Services, Inc.  
**SCA Address**  
**SCA Address**

The Buyer's Subcontract Administrator is the only individual authorized to direct the effort or change, amend or modify any of the terms of this Subcontract in any way, The Buyer's Subcontract Administrator shall provide approval when required under the terms of this Subcontract unless provided elsewhere in this Subcontract.

If Seller affects any change at the direction of any person other than the Buyer's Subcontract Administrator, then Buyer shall consider Seller made the change without authority. Buyer shall not make an adjustment in the value or delivery schedule of this Subcontract. No agreement or understanding is binding on Buyer unless made in writing and signed by the Buyer's Subcontract Administrator.

Buyer shall have the right to replace Buyer's Subcontract Administrator by providing written notice of the replacement to Seller. Moreover, Buyer's Subcontract Administrator can delegate its duties and powers, in part or in full, to another person, and in the event of such a delegation, Buyer shall deliver written notice of such delegation to Seller.

### TECHNICAL DIRECTION – BUYER'S PROGRAM MANAGER

Performance of the Services hereunder shall be subject to the technical directions of Buyer's Program Manager.

- Buyer's Program Manager for this Subcontract is **XXXXXXXXXXXX**. The Program Manager's contact information is as follows:

Telephone: **XXXXXXXXXXXX**  
Facsimile: **XXXXXXXXXXXX**  
Email: **XXXXXXXXXXXX**  
Address: Parsons Government Services, Inc.  
**Program Manager Address**  
**Program Manager Address**

The Buyer's Program Manager, or designated alternate, has the authority to provide technical direction and determine the acceptability of Seller's progress and overall technical performance. This authority is limited to technical direction and approval of work specified within the Statement of Work of this Subcontract. Seller shall perform all efforts within the Subcontract as directed by the Buyer's Program Manager providing, however, that the Buyer's Program Manager shall not control or direct the physical conduct of Seller in the performance of its duties. In no event shall Seller construe the technical direction provided by the Buyer's Program Manager in any manner that serves to increase the total amount of this Subcontract. The Seller's Program Manager, or designated alternate, does not have the authority to modify this Subcontract.

Buyer shall have the right to replace the Program Manager by providing written notice of the replacement to Seller. Moreover, Buyer's Program Manager can delegate its duties and powers, in part or in full, to another person, and in the event of such a delegation, Buyer shall deliver written notice of such delegation to Seller.

Seller's contract representative for this Subcontract is:

**[INSERT NAME, TITLE, ADDRESS, PHONE NUMBER, AND E-MAIL ADDRESS]**

Seller's technical representative for this Subcontract is:

SAMPLE

## Section H - Special Contract Requirements/General Conditions

Any additional or differing terms, conditions or limitation of liability proposed by Seller, whether in a quote or proposal document shall have no effect unless expressly accepted in writing by Buyer and incorporated into this Subcontract. *Note – any additional special contract requirements flowed down from the Prime should be included in this section*

### **H.1 ENTIRE AGREEMENT**

This Subcontract, together with all attachments hereto and all documents incorporated herein by reference, and all written modifications hereto, constitutes the entire agreement between Buyer and Seller with regard to the Services and Articles purchased hereunder. There are no terms, conditions, or provisions, whether oral or written, between the parties hereto, other than those herein contained. This Subcontract supersedes any and all other oral or written representations, inducements, or understandings of any kind or nature between the parties with regard to the items purchased hereunder.

### **H.2 INDEPENDENT CONTRACTOR RELATIONSHIP**

The relationship between Buyer and Seller is that of independent contractor. This Subcontract does not create any employer-employee, agency, joint employer, joint venture or partnership relationship between Buyer and Seller, its lower tier subcontractors or their respective employees. Buyer is interested only in the results of performance by the employees provided by Seller or its second-tier subcontractor and not the specific method or manner of performance. Therefore, while Seller agrees to perform the Services in accordance with and to Buyer's standards and specifications, as directed by Buyer, and Buyer's designated site manager (the "**Site Manager**"), Seller's employees retain sole and exclusive control over the method and manner in which the Services are to be performed. The Site Manager may be an employee of Buyer or may be an employee of a subcontractor working on the site.

### **H.3 NON-SOLICITATION**

During the term of this Subcontract, Seller shall not knowingly solicit, entice, or persuade, or knowingly attempt to solicit, entice, or persuade, Buyer employees directly involved in the performance of the work under the Prime Contract to terminate such employee's business relationship with the Buyer for any reason. "Employees directly involved in the performance of the work" are those hired specifically to perform the work described in the Prime Contract statement of work. For the avoidance of doubt, this does not include employees whose wages are deemed to be overhead costs in Federal Government contracting scenarios. The foregoing shall not apply to (1) individuals hired as a result of the use of a general solicitation (such as an advertisement, in newspapers, or on radio or television) not specifically directed to the employees of Buyer; or (2) employees who independently and on their own initiative pursue employment opportunities with Seller.

*[If subcontractor insists on making the clause mutual, replace the above paragraph with the paragraph below; otherwise delete.]*

During the term of this Subcontract, neither party shall not knowingly solicit, entice, or persuade, or knowingly attempt to solicit, entice, or persuade, the employees of the other party who are directly involved in the performance of the work under the Prime Contract to terminate such employee's business relationship with their employer for any reason. "Employees directly involved in the performance of the work" are those hired specifically to perform the work described in the Prime Contract statement of work. For the avoidance of doubt, this does not include employees whose wages are deemed to be overhead costs in Federal Government contracting scenarios. The foregoing shall not apply to (1) individuals hired as a result of the use of a general solicitation (such as an advertisement, in newspapers, or on radio or television) not specifically directed to the employee; or (2) employees who independently and on their own initiative pursue employment opportunities with the other party.

### **H.4 CHANGES**

Buyer reserves the right, at any time, by written order, to make changes in quantity, drawings and specifications, methods of shipment and packaging, schedules, and the place of delivery as to any materials, equipment, or Services covered by this Subcontract.

In such event, an equitable adjustment, in price or time of performance or both, that is mutually satisfactory to Buyer and to Seller will be negotiated, but any claim by Seller for an adjustment must be made within three (3) days after

receipt of such change. Performance of the Subcontract shall not be suspended while Buyer and Seller are in the process of making such changes and any related adjustments, and Seller shall comply with and perform such change in accordance with the terms in this Subcontract during such time. No substitutions shall be made in this Subcontract without the prior written authorization of Buyer. Additional compensation will be paid to Seller only if agreed to in writing by Buyer, and no agreement or understanding modifying the conditions or terms of this Subcontract shall be binding upon Buyer unless made in writing and approved by Buyer's authorized representative.

#### **H.5 GENERAL INDEMNIFICATION**

Seller shall defend, indemnify and hold harmless Buyer, the Client and their respective directors, officers, employees, agents and subcontractors from and against any and all liability, damages, losses, claims, demands, judgments, costs and expenses which relate to, arise out of, or are asserted or incurred as a result of: (1) the performance of the Services by Seller or Seller's Employees; (2) the failure to comply with all applicable laws in performing the Services under this Subcontract by Seller or Seller's Employees; (3) the negligence or wrongful acts of Seller or Seller's Employees; or (4) any claims made by Seller's Employees arising out of the performance of the Services; provided, however, that the foregoing indemnity obligation shall not apply to any injury, damage or loss caused by the sole negligence or willful misconduct of Buyer. For purposes of this provision, the term "**Seller's Employees**" shall include all of Seller's employees, lower tier subcontractors, and agents. If any claims or demands are made against Buyer as a result of the Services or as a result of any actions or failures to act by Seller, or if Buyer reasonably believes that such claims or demands will be made, Buyer may withhold from the amount otherwise due or to become due under this Subcontract such amount as Buyer reasonably determines may be necessary to cover such claims and to cover any costs which Buyer reasonably anticipates may be incurred in connection with defending against such claims. The foregoing right to withhold payment shall not be Buyer's exclusive remedy and shall be in addition to any other remedies which Buyer may have under this Subcontract or at law or in equity. The obligations under this paragraph shall survive the termination of this Subcontract.

#### **H.6 INDEMNIFICATION – DEFECTIVE COST OR PRICING DATA COST ACCOUNTING STANDARDS**

Seller agrees to indemnify, protect, defend, and hold Buyer harmless, to the full extent of any price or cost reduction effected by Buyer's Client, which may result from (i) the Cost or Pricing Data submitted by Seller and/or its lower-tier subcontractors, which is not accurate, current or complete as of the date submitted or certified by Seller; (ii) the failure by Seller or its lower-tier subcontractors to disclose and consistently follow applicable cost accounting practices and standards or otherwise comply with pertinent sections of the Federal Acquisitions Regulation (FAR), the applicable agency supplements thereto, if any, and regulations promulgated by the Cost Accounting Standards Board.

#### **H.7 CONSEQUENTIAL DAMAGES AND LIMITATION OF LIABILITY**

Except as stated in this Subcontract, Buyer shall not be liable for, nor will the measure of damages assessed against Buyer include, any indirect, incidental, special, consequential or punitive damages or amounts for loss of income, data, profits or savings suffered or incurred by Seller. In no event shall Buyer be liable for the failure of the Client to provide consent to use the Seller for the Services.

#### **H.8 INTELLECTUAL PROPERTY**

Seller assigns, conveys and transfers to Buyer, upon creation, without any further consideration all of Seller's rights and interest in each and every invention, discovery, improvement, mask work, patent, copyright, data, reports, works of authorship and all other intellectual property rights relating to the Services and deliverables hereunder, conceived, developed, or generated in performance of this Subcontract ("**Project Intellectual Property**"). All such Project Intellectual Property shall be considered work(s) made by Seller for hire for Buyer and the sole and exclusive property of Buyer upon creation, and upon request, Seller shall execute any required papers and furnish all reasonable assistance to Buyer to vest all right, title and interest in such Project Intellectual Property in Buyer.

Buyer grants an irrevocable, non-exclusive, world-wide royalty free license to Seller to use the Project Intellectual Property solely for purposes of performing its obligations under this subcontract. To the extent that any of the deliverable items may not, by operation of law, be works made for hire, Seller hereby assigns to Buyer the ownership of the Project Intellectual Property in the deliverable items and Buyer shall have the right to obtain and hold in its own name the patents, copyrights, trademarks, service marks, registrations, and similar protection which may be available in the deliverable items. Seller agrees to give Buyer or its designees all assistance reasonably required to perfect such rights.



All reports, operation and maintenance manuals, memoranda, drawings, specifications, or other materials in written form, including machine readable form, prepared by Seller pursuant to this Subcontract and furnished to Buyer by Seller hereunder shall become the sole property of Buyer upon creation, and shall be returned to Buyer, along with any copies made thereof, upon the completion or earlier termination of this Subcontract, except that Seller may retain one confidential copy of any such information for its records.

Seller may include in the work to be delivered under this Subcontract pre-existing inventions, technology, designs, works of authorship, mask works, copyrights, technical information, computer software, and other information or materials only if the same are either provided by Buyer, or if they are owned or licensable without restriction by Seller. To the extent that pre-existing work or materials owned or licensed by Seller are included in the work to be delivered hereunder, Seller shall identify any such work or materials prior to commencement of the Services involving such work or materials. Seller grants to Buyer an irrevocable, perpetual, nonexclusive, worldwide, royalty-free right and license to use, execute, reproduce, display, perform, sublicense and distribute (internally and externally) copies of, and prepare derivative works based upon, such work and materials, and the right to authorize others to do any of the foregoing.

Notwithstanding any other provisions of this Subcontract, this Subcontract does not grant Seller any license, expressed or implied, under the patents of any company other than Buyer, regardless of whether or not such other company is associated with Buyer. No licenses under any patents owned by Buyer are granted to Seller except as expressly provided in writing in this Subcontract and then only to the extent necessary to perform the obligations under this Subcontract.

#### **H.9 INTELLECTUAL PROPERTY INDEMNIFICATION**

For purposes of this Subcontract, “**Intellectual Property Rights**” means all of the following whether existing as of the date of execution of this Subcontract, or in the future, on a worldwide basis: (a) patents, patent applications and related patent rights, including but not limited to divisions, continuations, continuations in-part, reissues, and extensions thereof; (b) rights associated with works of authorship including moral rights, copyrights and registrations therefore, mask work rights, mask work applications and mask work registrations; (c) rights relating to trade secrets, and confidential information; and (d) rights relating to trademarks, service marks or trade names or renewals thereof; (e) any and all other intellectual property rights whether or not such rights are protected under statute.

Seller shall defend or settle any allegation or claim by a third party against Buyer and/or Client, and indemnify and hold Buyer and/or Client, their successors, assigns, agents, users, and purchasers of the Client’s products, harmless from and against any and all liabilities, losses, damages, fees, including attorney’s fees, royalties, costs and other expenses, arising from any claim of infringement or alleged infringement of any Intellectual Property Rights by Seller, based on Seller’s design fabrication, manufacture, use, sale or disposition of any works or deliverables supplied hereunder or the performance of any of the Services of Seller hereunder, including but not limited to (a) any misuse or unauthorized use of any Intellectual Property by Seller in the performance of the Services or in the incorporation of same into the Articles; (b) the infringement or alleged infringement of any Intellectual Property Rights based on Client’s or Buyer’s use or operation of the Articles following the completion thereof by Seller, with the exception of any such use or operation in violation of an applicable third-party license or other agreement; (c) the use, or misuse, by Seller during the performance of the Services, of any confidential information or trade secrets of a third party; or (d) any use, or misuse, of confidential information or trade secret processes by Client or Buyer in the use or operation of the Articles following acceptance. Notwithstanding the foregoing, Seller shall have no obligation to indemnify Buyer or Client with respect to any method or process required by the specifications relating to Buyer’s or Client’s business operations as opposed to Seller’s services or methods of business operations.

Buyer shall notify Seller of any suit instituted against it or Client, to its knowledge, and, to the full extent of its ability to do so, shall permit Seller to defend the same or make settlement in respect thereof with regard to Buyer or Client.

If such a claim is made or appears possible, Buyer agrees to permit Seller to procure for Buyer and/or Client the right to continue to use the Article, or to modify or replace the Article to make it non-infringing, if possible.

Client shall be a third party beneficiary of any rights hereunder accruing to Buyer in this Section.

#### **H.10 DISCLOSURE OF INFORMATION AND PUBLICITY**

Seller, and its agents, representatives, employees, suppliers, and contractors (collectively, for purposes of this section H.10, “**Seller**”) shall not disclose to any third party any confidential or proprietary information relating to this

Subcontract, or confidential or proprietary information disclosed by Buyer, Client or their agents, representatives, employees, suppliers, or contractors, or any information derived therefrom, without the prior written permission of Buyer. This disclosure includes publicity and advertising material. All drawings, specifications, plans, programs, designs, software, and all other information furnished by Buyer to Seller, or obtained by Seller from Buyer, in connection with this Subcontract, and any drawings, specifications, programs, designs software and other information derived therefrom, shall be held in confidence by Seller, and shall be considered by Seller to be the Confidential Information of Buyer, subject to the terms and conditions of this Subcontract, and shall not be used by Seller for any purpose other than for the performance of the Services or as otherwise authorized in writing by Buyer, and except as required for the efficient performance of this Subcontract, the Seller shall not make copies or permit copies to be made without the prior written consent of Buyer.

Matters upon which Seller will be working pursuant to this Subcontract may involve Seller's receipt or development of information in any form or media that either Buyer or its Client deems confidential and proprietary, including without limitation, trade secrets, or patented or proprietary processes of Buyer or of other businesses of either Buyer or its Client ("**Confidential Information**"). Accordingly, to the greatest extent allowed by law, Seller shall not publish or otherwise disclose to any third party, any Confidential Information concerning or relating to the Services under this Subcontract, unless such Confidential Information: (1) was in Seller's rightful and prior possession prior to first receipt from Buyer or its Client and was not then subject to an obligation of confidentiality to Buyer or its Client, or (2) was at the time of its disclosure to Seller, or thereafter became, a matter of public knowledge other than by reason of breach of this Subcontract, or (3) was obtained by Seller from a third party who was not under an obligation of secrecy or confidentiality to Buyer or its Client, (4) was subject to an express waiver of the obligation of confidentiality by Buyer. No news release or other disclosure to the news media, including photographs and films, public announcements, denials, or confirmations shall be made by Seller concerning the subject matter of this Subcontract, or any phase of any program hereunder, without the prior written approval of Buyer. The obligations under this clause shall survive the expiration or earlier termination of this Subcontract by a period of three (3) years.

#### **H.11 INSURANCE**

Unless otherwise specified herein, Seller shall, from the commencement date of the Services hereunder until Final Acceptance of the Services, provide at its own expense and maintain in effect, at a minimum the following types and amounts of insurance with terms and with insurance companies satisfactory to Buyer and with coverages and limits no less than as required by the Prime Contract:

Workers' Compensation Insurance including Occupational Disease coverage in accordance with the laws in the jurisdiction(s) in which the Services will be performed and Employer's Liability Insurance with a limit of not less than \$1,000,000 per person per accident. If the performance of this Subcontract requires the use of watercraft or is performed over water, Seller shall provide coverage for liability under U.S. Longshoremen's and Harbor Workers' Compensation Act and liability for admiralty benefits and damages under the Jones Act, Death on the High Seas Act and general maritime law on all employees, except members of crews of vessels if full crew liabilities are covered under Protection and Indemnity Insurance, and shall further provide that a claim "in rem" shall be treated as a claim against the employer, that is, the Seller.

Commercial General Liability Insurance, including coverage for Contractual Liability, Products and Completed Operations, Premises Operations, Personal and Advertising Injury, Broad Form Property Damage, Sudden and Accidental Pollution Liability, and Independent Contractors, on an occurrence basis, with limits of not less than \$1,000,000 per occurrence. Products and Completed Operations Coverage shall be for a period of two years after completion of the Services.

Liability Insurance covering owned, non-owned and hired vehicles used by the Seller with limits of not less than \$1,000,000 combined single limit. If Seller's Comprehensive General Liability Insurance and Auto Liability Insurance are combined forming one policy and one limit of liability, the limits shall not be less than \$2,000,000 combined single limit.

Professional Liability Insurance including if applicable, Technology Errors and Omissions coverage with a limit of at least \$1,000,000 for each occurrence with annual aggregate for all claims of \$1,000,000 subject to a deductible for each occurrence of not more than \$50,000 unless otherwise agreed in writing. If the policy is written on a claims-made form, coverage shall be maintained for a period of ten (10) years following acceptance of the work.

If the performance of this Subcontract requires the use of watercraft, Seller shall carry on all watercraft used in the performance of Services, or require the owners of such watercraft to carry: (i) Hull and Machinery (including Collision Liability) Insurance, subject to the terms and conditions of the American Institute Hull Clauses or equivalent, in an amount not less than the market or replacement value of the watercraft, whichever is greater (any language in this policy which limits coverage to an insured who is not entitled limitation of liability shall be deleted), and (ii) Protection Indemnity Insurance including a contractual liability extension, in an amount of \$5,000,000 or the market value of the watercraft, whichever is greater (any language in this policy which limits coverage to an insured who is not entitled limitation of liability shall be deleted).

If the performance of this Subcontract requires the use of aircraft (including helicopters), Seller shall carry, or require the owners of such aircraft to carry: (i) All Risks Aircraft Insurance in an amount equal to the replacement value of the aircraft, and (ii) Aircraft Liability Insurance, including Passenger Liability, of not less than \$5,000,000 applicable to any one person and \$20,000,000 for more than one person in any one occurrence and \$5,000,000 for loss of or damage to property in any one occurrence.

If the subcontract is in excess of \$5,000,000, or the Services involve higher than average risk, as determined by Buyer, Seller, at the sole discretion of Buyer, may be required to obtain excess coverage in amounts suitable for the undertaking.

#### Other Requirements

- **Additional Insured:** Buyer and the Client shall be named as additional insureds, by endorsement, on all insurance policies required to be procured by Seller hereunder, except for the workers compensation insurance and professional liability insurances referenced above, respectively. Such additional insured coverage shall provide the same coverage to the additional insureds under the policy as the primary insured's coverage provides under the policy.
- **Waiver of Subrogation:** Underwriters and insurance companies of Seller shall not have any right of subrogation against Buyer or Client or any of its parents, subsidiaries, agents, employees, invitees, servants, Sellers, insurers, underwriters, and such other parties as they may designate.
- **Primary Insurance:** With respect to the Services, Seller's insurance shall always be primary and not contributory coverage with respect to any insurance that may be maintained by the additional insureds.
- **Notice of Cancellation:** Thirty (30) days prior written notice shall be given to Buyer in the event of cancellation or material change in the policies; provided that only ten (10) days' notice is required if the cancellation is due to a non-payment of premiums.
- **Carrier Rating:** All insurance required in this Subcontract shall be provided by insurance carriers with an A.M. Best Rating of at least A-V.
- **Certificates and Endorsements:** Seller shall furnish Certificates of Insurance and Endorsements evidencing insurance required hereunder before the start of any Work and upon request, shall furnish copies of the actual policies. Seller shall provide such Certificates of Insurance and Endorsements to Buyer on an annual basis throughout the term of this Subcontract. Buyer shall have the right at any other time to request in writing that the Seller provide Certificates and Endorsements as required by the Prime Contract Buyer has with its customer within ten (10) days after receiving a written request from the Buyer. Should Seller fail to deliver Certificates and Endorsements in accordance with the foregoing, then in addition to all other rights and remedies available to Buyer under this Subcontract for Seller's default, Buyer shall have the right to withhold any and all monies that may be otherwise due and payable to the Seller until such time that the Seller has provided such Certificates and Endorsement.
- **Certificates of Insurance** shall include specific reference to compliance with the above referenced clauses (Additional Insured, Waiver of Subrogation, Primary Insurance, Notice of Cancellation, and Carrier Rating), unless otherwise required under the Federal Acquisition Regulations, and should be provided to Buyer before Seller commences the Services

The insurance requirements outlined in this Section H.11 are not to be construed as a limitation of Seller's liability nor shall they limit the rights of Buyer or the Client under any policy providing higher limits than required in this Section H.11.

Unless otherwise agreed to in writing by the parties, Seller shall require its lower-tier subcontractors to provide the same insurance coverages and requirements as described herein.

#### **H.12 TIME IS OF THE ESSENCE**

Time is of the essence in the performance of Seller's obligations under this Subcontract. Seller shall reimburse Buyer for any liability incurred by Buyer, and the amount of any increase in the cost or expense incurred by Buyer in performing the Prime Contract because of Seller's failure to perform the Services within the time specified in this Subcontract. This provision does not, however, limit Buyer's damages in such event to the liability, cost, or expense described in the foregoing sentence.

#### **H.13 TERMINATION FOR CONVENIENCE**

Buyer may terminate this Subcontract for Buyer's convenience, in whole or in part, by written notice to Seller. Such termination shall be effective in the manner specified in the notice and shall be without prejudice to any claims that Buyer or Client may have against Seller. On the date of such termination or cancellation stated in said notice, Seller shall discontinue all Services pertaining to this Subcontract, place no additional orders, and preserve and protect materials on hand purchased for or committed to this Subcontract, work in progress, and completed work both in Seller's own and Seller's suppliers' plants pending Buyer's instructions, and dispose of same in accordance with Buyer's instructions. Buyer reserves the right to direct Seller to assign to Buyer any of Seller's subcontracts, orders, or commitments. Cancellation payments to Seller or refund to Buyer, if any, will be based on that portion of the Services satisfactorily performed to the date of termination, including reimbursement for reasonable overhead and profit on that portion of the Services that has been properly performed up through the date of termination, plus reasonable and necessary expenses resulting from the cancellation, as substantiated by documentation satisfactory to and verified by Buyer, less disposition of material on hand and amounts previously paid by Buyer. To the greatest extent allowed by law, Seller shall not be entitled to any prospective or anticipatory overhead, profits or damages because of such cancellation.

#### **H.14 CUSTOMER SATISFACTION**

The Client has substantial needs and undefined requirements for the services that Seller shall supply. Seller shall endeavor to assist Buyer through this Subcontract by generating solutions to the Client's needs and requirements. Seller may be subject to termination for cause if a good faith effort is not made to achieve customer-based growth under this Subcontract. The purpose of this paragraph is to create outstanding customer satisfaction.

#### **H.15 RIGHT TO PURSUE A CLAIM DIRECTLY AGAINST THE GOVERNMENT**

Except as may be expressly set forth in this Subcontract or otherwise required by law, Seller shall not acquire any direct claim or direct course of action against the US Government. Buyer may elect to sponsor Seller's claims against the Government. Buyer shall pay Seller only if the US Government pays the Buyer for the specific change Seller is pursuing for reimbursement.

#### **H.16 TERMINATION FOR DEFAULT**

Buyer may by written notice to Seller, terminate this Subcontract or any part thereof for default if:

- In Buyer's opinion, Seller appears to be insolvent or in such an unsound financial condition as to endanger performance; or
- In the event of the bankruptcy or insolvency of Seller, its successors or assigns, or in the event of an assignment of Seller or portions of this Subcontract for the benefit of creditors; or
- Seller fails to deliver the Articles or perform the Services, in accordance with the delivery schedule specified in an Order; or
- Seller's performance jeopardizes Buyer's ability to deliver the Articles or perform the Services, in accordance with the delivery schedule specified in the Prime Contract; or
- Seller is debarred and/or suspended from performing services for the U.S. government; or

- Seller commits a breach that is incapable of being remedied; or
- Seller does not cure any of the following causes for Termination for Default within a period of ten (10) calendar days after receipt of written notice from Buyer specifying such cause: (a) Buyer has reason to believe that Seller will be unable to complete the Services for the purchase price; (b) Seller has repudiated, either orally or in writing, its obligation to complete the Services pursuant to the terms of this Subcontract; (c) Seller has failed to make reasonable progress so as to endanger performance of this Subcontract, or (d) Seller has otherwise failed to remedy a breach of a provisions of this Subcontract that is capable of being remedied.

If the termination is terminated in full, the Seller has no duty to continue performance. In the event of a partial termination, the Seller is required to continue performance on the work not terminated.

Whether the termination is due to default or convenience, at Buyer's option, Seller shall deliver the Articles and Related Materials (as defined below) to Buyer no later than two (2) business days after termination. If Seller is unwilling to deliver Articles and Related Materials, Buyer shall have the immediate right of possession and to remove the subject Articles, and shall have the option to further take immediate possession of and remove all drawings, records, equipment, and material incorporated in the Articles ("**Related Materials**") from Seller's premises and may finish said Services by whatever reasonable method Buyer may deem expedient, or may secure similar articles elsewhere or secure the manufacture and delivery of the Articles by order or by otherwise reasonably available methods.

If Seller denies or interferes with Buyer's right of possession and removal as set forth above, Buyer may enforce said right in a court of law, and in such a proceeding the only matter to be considered shall be the right of possession and removal, with all other matters relating to the order to be determined under the Disputes Resolution Proceedings Clause of this Subcontract. In any undertaking required pursuant to such enforcement, the levying officer as authorized shall immediately deliver possession of said Articles and Related Materials on behalf of Buyer, and Seller shall be liable for all costs including attorney's fees.

Following a termination for default, should it be judicially determined that Seller was not in default, such termination shall be deemed a termination for convenience.

Buyer's remedies for Seller's breach are cumulative, and in addition to all other legal and equitable remedies allowed by law.

Should Buyer terminate this Subcontract due to Seller's default, (i) Seller shall not be entitled to any further payments under this Subcontract until Buyer has determined its damages due to Seller's default, and (ii) Seller shall be liable to Buyer for all damages incurred by Buyer as a result of Seller's default, including all costs in excess of the Subcontract price incurred by Buyer in completing the Services or securing similar Articles elsewhere.

#### **H.17 GOVERNING LAW**

This Subcontract shall be interpreted and enforced in accordance with the law of US Federal Contracts, and where the law of US Federal Contracts is not applicable, the law of the state of California will apply, in all respects, including statutes of limitations, but specifically excluding the conflict of law's provisions normally applied therein to any dispute or controversies arising out of or pertaining to this Subcontract.

Seller shall only be entitled to an equitable adjustment in compensation and/or schedule for the effects of any new laws, rules, regulations, executive orders, standards, import duties or tariffs (collectively, "Laws") and for any changes in existing Laws and for any changes in the interpretation of any existing Laws if, and only to the extent that, Buyer can obtain an equitable adjustment in compensation and/or schedule relief on behalf of Seller from the Client under the Prime Contract.

#### **H.18 DISPUTE RESOLUTION PROCEEDINGS**

As a condition precedent to either Party's right to commence a lawsuit or pursue other available remedies as indicated in this clause, the parties shall complete the following procedures:

The Parties agree to make a good faith effort mutually to resolve any dispute concerning this Subcontract (a "**Dispute**") as quickly as practicable. If, however, the Parties are not able to so resolve a Dispute, a Party may submit the Dispute to that Party's senior-level executives (including Presidents, Executive Vice Presidents, Senior Vice Presidents, and Chief



Financial Officers) for review, and shall simultaneously notify the other Party in writing of such submittal. Within ten (10) business days after the tendering of such notice, the Parties will work together to schedule a meeting among the senior-level executives of the Parties and any other necessary representatives to attempt in good faith to negotiate a resolution of the Dispute.

If the senior-level executives have not succeeded in negotiating a resolution of the Dispute within twenty (20) business days after the notice of dispute is tendered as set forth above, either Party may file a civil action in either the Superior Court of the State of California, for the County of Los Angeles, Northeast District or the United States District Court for the Central District of California. Seller agrees that no lawsuit pertaining to any matter arising under or growing out of this Subcontract shall be instituted in any court other than either the Superior Court of the State of California, for the County of Los Angeles, Northeast District, or the United States District Court for the Central District of California. Notwithstanding the foregoing, if mutually agreed to by the Parties, or if Seller is not a US company, the Dispute shall be submitted for arbitration in Pasadena, California, in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association. Any such arbitration shall be conducted by a single arbitrator who shall be licensed to practice law within the State of California and shall be a member of the American Bar Association's Forum on the Construction Industry.

If the Dispute is arbitrated, the award made by the sole arbitrator shall be conclusive and binding upon the Parties, subject to the provisions of the California Code of Civil Procedure relating to arbitration, as the code exists at the time of the arbitration award. The arbitrator may fix and assess expenses of the arbitration against either or both Parties. Judgment upon the arbitration award rendered by the arbitrator may be entered in a court of competent jurisdiction.

The final judgment of the court (after all appeals have been finally determined or the time for appeal has expired, without an appeal having been made), or, in the absence thereof, the decision of the arbitrator, with respect to any Dispute shall be binding on Buyer and Seller.

During the pendency and conduct of any litigation or arbitration, or litigation to enforce the award of an arbitrator, at Buyer's discretion and direction, Seller shall continue to perform the Services. Nothing in this Section, however, shall limit the right of Buyer to complete the Services in any manner it sees fit.

The above-referenced alternative with respect to arbitration applies except for Subcontracts for DoD work awarded on or after 19 February 2010 for an amount in excess of \$1,000,000. For these Subcontracts, the Seller agrees, with respect to any employee or independent contractor performing work related to this Subcontract:

- Not to enter into any agreement with any of its employees or independent contractors that requires, as a condition of employment, that the employee or independent contractor agree to resolve through arbitration any claim under Title VII of the Civil Rights Act of 1964 or any tort related to or arising out of sexual assault or harassment, including assault and battery, intentional infliction of emotional distress, false imprisonment, or negligent hiring, supervision, or retention; or
- Not to take any action to enforce any provision of an existing agreement with an employee or independent contractor that mandates that the employee or independent contractor resolve through arbitration any claim under Title VII of the Civil Rights Act of 1964 or any tort related to or arising out of sexual assault or harassment, including assault and battery, intentional infliction of emotional distress, false imprisonment, or negligent hiring, supervision, or retention.

The rights and obligations of the parties under this Section shall survive completion or termination of this Subcontract.

#### **H.19 LIENS AND ENCUMBRANCES**

With respect to all Services provided by Seller pursuant to this Subcontract: (1) no liens or other encumbrances shall be filed by Seller; (2) the Seller expressly waives and relinquishes any and all rights to such liens or encumbrances; (3) the waiver stated in (2) is an independent covenant supported by separate consideration included within the Subcontract price; and (4) Seller shall ensure that a clause substantially similar to this Section is included in all lower tier subcontracts issued hereunder.

#### **H.20 NOTICE OF THIRD PARTY CLAIMS AGAINST SELLER**



Seller shall give Buyer immediate notice of any suit or action filed, or any claims made, against Seller arising out of the performance of this Subcontract or any lower-tier subcontracts. Seller shall furnish immediately to Buyer copies of all documents received by Seller pertinent to such actions, suits, or claims.

#### **H.21 COMPLIANCE WITH APPLICABLE LAWS (INCLUDING BUT NOT LIMITED TO EMPLOYMENT LAWS)**

Seller, its employees, agents and representatives, and its lower-tier subcontractors, shall at all times comply with all Applicable Laws, and will procure and pay for all applicable licenses, permits, inspections, certificates, bonds, security or deposits or other approvals necessary to comply with the same and/or to perform the Services and/or comply with the requirements of this Subcontract. For purposes of this Subcontract, "Applicable Laws" means all applicable federal, state, county and local laws, ordinances, statutes, rules, codes, and regulations relating or applicable to the Services or this Subcontract, including but not limited to those relating to eligibility and conditions for employment, working conditions, wages and hours, labor standards and employment practices, employment-related records, nondiscrimination in employment, the safety of persons or property, the protection and preservation of the environment, compensation and taxation, IRS requirements relating to maximum per diem rates, the protection of intellectual property rights; and hazardous or contaminated materials.

Seller will not knowingly employ an unauthorized alien (as defined in subsection (h)(3) of the Immigration Reform and Control Act of 1986) where such alien was hired after November 6, 1986, or where it has come to their attention that an alien has become an unauthorized alien subsequent to that date. The obligations under this paragraph shall survive the termination of this Subcontract.

Seller represents and warrants to Buyer that Seller shall be solely responsible and liable for compensating Seller's Employees, that Seller shall be solely responsible and liable for making any federal, state or local tax withholding with respect to amounts paid by Seller to Seller's Employees and that it shall be solely responsible for complying with the workers compensation regulations for the state in which the work site is located.

All Services under this Subcontract shall be performed by employees of Seller or employees of a Buyer approved second-tier subcontractor under contract to the Seller. All such employees shall be classified and compensated as employees by Seller or second-tier subcontractor, and not classified or compensated as independent contractors by Seller or second-tier subcontractor. No provision of this Subcontract or practice of the parties shall be deemed to create an employee/employer relationship between Buyer and any employee of Seller or its second-tier subcontractor, or a joint employer relationship between Buyer and Seller or its second-tier subcontractor.

**Buyer is an equal opportunity employer and federal contractor or subcontractor. Consequently, the parties agree that, as applicable, they will abide by the requirements of 41 CFR 60-1.4(a), 41 CFR 60-300.5(a) and 41 CFR 60-741.5(a) and that these laws are incorporated herein by reference. These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. These regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability. The parties also agree that, as applicable, they will abide by the requirements of Executive Order 13496 (29 CFR Part 471, Appendix A to Subpart A), relating to the notice of employee rights under federal labor laws.**

To the extent that Executive Order No. 13706 ("Establishing Paid Sick Leave for Federal Contractors") applies to this Subcontract, Seller shall comply with the same and provide its employees working on covered government contracts with the requisite paid leave for covered purposes. EO 13706 applies to new contracts with the federal government that result from solicitations issued on or after January 1, 2017, contracts awarded outside the solicitation process after January 1, 2017, or existing contracts that are extended or modified after January 1, 2017.

#### **H.22 WAIVERS, APPROVALS AND REMEDIES**

Failure by either Party to enforce any of the provisions of this Subcontract or applicable law shall not constitute a waiver of the requirements of such provisions or law, or as a waiver of the right of a Party thereafter to enforce such a provision or law. Buyer's approval of documents shall not relieve Seller of its obligation to comply with the requirements of this Subcontract.

## **H.23 CONFLICT OF INTEREST**

Seller shall exercise reasonable care and diligence to prevent any actions or conditions that may result in a conflict with Buyer's or the Client's best interest. This obligation will apply to the activities of the employees and agents of Seller, and the families of such employees and agents, in their relations with Buyer and/or Buyer's employees, clients, subcontractors, and third parties arising from this Subcontract and activities hereunder. Seller's compliance with this Section shall include, but shall not be limited to, establishing precautions to prevent its employees or agents from making, receiving, providing, or offering substantial gifts, extravagant entertainment, payments, loans, or other considerations for the purpose of influencing individuals contrary to Buyer's and/or the Client's best interest. The amount, cost, or expense of any such gift, entertainment, payment, loan, or other consideration, whether paid before or after the date issuance of this Subcontract, shall be deemed to have been included in the price of this Subcontract, and shall be reimbursed by Seller to Buyer promptly upon demand.

## **H.24 EXPORT LAWS AND REGULATIONS**

In the performance of this Subcontract, Seller shall:

- Comply with all applicable US trade requirements (the "US Trade Requirements"), which include, without limitation, the International Traffic in Arms Regulations, the Export Administration Regulations, the Foreign Trade Regulations, and the requirements of the Department of Justice / Bureau of Alcohol, Tobacco, Firearms, and Explosives, the Department of the Treasury / Office of Foreign Assets Controls, and the Federal Trade Commission;
- Fully collaborate with Buyer in any request to establish the jurisdiction and classification of items / technical data / services;
- Give US export requirements primacy should the requirements of more than one jurisdiction apply; and
- For any contracts that require or anticipate the logistical movement of goods, assign to this Subcontract an Incoterm, unless otherwise agreed to in writing between the Parties.

Seller shall immediately notify Buyer in writing of any actual or alleged violation of this Section, and shall indemnify, defend, protect, and hold harmless Buyer and its officers, agents, and employees from and against any and all claims, demands, causes of action, costs, fines, penalties, attorney's fees, and other expenses arising from a breach, or an alleged breach, by Seller of this Section.

## **H.25 SECURITY CLASSIFICATION SPECIFICATION (include as required)**

Seller shall comply with the security requirements of the Security Classification Specification Form DD254 assigned to this Subcontract as Section J – List of Attachments, Attachment 1 - DD254 Security Classification Specification. Final payment will not be made until all classified material furnished or developed during performance has been received by Buyer or disposition has been accomplished as authorized by Buyer.

## **H.26 SANCTIONED AND EMBARGOED COUNTRIES**

It is the policy of Buyer not to conduct business with sanctioned or embargoed countries. OFAC administers several U.S. economic sanctions and embargoes that target geographic regions and governments. Sanctioned countries may include, but are not limited to: The Balkans, Belarus, Burma, Cote d'Ivoire, Cuba, Democratic Republic of Congo, Iran, Liberia, Lebanon, North Korea, Sudan, Syria and Zimbabwe. The United Nations also maintains Arms Embargoes which include but are not limited to the following countries: Cote d'Ivoire, Democratic Republic of Congo, Iraq, Iran, Lebanon, Liberia, North Korea, Sierra Leone, Somalia, and Sudan.

US persons, as defined in the ITAR, including foreign branches of U.S. depository institutions and trading companies, are prohibited from engaging in any transactions, including purchase, sale, transportation, swap, financing, or brokering transactions related to goods or services of sanctioned and embargoed country origins, or services owned or controlled by sanctioned and embargoed country Governments.

Seller warrants that Buyer will not be in violation of United States trade sanctions and embargo regulations by entering into this Subcontract. Further, Seller agrees to comply with all such U.S. regulations regarding the purchase, sale, transportation, swap, financing, brokering transactions related to goods or services of sanctioned and embargoed country origins, services owned or controlled by sanctioned and embargoed country Governments, export/import, re-

export, and disclosure requirements, and will obtain any and all such registrations, licenses, permits, agreements, approvals and/or certifications, as may be required by regulation for the products, services, and/or technical data that may be provided to parties under this Subcontract before initiating performance.

REGULATIONS CAN CHANGE AT ANY TIME. SELLER IS RESPONSIBLE FOR AND EXPECTED TO KEEP UP WITH THE MOST CURRENT VERSION OF TRADE REGULATIONS AND TO BE IN FULL COMPLIANCE WITH THE SAME AT ALL TIMES. IF SELLER HAS KNOWLEDGE OF, OR SUSPECTS THAT A VIOLATION MAY OCCUR, OR MAY TAKE PLACE, SELLER IS REQUIRED TO NOTIFY BUYER IMMEDIATELY.

#### **H.27 GRATUITIES**

Seller warrants that neither it nor any of its agents or representatives has offered or given any gratuities to Buyer's or the Client's employees, agents or representatives to secure this Subcontract or to secure favorable treatment with respect thereto.

#### **H.28 NOTIFICATION OF DEBARMENT OR SUSPENSION**

During the performance of this Subcontract, Seller shall provide immediate notice to Buyer's Subcontract Administrator if: (1) it is being investigated or is suspended, debarred, or declared ineligible by any U.S. Government Agency; or (2) it receives a notice of proposed investigation or debarment from any U.S. Government Agency.

#### **H.29 COMMUNICATION WITH BUYER'S CLIENT**

Neither Seller nor any of its employees, agents or representatives is permitted to directly communicate with any employee, agent or representative of the Client without the written consent of Buyer regarding any matter related to this Subcontract, including but not limited to (1) terms and conditions; (2) financial/funding concerns; (3) rate of pay; (4) performance criteria/evaluations; (5) work schedules; and (6) duration of employment.

*[The SCA may add the following if requested by subcontractor and PM agrees that such communications are necessary for successful performance]*

Seller may engage in technical discussions with the Customer only to the extent that: (1) such discussions are necessary to perform day-to-day operations; (2) such discussions are within the scope of work Seller is performing; (3) such discussions do not result in changes to the scope of work, price; or performance schedule; and (4) such discussions do not result in changes to the contractual direction or terms and conditions of this Subcontract. Seller shall report all discussions between Seller and Customer to Buyer's Program Manager.

#### **H.30 ASSIGNMENT**

Seller may not assign its rights or delegate its duties hereunder without the express prior written consent of Buyer, which consent may be withheld in Buyer's sole and absolute discretion, and any attempted assignment of rights or delegation of duties in contravention of this Section shall be void and of no effect. Notwithstanding the foregoing, Buyer may assign its rights or delegate its duties hereunder, in whole or in part, to any of its affiliates, including a joint venture, LLC or similar entity of which Buyer is or becomes a member, with written notice to, but without the necessity of consent of, Seller.

A change in control of a party shall be deemed an assignment hereunder and subject to the requirements of this Section. For purposes hereof, "change in control" shall mean the sale, pledge, assignment or other transfer, directly or indirectly, whether through merger, consolidation, recapitalization or other business combination or transaction by a party of (i) a majority of the stock or other equity interest or voting power of the party or of any entity owning or controlling such stock, equity interest or voting power; (ii) substantially all of the assets of a party; or (iii) the beneficial control of the party, in each case whether in one or a series of transactions.

#### **H.31 SUBCONTRACTING**

No portion of the work required under this Subcontract may be further subcontracted by the Seller without the prior written consent of Buyer.

#### **H.32 SEVERABILITY AND SEVERABILITY OF OBLIGATIONS**

If any term of this Subcontract is to any extent illegal, otherwise invalid, or incapable of being enforced, such term shall be excluded to the extent of such invalidity or unenforceability; all other terms hereof shall remain in full force and effect; and, to the extent permitted and possible, the invalid or unenforceable term shall be deemed replaced by a term that is valid and enforceable and that comes closest to expressing the intention of such invalid or unenforceable term.

### **H.33 PRIVACY ACT NOTIFICATION**

In accordance with FAR 52.224-2, the Seller agrees to:

- (1) Comply with the Privacy Act of 1974 (the Act) and the agency rules and regulations issued under the Act in the design, development, or operation of any system of records on individuals to accomplish an agency function when the contract specifically identifies:
  - (i) The system of records; and
  - (ii) The design, development, or operation work that the Contractor is to perform;
- (2) Include the Privacy Act notification contained in this Subcontract in every solicitation and resulting subcontract and in every subcontract awarded without a solicitation, when the work statement in the proposed subcontract requires the redesign, development, or operation of a system of records on individuals that is subject to the Act; and
- (3) Include this clause, including this subparagraph (3), in all subcontracts awarded under this Subcontract which requires the design, development, or operation of such a system of records.

"Operation of a system of records", as used in this Clause, means performance of any of the activities associated with maintaining the system of records, including the collection, use, and dissemination of records.

"Record", as used in this Clause, means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, education, financial transactions, medical history, and criminal or employment history and that contains the person's name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a fingerprint or voiceprint or a photograph.

"System of records on individuals," as used in this Clause, means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

### **H.34 PRIVACY ACT**

In accordance with FAR 52.224-3, Seller shall ensure that initial privacy training, and annual privacy training thereafter, is completed by Seller employees who:

- (1) Have access to a system of records;
- (2) Create, collect, use, process, store, maintain, disseminate, disclose, dispose, or otherwise handle personally identifiable information on behalf of an agency; or
- (3) Design, develop, maintain, or operate a system of records (see also FAR subpart 24.1 and 39.105).

Such privacy training shall address the key elements necessary for ensuring the safeguarding of personally identifiable information or a system of records and shall fully comply with the requirements of FAR 52.224-3. Seller shall maintain, and upon request, provide documentation of completion of privacy training to the Buyer and Contracting Officer.

Seller shall not allow any employee access to a system of records, or permit any employee to create, collect, use, process, store, maintain, disseminate, disclose, dispose or otherwise handle personally identifiable information, or to design, develop, maintain, or operate a system of records unless the employee has completed privacy training, as required by this clause.

As used in this clause, "personally identifiable information means information that can be used to distinguish or trace an individual's identity, either alone or when combined with other information that is linked or linkable to a specific individual. (See Office of Management and Budget (OMB) Circular A-130, Managing Federal Information as a Strategic Resource).

The substance of this clause shall be included in all subcontracts under this Subcontract, when subcontractor employees will:

- (1) Have access to a system of records;
- (2) Create, collect, use, process, store, maintain, disseminate, disclose, dispose, or otherwise handle personally identifiable information; or
- (3) Design, develop, maintain, or operate a system of records.

### **H.35 CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT**



Seller shall comply with Parsons' Standards of Ethical Conduct for Business Partners, available at <https://www.parsons.com/wp-content/uploads/2017/06/Standards-of-Ethical-Conduct-7.15.pdf>.

This Subcontract incorporates the following FAR clauses by reference provided the Subcontract's value as defined on Page 1 is in excess of \$5,500,000 and has a term of more than 120 days (see Article F.1). Refer to Article I.1 for the interpretation of the clauses as related to this Subcontract.

FAR Reference	Clause Title	Date	Notes/Deviations
52.203-13	Contractor Code of Business Ethics & Conduct	OCT 2015	None
52.203-14	Display of Hotline Poster(s)	OCT 2015	None

Seller shall perform all services and act within all stated principles of business ethics and conduct, as applicable to Seller's role, as described in FAR 52.203-13. By signing this Subcontract, Seller acknowledges that Seller has a code of business ethics and conduct that is compliant with FAR 52.203-13. If Seller does not have its own code of business ethics and conduct, Seller acknowledges receipt of the Parsons Corporation Code of Conduct, available at [https://www.parsons.com/wp-content/uploads/2017/10/Code\\_of\\_Conduct\\_Standard\\_English.pdf](https://www.parsons.com/wp-content/uploads/2017/10/Code_of_Conduct_Standard_English.pdf). Where necessary to make the terms and conditions of the Code applicable to this Subcontract, the terms "Parsons" and equivalent terms mean "Seller" and the term "Employee" means "Seller's employees." Seller shall review the Code on an annual basis by accessing the link above. Seller acknowledges that failure to perform this annual review does not relieve Seller of its obligation to comply with the requirements of the Code during the Subcontract period of performance.

### **H.36 INFORMATION ASSURANCE**

Seller shall maintain data protection processes and systems sufficient to adequately protect Client- or Buyer-provided information as required by DFARS 252.204-7012. This cybersecurity provision applies to covered defense information if this Subcontract contains DFARS 252.204-7012. However, Seller certifies that Seller shall, at minimum, safeguard all the information used in the performance of this Subcontract in compliance with the latest version of NIST SP 800-171 and any other law or regulation applicable to such information.

Information provided by Buyer to Seller remains the property of Buyer. Seller shall comply with the terms of any proprietary information agreement with Buyer and comply with all proprietary information markings and restrictive legends applied by Buyer, or the Client, to anything provided hereunder to Seller. Seller shall not use any Buyer provided information for any purpose except to perform this Subcontract and shall not disclose such information to third parties without the prior written consent of Buyer.

If Seller becomes aware of any incidents related to the information used in the performance of this Subcontract or provided by Buyer to Seller, its officers, employees, agents, suppliers, or subcontractors (an "Incident"), Seller shall notify both Buyer and any appropriate government agencies within seventy-two (72) hours of learning of an Incident. As used in this clause, "Incident" means that information used in the performance of this Subcontract has been exposed or potentially exposed to unauthorized access, inadvertent disclosure, known misuse, loss, destruction, or alteration other than as required to perform the Services.

Seller shall take appropriate immediate actions to investigate and contain the Incident and any associated risks. Seller shall provide reasonable cooperation to Buyer in conducting any investigation or audit regarding either the nature and scope of any Incident related to any of the information used in the performance of this Subcontract or the assurance of Seller's compliance with all cyber security requirements. Seller shall provide Buyer with enough information for Buyer to assess the compliance of Seller and/or the impact of an Incident and mitigate any potential exposure of information. This shall include, at a minimum, the date and location of compromise, the type of compromise, the impact to the Subcontract, and the mitigation efforts Seller will implement to prevent further compromise.

Seller shall bear any costs incurred in investigating or remedying Incidents.

The provisions set forth above are in addition to and do not alter, change or supersede any obligations contained in a proprietary information or non-disclosure agreement between the parties.

### **H.37 TRAVEL**



When Buyer authorizes travel as part of the work scope and funds on other than a firm-fixed-price basis, Buyer shall reimburse Seller for travel expenses incurred in performance of the Subcontract in accordance with the Federal Travel Regulations (“FTR”) in effect at the time of travel.

Buyer shall consider travel expenses reimbursable when the travel expenses are:

1. Allowable under the FTR and the provisions of this Subcontract;
2. Reasonable; and
3. Allocable and necessary to the performance of this Subcontract.

Seller shall take reasonable steps to mitigate travel expenses, including compliance with obtaining lowest available airfares in accordance with FAR 31.205-46, and use of economy class rental cars while traveling. When work assignments are such that travel for any one employee would exceed a short term (typically more than 30 days), Seller shall propose and implement lower cost alternatives (such as long-term lodging, temporary relocation, long term car rental, etc.).

Seller shall submit travel reimbursement requests in a timely manner, and must identify the name of the traveler, destination, purpose of the travel and days worked, as well as a copy of any required Buyer pre-approvals.

Seller shall maintain original or legible copies of receipts for travel expenses to support:

1. Actual airfare or other public conveyance expenses
2. Car rental expenses for each rental day
3. Lodging expenses



## Section I - Contract Clauses

### I.1 FEDERAL ACQUISITION REGULATION CLAUSES

This Subcontract, including Attachments, contains Federal Acquisition Regulation (“FAR”) and agency FAR supplemental clauses that are incorporated either (1) by reference with the same force and effect as if set forth in full text; or (2) in full text. Unless the context of the clause requires otherwise, the term “Contractor” means Seller, the term “Contract” means Subcontract, and the terms “Government,” “Contracting Officer” and equivalent phrases mean Buyer and the Buyer Subcontract Administrator, respectively. If any clause refers to the “Disputes” clause, then for the purposes of this Subcontract the clause is Article H.18. All referenced clauses apply to Seller in such manner as is necessary to reflect the position of Seller to Buyer, to ensure Seller’s obligations to Buyer and to the United States Government (“Government”), and to enable Buyer to meet its obligations related to this Subcontract under the Prime Contract.

### I.2 CONTRACT CLAUSES

*Note: Subcontract Administrator should coordinate with Contracts Professional to obtain mandatory and recommended flowdowns from the Prime Contract.*

## Section J - List of Attachments

*Note: Add any other requirements (SCA Wage Determinations, Specifications, Rate Tables, or other applicable attachments as flowed down from the Prime Contract which are required to be flowed down to the Subcontractor)*

- Attachment 1 - DD254 Security Classification Specification.
- Attachment 2 - Buyer's Project Safety Plan (PSP)

SAMPLE