

**SANDIA CORPORATION
SF 6432-CS (01-02)
SECTION II**

STANDARD TERMS & CONDITIONS FOR COMMERCIAL SERVICES

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

CS01 - ACCEPTANCE OF TERMS AND CONDITIONS Seller, by signing this Contract and/or delivering Items or services ordered under this Contract, agrees to comply with all the terms and conditions and all specifications and other documents that this Contract incorporated by reference or attachment. Sandia hereby objects to any terms and conditions contained in any acknowledgment of this Contract that are different from or in addition to those mentioned in this document. Failure of Sandia or Seller to enforce any of the provisions of this Contract shall not be construed as evidence to interpret the requirements of this Contract, nor a waiver of any requirement, nor of the right of Sandia or Seller to enforce each and every provision. All rights and obligations shall survive final performance of this Contract.

CS02 - APPLICABLE LAW The rights and obligations of the parties hereto shall be governed by this Contract and construed in accordance with federal law of government contracts and then by Article 2 of the Uniform Commercial Code as enacted in the State of delivery of Items giving rise to the claim.

CS03 - ASSIGNMENT Seller shall not assign rights or obligations to third parties without the prior written consent of Sandia. However, Seller may assign rights to be paid amounts due or to become due if Sandia is promptly furnished an executed Assignment of Payments form. Administration of this Agreement may be transferred from Sandia to DOE or its designee, and in case of such transfer and notice thereof to the Seller, Sandia shall have no further responsibilities hereunder.

CS04 - BANKRUPTCY If the Seller enters into any proceeding relating to bankruptcy, it shall give written notice via certified mail to the SCR responsible for this Contract within five days of initiation of the proceedings. The notification shall include the date on which the proceeding was filed, the identity and location of the court and a listing of the Contract numbers for which final payment has not been made.

CS05 - CANCELLATION OR TERMINATION FOR CONVENIENCE (a) Sandia may cancel this Contract, in whole or in part, if the Seller fails to comply with any of the terms of this Contract, or fails to provide adequate assurance of future

performance. In that event, Sandia shall not be liable for any amount for Items or services not yet accepted by Sandia.

(b) Sandia may terminate for the convenience of Sandia or the Government this Contract, in whole or in part, for any Items or services not yet accepted by Sandia. In that event Sandia shall be liable for the purchase price of Items or services already completed or identified to this Contract but not yet accepted by Sandia.

(c) Seller shall not be liable for delays in performance occasioned by causes beyond Seller's reasonable control and without Seller's fault or negligence.

(d) The rights and remedies of Sandia in this clause are subject to the Disputes clause of this contract.

CS06 - CHANGES The SCR may at any time, by written notice, make changes within the general scope of this Agreement in any one or more of the following:

(1) description

of the services to be performed; (2) place of performance, and (3) the amount of services to be furnished. If any such change causes a difference in the cost of, or the time required for performance, an equitable adjustment shall be made in the price and/or delivery schedule and other affected provisions. Such adjustment shall be made by written amendment to this Agreement signed by both parties. Any claim for adjustment by Seller must be made within 20 days from the date of receipt of Sandia's change notice, although Sandia in its sole discretion may receive and act upon any claim for adjustment at any time before final payment. Nothing in this clause, including any disagreement with Sandia about the equitable adjustment, shall excuse Seller from proceeding with the Agreement as changed.

CS07 - COMPLIANCE WITH LAWS Seller shall comply with all applicable federal, state, and local laws and ordinances and all pertinent lawful orders, rules, and regulations and such compliance shall be a material requirement of this Contract.

CS08 - DEFINITIONS The following terms shall have the meanings set forth below for all purposes of this contract.

(a) CONTRACT means Agreement, Purchase Order, Contract, Price Agreement, Subcontract, As Ordered Agreement, or modifications thereof.

(b) GOVERNMENT means the United States of America and includes the U.S. Department of Energy (DOE) or any duly authorized representative thereof.

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

(d) SANDIA means Sandia National Laboratories, operated by Sandia Corporation under Contract No. DE-ACO4-94AL-85000 with the U.S. Department of Energy.

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

(f) SELLER means the person or organization that has entered into this Contract to sell something to Sandia.

CS09 - DISPUTES Seller and Sandia agree to use the Sandia Acquisition Conflict Resolution Process Policy and Guideline 5.8 set forth at:

<http://www.sandia.gov/bus-ops/scm/Contractor/Contractor-info.html> for resolving any and all disputes arising from this Contract.

CS10 - ORDER OF PRECEDENCE Any inconsistencies shall be resolved in accordance with the following descending order of precedence: (1) Section I; (2) SF 6432-CI, Section II.

CS11 - PAYMENT (a) Firm Fixed-Price Contract. Unless otherwise provided, terms of payment shall be net 30 days from the latter of. (1) receipt of Seller's proper invoice, if required, or (2) delivery of Items/completion of work. Any offered discount shall be taken if payment is made within the discount period that the Seller indicates. Payments may be made either by check or electronic funds transfer, at the option of Sandia. Payment shall be deemed to have been made as of the date of mailing or the date on which an electronic funds transfer was made. **(b) Fixed-Rate Contract.** Upon submittal of individual invoices or vouchers, and pursuant to the Allowable Charges Clause in Section I of the contract the Contractor shall be paid as follows: (1) The amounts computed by multiplying the appropriate fixed-rate, or rates, set forth in Section I by the number units performed. The fixed rates shall include wages, indirect cost, general and administrative expense and profit; provided, however, that the fractional parts of a unit shall be payable on a prorated basis. Invoices or vouchers may be submitted once each month (or at more frequent intervals, if approved by the SCR), to the SCR or SCR's designee. Unless otherwise specified in this Contract, the fixed rate only applies to employees of the Contractor and not to employees of subcontractors performing subcontracts. For the purposes of this Clause, employees of the Contractor are defined as individuals who are treated as its employees with respect to federal or state income or employment taxes to the extent such individuals are so employed and are so treated. (2) Total time paid for Contractor's personnel chargeable to Sandia in those occupational classifications set forth in the Clause of Section I of this contract entitled "Allowable Charges," and shall be recorded on readily verifiable time records. Each time record shall bear the name of the individual, occupational classification, dates and hours worked, and shall segregate total hours worked between those hours worked hereunder, identified by reference to this Contract and each suborder, if any, issued hereunder, and those hours worked on all other contracts. In addition, when work is performed on Sandia-controlled premises, the time involved shall be recorded on Sandia's form (or equivalent Contractor-supplied form acceptable to the SCR) which shall be certified by Contractor's representative and approved by a delegated Sandia representative as authorized by the SCR. (3) Unless provisions of Section I hereof otherwise specify, the fixed rates set forth in Section I shall not be varied by virtue of the Contractor having performed work on an overtime basis. If Section I provides rates for overtime work, the overtime work will be reimbursable at overtime rates only to the extent the overtime work is authorized in writing by the SCR and any non-authorized overtime work will be reimbursable at the standard time rates. (4) Notice of Cost Approaching Ceiling Price. It is estimated

that the total cost to Sandia for the performance of this contract will not exceed the ceiling price set forth in Section I and the Contractor agrees to use its best efforts to perform the work specified in Section I and all obligations under this Contract within such ceiling price. If at any time the Contractor has reason to believe the hourly rate payments and material costs which will accrue in the performance of this contract in the next succeeding thirty (30) days, when added to all other payments and costs previously accrued, will exceed seventy-five percent (75%) of the ceiling price then set forth in Section I, the Contractor shall notify the SCR to that effect giving its revised estimate of the total price to Sandia for the performance of this contract, together with supporting reasons and documentation. If at any time during the performance of this Contract, the Contractor has reason to believe that the total price to Sandia for the performance of this contract will be substantially greater or less than the then-stated ceiling price, the Contractor shall so notify the SCR, giving its revised estimate of the total price for the performance of this Contract, together with supporting reasons and documentation. If at any time during the performance of this contract, Sandia has reason to believe that the work to be required in the performance of this Contract will be substantially greater or less than the stated ceiling price, the SCR will so advise the Contractor, giving the then-revised estimate of the total amount of effort to be required under the contract and the ceiling amount shall be revised accordingly. (5) Limitation of Obligation. Sandia shall not be obligated to pay the Contractor any amount in excess of the ceiling price set forth in Section I and the Contractor shall not be obligated to continue performance if to do so would exceed the ceiling price set forth in Section I, unless and until the SCR shall have notified the Contractor in writing that such ceiling price has been increased and shall have specified in such notice a revised ceiling which shall thereupon constitute the ceiling price for performance under this Contract. When and to the extent that the ceiling price set forth in Section I has been increased, any hours expended and material costs incurred by the Contractor in excess of the ceiling price prior to the increase shall be allowable to the same extent as if such hours expended and material costs had been incurred after such increase in the ceiling price. (6) Reports. The Contractor shall furnish such progress reports and schedules, and such other reports concerning the work under this contract as the SCR may from time to time require. (7) Sandia may take Contract or invoice prompt payment discount. (8) Discount time will be computed from the date correct invoice or voucher is received in the office specified in the contract, or date of completion of work under this Contract, whichever is later. Payment is deemed to be made, for the purpose of earning the discount, on the date of mailing of Sandia's check. (9) Travel and Other Direct Costs. The Contractor shall be paid net invoice cost or charge for travel and other direct cost as provided in this contract subject to approval by the SCR of individual invoices or vouchers and pursuant to FAR Part 31 as supplemented by DEAR Part 931 in effect on the date of this Contract. (10). At anytime or times, as deemed necessary by the SCR, but not later than three years after final payment under this contract, Sandia may validate the invoices or vouchers billed for labor, material travel and any other charges identified in the allowable

charges clause of Section I of the contract. Each payment theretofore made shall be subject to reduction to the of amounts which are found by Sandia not to have been properly payable, and shall also be subject to reduction for overpayments, or to increase for underpayments, on preceding invoices or vouchers. Prior to final payment under this contract, the Contractor shall execute and deliver to Sandia a release in form and substance satisfactory to the SCR, discharging Sandia and the Government, their officers, agents, and employees from all liabilities, obligations, and claims arising out of or under this contract, other than claims in stated amounts as may be specifically excepted by the Contractor from the operation of the release.

CS12 - PERFORMANCE EVALUATION PROGRAM In keeping with SNL's goals of continuous improvement, and promoting and creating an environment for superior Contractor performance, SNL has established a collaborative feedback process through the Performance Evaluation Program. This program is intended to create an environment, which fosters dialog, provides feedback, and improves communication. Any Contract awarded by SNL is a candidate for evaluation under this program

CS13 - RECYCLED AND/OR NEW MATERIALS Unless otherwise specified in this Contract, all Items delivered shall consist of recycled and/or new materials. New is defined as previously unused which may include residual inventory or unused former Government surplus property. Seller shall give preference to the use of recycled materials as set forth in DEAR 970.5204-39 ACQUISITION AND USE OF ENVIRONMENTALLY PREFERABLE PRODUCTS AND SERVICES (OCT 1995).

CS14 - RIGHTS AND INTERESTS All rights and interests resulting from this Contract shall pass directly from the Seller to the Government. FAR 52.227-17 applies to all deliverables which are copyrightable works produced as part of the performance of this Contract.

CS15 - RISK OF LOSS If Sandia is responsible for the risk of loss during transportation of compliant Items, Sandia shall compensate Seller the lesser of (1) the agreed price of such Items, or (2) the Seller's cost of replacing such Items; and such loss shall entitle the Seller to an equitable adjustment in delivery schedule obligations.

CS16 - SUBCONTRACTS If Seller subcontracts any work in the performance of this contract, Seller shall incorporate into every such contract an appropriate set of Sandia terms and conditions found at: <http://www.sandia.gov/bus-ops/scm/Contractor/Contractor-info.html> or use FAR 52.244-6 Subcontracts for Commercial Items and Commercial Components or SF 6432-CI for the purchase of Commercial Items.

CS17 - TAXES By reason of Sandia's Nontaxable Transaction Certificate, the Seller should not include in the price any state and local taxes except those which were paid by the Seller to third parties in acquiring the Items which are the subject matter of this Contract. The price does include all applicable Federal taxes.

CS18 - TRANSPORTATION If transportation is specified "FOB Origin," (a) no insurance cost shall be allowed unless authorized in writing and (b) the bill of lading shall indicate that transportation is for DOE and the actual total transportation charges paid to the carrier(s) shall be reimbursed by the Government pursuant to Contract No. DE-ACO4-94-AL85000. Confirmation will be made by Sandia National Laboratories.

CS19 - WARRANTY Seller expressly warrants that no counterfeit Items or components in Items shall be delivered to Sandia on this Contract. Seller expressly warrants that all Items provided under this Contract shall have a rightful transfer of good title thereto and are delivered free of any rightful claims of any third person by way of infringement of any intellectual property right. The warranty shall begin upon receipt of conforming Items and extend for a period of (1) the manufacturer's warranty period or six months, whichever is longer, if the Seller is not the manufacturer and has not modified the Item or (2) one year or the manufacturer's warranty period, whichever is longer, if the Seller is the manufacturer of the Item or had modified it. If any nonconformity with Item appears within that time, Seller shall promptly repair, replace, or reperform such Items at Seller's election. Transportation of replacement Items and return of nonconforming Items and repeat performance of services shall be at Seller's expense. Sandia shall notify Seller of such nonconformity within a reasonable time after discovery, and Seller shall notify Sandia of whether it chooses to make repairs or replacements within three working days after Sandia's notice of nonconformity. If repair or replacement or reperformance of services is not timely, Sandia may elect to return the nonconforming Items or repair or replace them or re-procure the services at Seller's expense.

CS20 - ADDITIONAL TERMS AND CONDITIONS This Contract incorporates by reference with the same force and effect as if they were given in full text, the following cited Federal Acquisition Regulation (FAR) clauses and Department of Energy Acquisition Regulation (DEAR) clauses. The full text of these clauses may be found at Title 48 of the Code of Federal Regulations (CFR). Where the FAR/DEAR clauses refer to Government and Contracting Officer, substitute Sandia and Sandia Contracting Representative (SCR). Upon request the SCR will make the full text available.

CS21 - APPLY TO CONTRACTS AT ANY VALUE

FAR 52.222-26 Equal Opportunity (E.O. 11246) FAR 52.244-6 Subcontracts for Commercial Items and Commercial Components.

CS22- APPLY TO CONTRACTS EXCEEDING \$2500

FAR 52.222-41 Service Contract Act of 1965 as Amended unless an exemption set forth at 29 CFR 4.123 applies.

CS23 - APPLY TO ALL CONTRACTS EXCEEDING \$10,000

FAR 52.222-35 Affirmative Action for Special Disabled and Vietnam Era Veterans (38 U.S.C. 2012(a), FAR 52.222-36 Affirmative Action for Workers with Disabilities (29 U.S.C. 793).

CS24 – APPLY TO ALL CONTRACTS THAT MAY INVOLVE ACCESS TO CLASSIFIED INFORMATION

DEAR 952.204-2 Security

DEAR 952.204-70 Classification/Declassification

DEAR 952.204-74 Foreign Ownership, Control, or Influence over Contractor

CS25 - APPLY TO ALL WORK PERFORMED ON A GOVERNMENT SITE UNDER THIS CONTRACT

DEAR 952.223-72 Radiation Protection and Nuclear Criticality

DEAR 970.5204-2 Integration of Environment, Safety, and Health into Work planning and Execution

DEAR 970.5204-26 Nuclear Facility Safety

DEAR 970.5204-41 Preservation of Individual Occupational Radiation Exposure Records

DEAR 970.5204-58 Workplace Substance Abuse Programs at Government sites

DEAR 970.5204-59 Whistleblower Protection

CLAUSES CS26 THROUGH CS34 APPLY TO ALL WORK PERFORMED ON A GOVERNMENT SITE UNDER THIS CONTRACT

CS26 - CITIZENSHIP STATUS All personnel of the Contractor and its subcontractors who require access must be United States citizens, or foreign nationals who are legal aliens or have the required authorization to perform work in the United States and must meet rules of the site for access to the work areas in place at the time of performance of this Contract.

CS27 - CONTRACTOR OR SUBCONTRACTOR USE OF GOVERNMENT OWNED VEHICLES

The following provisions apply if work under this contract requires Contractor or subcontractor personnel to operate Government-owned vehicles either on or off Government sites. Contractor shall maintain, at Contractor's expense, during the period of performance of work under this contract, third-party vehicle liability insurance which shall cover the use of such Government-owned vehicles with limits of at least \$200,000/ \$500,000 public liability and \$20,000 property damage. Medical payments coverage, comprehensive and collision insurance, uninsured motorist, and personal injury protection will not be required under this Clause unless required by State statute. All Contractor's agents, employees and subcontractors of any tier shall obey all rules and regulations pertaining to the use of Government-owned vehicles. In the

event of a motor vehicle accident, the Contractor shall submit a completed Motor Vehicle Accident Reporting Form SF 91 to the SCR together with any additional supplemental forms required by instructions given on the GSA Form Packet 1627. A GSA Form Packet 1627 normally is located either in the headliner or glovebox of the GSA vehicle. Contractor's personnel shall assure that a GSA Form Packet 1627 is available in a GSA vehicle prior to accepting and driving a GSA vehicle.

CS28 - ES&H REQUIREMENTS (a). Service Providers: Sandia-Directed work, Sandia shall provide those workers with any and all necessary safety authorization documents, personal protective equipment, industrial hygiene monitoring, medical surveillance, and radiation protection services. For Contractor employees performing Contractor-Directed work, Contractor shall provide its workers with all ES&H services, with the exception of Contractor employees performing Contractor-Directed work on Government sites for whom Sandia shall provide radiation dosimetry services and survey of record, as appropriate.

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

CS29 - HAZARDOUS MATERIALS (a). Handling Requirements: For contracts that require the performance of work on Government sites, the Contractor shall coordinate with the SDR all activities associated with the acquisition (including reporting hazardous materials used on Government sites), handling, storage, accidental spills, and/or disposal of hazardous materials and/or waste. The Contractor shall notify the SDR of all hazardous and/or radioactive waste generated during performance of work. Such materials become Sandia-owned waste and the Contractor shall notify the SDR for proper disposal by Sandia. Contractor's assistance in disposal may be required by Sandia.

(b). Removal Requirements: Those hazardous materials brought onto Sandia-controlled premises by the Contractor which are job-related consumables and have not been removed from their original packaging and which have not been purchased by Sandia, shall remain the property of the Contractor and shall be

removed from Sandia after completion of the work. Hazardous materials in the original, labeled container are not hazardous waste if the material is usable and the full or partially full container is intact and properly closed. Those scrap items which are not hazardous and which have not become hazardous through comingling with hazardous items are owned by the Contractor and shall also be removed.

CS30 - PROTECTION OF GOVERNMENT PROPERTY All Sandia National Laboratories information, information technologies and information systems are United States Government Property. Please read the notice at:

<http://www.sandia.gov/bus-ops/scm/Contractor/Contractor-info.html> All facilities, personal property, existing vegetation, structures, equipment, utilities, improvements, materials and work at Sandia National Laboratories are United States Government Property. Acts of theft, improper use and/or unlawful destruction of United States Government Property are punishable under one or more Federal Criminal Laws.

CS31 - REQUIREMENTS FOR ACCESS (a).Government Sites: Permission to enter Government sites shall at all times be subject to all laws, regulations, and site access rules for the site (including but not limited to all ES&H and Security requirements). The Government requirements include but are not limited to, all of the requirements set forth in this section for any work to be performed on a Government site. To obtain access to such premises, the Contractor shall write a letter to the SDR or the SCR stating the company designation to be used by the Contractor and each subcontractor and furnishing the following information on each individual requiring access to such premises: name, date of birth, and citizenship status, completed ES&H training requirements set forth in the SOW. Access will be granted for the period of performance of the work only. Contractor shall withdraw and replace any individual, including any subcontractor employee, assigned to perform work under this contract, who in the judgment of Sandia or DOE, is to be denied access to any Government site. Contractor shall submit to the SDR or the SCR proposed working schedules for its personnel and the personnel of each of its subcontractors. The schedules will show proposed daily working hours and proposed work weeks. Schedules that deviate from Sandia's normal work day or work week must be approved by the responsible SDR. In the absence of a written authorization from the SCR or DOE, use of Government sites by the Contractor and its subcontractors of any tier, pursuant to access granted under this Clause, shall be limited to work required by this contract to be performed on such premises. **THE USE OF THE ACCESS PRIVILEGE FOR ANY PURPOSE OTHER THAN TO PERFORM WORK UNDER THIS CONTRACT IS PROHIBITED AND MAY BE GROUNDS FOR TERMINATING THIS CONTRACT DEFAULT OR FOR FINDING THAT AN INDIVIDUAL IS UNACCEPTABLE FOR FUTURE ACCESS.**

(b) Sandia Sites The organizations listed below are responsible for coordinating and administering the provisions of visitor access and control for the sites as listed. Sandia National Laboratories, Albuquerque, New Mexico - Visitor Access

and Administration Section, Sandia Corporation, Building 801. Sandia National Laboratories, Livermore, California - Visitor Control and Administration Section, Sandia Corporation, Building 911. Tonopah Test Range, Tonopah, Nevada - Office of the Tonopah Test Range Manager.

CS32 - TERMINATION OR REASSIGNMENT OF PERSONNEL The Contractor shall (i) notify immediately the SCR and the Sandia Access Control and Administration Division at Albuquerque (Sandia Physical Security Division at Livermore; Tonopah Test Range Manager at Tonopah) if any Contractor employees assigned to work under this contract are terminated for any reason or are assigned to other Contractor non-Sandia work and will not work under this contract in the future, and (ii) ensure that any Contractor employees identified under this paragraph surrender to the Sandia Access Control and Administration Division (Sandia Physical Security Division at Livermore; Tonopah Test Range Manager at Tonopah) any Sandia badge, Kirtland Air Force Base decals or other access documents within five days of termination or reassignment.

CS33 - VEHICLE INSURANCE All vehicles, owned or operated by the Contractor, subcontractors or their agents and employees, having access to Government sites shall be covered by at least \$200,000/\$500,000 public liability and \$20,000 property damage insurance.

CS34 - VEHICLE MARKINGS All vehicles used by either the Contractor or its subcontractors shall be marked clearly to indicate company name of user. Vehicles which do not bear permanent markings may be temporarily marked as follows:(1) Signs, no longer than the vehicle door is wide, with a white or lighter background, showing the Contractor's name in one inch high, or larger, dark colored letters, may be made from sheet metal, cardboard or other suitable material and temporarily attached to the vehicle's front door panels so that the signs appear in the approximate center of each door panel. Words such as "Company," "Corporation" or "Division" may be abbreviated.(2) No signs shall be attached to the vehicle's glass area for safety reasons.

NOTE: Although some of the FAR and DEAR clauses listed above have been deleted or the numbering has changed they are required by Sandia's prime contract with the department of energy. These clauses may be accessed in full text at Sandia's website located at <http://www.sandia.gov/bus-ops/scm/Contractor/Contractor-info.html>