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SECTION B: SUPPLIES OR SERVICES AND PRICES/COSTS

B-1 SERVICES BEING ACQUIRED

CLIN 0001 MANAGEMENT AND OPERATION OF THE SANDIA NATIONAL LABORATORIES

In accordance with the terms and conditions of this Contract, the Contractor shall provide the personnel, equipment, materials, supplies, and services (except as may be furnished by the Government) and otherwise do all things necessary for, or incidental to, the efficient, effective, and safe management and operation of the Sandia National Laboratories (SNL) in Albuquerque, New Mexico (NM) and at all satellite facilities as provided in the Statement of Work. This CLIN includes construction projects other than Capital Construction Projects as defined in this Contract.

CLIN 0001A TRANSITION TERM

The Transition Term will be four months, on a cost reimbursement (no fee) basis, with an estimated cost of \$15,548,428.

CLIN 0001B BASE TERM

The Base Term is five years of performance on a cost-plus-fixed-fee and award fee basis.

CLIN 0001C OPTION TERM 1

Option Term 1 is one year of performance on a cost-plus-fixed-fee and award fee basis.

CLIN 0001D OPTION TERM 2

Option Term 2 is one year of performance on a cost-plus-fixed-fee and award fee basis.

CLIN 0001E OPTION TERM 3

Option Term 3 is one year of performance on a cost-plus-fixed-fee and award fee basis.

CLIN 0001F OPTION TERM 4

Option Term 4 is one year of performance on a cost-plus-fixed-fee and award fee basis.

CLIN 0001G OPTION TERM 5

Option Term 5 is one year of performance on a cost-plus-fixed-fee and award fee basis.

CLIN 0002 STRATEGIC PARTNERSHIP PROJECTS

The Contractor shall, in accordance with Section J, Appendix A, Chapter II Work Scope Structure, paragraph 1.8 Strategic Partnership Projects (SPP) (formerly known as Work for Others (WFO) Program), and all other the terms and conditions of this Contract, provide the personnel, equipment, materials, supplies, and services, (except as may be furnished by the Government) and otherwise do all things necessary for, or incident to, the effective, efficient, and safe performance all SPP efforts as directed by the Contracting Officer.

CLIN 0002A BASE TERM

The Base Term is five years of performance on a cost-plus-fixed-fee basis.

CLIN 0002B OPTION TERM 1

Option Term 1 is one year of performance on a cost-plus-fixed-fee basis.

CLIN 0002C OPTION TERM 2

Option Term 2 is one year of performance on a cost-plus-fixed-fee basis.

CLIN 0002D OPTION TERM 3

Option Term 3 is one year of performance on a cost-plus-fixed-fee basis.

CLIN 0002E OPTION TERM 4

Option Term 4 is one year of performance on a cost-plus-fixed-fee basis.

CLIN 0002F OPTION TERM 5

Option Term 5 is one year of performance on a cost-plus-fixed-fee basis.

CLIN 0003 CAPITAL CONSTRUCTION PROJECTS

The Contractor shall provide the personnel, equipment, materials, supplies, and services (except as may be furnished by the Government) and otherwise do all things necessary for, or incidental to, the efficient, effective, and safe management and/or performance of Capital Construction Projects (defined in Clause H-20 of this contract) as the Parties may agree. Each mutually-agreed-upon Capital Construction Project shall be identified hereunder as a Sub-CLIN to CLIN 0003 via bilateral contract modification. Price and price structure (such as Firm Fixed Price, Cost-Plus-Incentive-Fee, or other price structures as agreed) and any applicable special terms and conditions shall be identified for each Capital Construction Project covered by CLIN 0003.

B-2 CONTRACT TYPE AND VALUE (MODIFIED 0008, 0023, 0026)

- (a) This is a performance-based, Management and Operating (M&O) Contract with cost-plus-fixed-fee and cost-plus-award fee provisions.
- (b) The estimated cost, fixed fee (FF), award fee (AF), and Total fee earned for CLIN 0001 (DOE/NNSA work) is set forth in Table 1 below:

Table 1 -- CLIN 0001 -- Management and Operation of SNL

	Estimated Cost	Fixed Fee	Award Fee	Total Available Fee	Total Fee Earned
Base Terms (Year 1-5)					
May 2017 - Sept 2018		\$ 20,738,750.00	\$ 8,299,166.67	\$ 29,037,916.67	
FY2019		\$ 15,001,250.00	\$ 6,003,333.33	\$ 21,004,583.33	
FY2020		\$ 15,331,583.33	\$ 6,134,250.00	\$ 21,465,833.33	
FY2021		\$ 15,669,083.33	\$ 6,268,833.33	\$ 21,937,916.67	
October 2021 - April 2022		\$ 9,256,333.33	\$ 3,702,416.67	\$ 12,958,750.00	
Option Terms (Year 1-5)					
May 2022 – Sept 2022		\$ 6,757,083.33	\$ 2,703,333.33	\$ 9,460,416.67	
FY2023		\$ 16,365,750.00	\$ 6,547,583.33	\$ 22,913,333.33	
FY2024		\$ 16,726,083.33	\$ 6,691,416.67	\$ 23,417,500.00	
FY2025		\$ 17,094,416.67	\$ 6,839,333.33	\$ 23,933,750.00	
FY2026		\$ 17,470,333.33	\$ 6,990,500.00	\$ 24,460,833.33	
October 2026 – April 2027		\$ 10,320,333.33	\$ 4,128,833.33	\$ 14,449,166.67	

[Table 1 DOE/NNSA Estimated Cost to be completed by the Contracting Officer annually based on the enacted budget for the fiscal year. The Fee amounts to be completed by the Contracting Officer at the effective date of the Contract utilizing the fees determined at Contract award]

Note: Total Fee Earned will be filled in by the issuance of a unilateral modification to the Contract.

- (c) The estimated cost and fixed fee for CLIN 0002 (Strategic Partnership Projects -- Section J, Appendix A, Chapter II Work Scope Structure, paragraph 1.8) are set forth in Table 2 below. The estimated cost and the fixed fee for the Strategic Partnership Projects during the Base Term of the Contract and for each Option Term will be established by the DOE/NNSA prior to the commencement of the applicable fiscal year and will be incorporated into the Table below through a modification to this clause. The FF rate for SPP will not exceed 0.9% of the estimated cost of all projects anticipated for the applicable fiscal year.

Table 2 CLIN 0002 -- Strategic Partnership Projects (MODIFIED 0008)

Contract Period	Estimated Cost	Fixed Fee	Estimated Cost + Fixed Fee
Base Term 05/01/2017 – 9/30/2017	\$437,377,148	\$3,936,394	\$441,313,542
Base Term 10/01/2017 – 9/30/2018	\$1,048,090,188	\$9,432,812	\$1,057,523,000
Base Term 10/01/2018 – 9/30/2019	\$TBD	\$TBD	\$TBD
Base Term 10/01/2019 – 9/30/2020	\$TBD	\$TBD	\$TBD
Base Term 10/01/2020 – 9/30/2021	\$TBD	\$TBD	\$TBD
Base Term 10/01/2021 – 4/30/2022	\$TBD	\$TBD	\$TBD
Option Term 1 (if exercised)	\$TBD	\$TBD	\$TBD
Option Term 2 (if exercised)	\$TBD	\$TBD	\$TBD
Option Term 3 (if exercised)	\$TBD	\$TBD	\$TBD
Option Term 4 (if exercised)	\$TBD	\$TBD	\$TBD
Option Term 5 (if exercised)	\$TBD	\$TBD	\$TBD

[Table 2 Estimated Cost to be completed by the Contracting Officer annually based on the estimated level of SPP projects for the year. The Fixed Fee amount to be completed by the Contracting Officer at the effective date of the Contract utilizing the fees determined at Contract award]

- (d) The total estimated cost for the Transition Term (CLIN 0001A), the estimated cost and fixed fee for Base Term (CLINs 0001B and 0002A), including DOE/NNSA and Strategic Partnership Projects is \$TBD.
- (e) The FF and AF for CLIN 0001, and the FF rate for CLIN 0002 will not be negotiated on an annual basis and are established at Contract award.

B-3 CONTRACT FEE STRUCTURES

CLIN 0001:

- (a) Fixed Fee (FF)

The estimated cost and FF for the Base Term of the Contract and for each Option Term, if exercised by DOE/NNSA are shown in paragraph B-2 (b) *Contract Type and Value*, Table 1.

All proposed team members must share the fee pool, whether they are subcontractors or members of a joint-venture, and no separate fee or profit will be paid on subcontracts with team members. The fee restriction above does not apply to members of the Contractor's team that are: (1) small business (es); (2) Protégé firms as part of an approved Mentor-Protégé relationship under the Section I Clause entitled, Mentor-Protégé Program; (3) a competitively awarded firm-fixed price or firm-fixed unit price subcontract; or (4) competitively awarded subcontracts for commercial items as defined in FAR Subpart 2.1.

(b) Award Fee (AF)

The available AF for each performance period of the Base Term and each Option Term, if exercised by DOE/NNSA, are shown in the tables in paragraph B-2 (b), *Contract Type and Value*. The Contractor shall be eligible to earn AF fee of up to the amount specified for each performance period of the Base Term (CLIN 0001B), based on its performance under the criteria established in paragraph B-7 Leadership Performance Evaluation. The AF decision is a unilateral decision of the Fee Determining Official (FDO) based on the Contractor's performance rating under this Contract, and the terms and conditions of the Contract. The AF earned is payable in accordance with the contract clause DEAR 970.5232-2, *Payments and Advances* (DEC 2000) ALTERNATE II (DEC 2000) ALTERNATE III (DEC 2000) (NNSA CLASS DEVIATION OCT 2011).

CLIN 0002:

(c) Strategic Partnership Projects – Fixed Fee (FF)

The FF for SPP for the Base Term and each Option, if exercised by DOE/NNSA, are shown in paragraph B-2 (c), *Contract Type and Value*, Table 2.

(d) Payment of Fixed Fee

(1) The FF for the Base Term of the Contract (and option periods to the extent exercised) shall be paid monthly at the rate of one-twelfth (1/12) of the annual FF per month. Such payment amounts are to be drawn down by the Contractor from the Contract's special financial institution account in monthly installments on the last day of each month.

(2) The Contractor is not authorized to draw down the AF prior to final fee determination and authorization by the Contracting Officer.

(e) Unearned Fee

NNSA HQ will determine how unearned fee is reinvested in the Nuclear Security Enterprise (NSE). Unearned AF in a performance period will not be available for application to any future performance periods.

- (f) The Parties agree that a change made pursuant to the Changes clause of this Contract, DEAR 970.5243-1, or pursuant to any other clause of this Contract granting the Government the right to make unilateral changes to the Contract, shall not be considered a material change, and shall not warrant an equitable adjustment to fee (either FF, AF, or any fee established under any CLIN, including CLIN 0003), unless, at a minimum, it results in an increase or decrease of more than ten percent (10%) to the estimated costs stated in Tables 1 and 2 of this Clause, B-2, or as stated elsewhere in this Contract for CLIN 0003. However, this alone shall not be determinative of whether or not the change is a material change or otherwise warrants an equitable adjustment, and the Contracting Officer shall also consider other factors, including but not limited to, the degree of the change in the level and type of effort or work, and the degree of the change in the level of risk assumed by the contractor

B-4 KEY PERSONNEL REPLACEMENT

Unless approved in advance, in writing, by the Contracting Officer, should any Key Personnel be removed, replaced, or diverted by the Contractor for reasons under the Contractor's control (other than to maintain satisfactory standards of employee competency, conduct and integrity under the Contract's Section I clause entitled "DEAR 970.5203-3, *Contractor's Organization* (DEC 2000)", beginning on the effective date of the Contract through the first two years of the Base Term of the contract, or for a replacement Key Person within two years of being placed in the position, the Contractor shall forfeit two years of the DOE/NNSA reimbursable annual salary, bonuses and relocation costs as well as associated burdens, for that position for each occurrence.

B-5 OBLIGATION OF FUNDS (MODIFIED 0031)

Pursuant to this Section I clause entitled "DEAR 970.5232-4, *Obligation of Funds*, (DEC 2000)" the total amount obligated by the Government with respect to this Contract is **\$3,577,208,893.44**.

B-6 AVAILABILITY OF APPROPRIATED FUNDS

Except as may be specifically provided to the contrary to Section I clause DEAR 952.250-70, *Nuclear Hazards Indemnity Agreement*, the duties and obligations of the Government hereunder calling for the expenditure of appropriated funds shall be subject to the availability of funds appropriated by the Congress, which DOE/NNSA may legally utilize for such purposes.

B-7 LEADERSHIP PERFORMANCE EVALUATION

The Contractor's Leadership performance will be measured against how the Contractor has strategically partnered with DOE/NNSA and demonstrated leadership success in achieving positive results. This may be evidenced by:

- (a) Achieving site mission deliverables while supporting and enabling the overall DOE/NNSA mission,
- (b) Improving safety culture,
- (c) Maintaining critical skills and infrastructure,
- (d) Advancing Science, Technology & Engineering (ST&E), including Laboratory Directed Research and Development (LDRD) and Tech Transfer,
- (e) Operating the Laboratories effectively, efficiently, safely, and securely to meet current mission requirements and to accomplish additional Strategic Investments that enhance or develop new capabilities, address long-standing challenges, or respond to new or emerging threats,
- (f) Resolving issues and ensuring continuous improvement internally and across the DOE/NNSA while meeting Contract requirements, and
- (g) Demonstrating parent company involvement/commitment to the overall improvement of the Laboratories and the DOE.

SECTION C: DESCRIPTION/SPECIFICATIONS/STATEMENT OF WORK

C-1 STATEMENT OF WORK

The work to be performed is set forth in Section J, Appendix A, *Statement of Work*.

SECTION D: PACKAGING AND MARKING

D-1 PACKAGING AND MARKING

Packaging and marking of items to be delivered shall be in accordance with work authorization requirements or other written direction of the Contracting Officer or the Contracting Officer Representative (COR).

SECTION E: INSPECTION AND ACCEPTANCE

E-1 FAR 52.246-5 INSPECTION OF SERVICES – COST REIMBURSEMENT (APR 1984)

- (a) *Definition.* “Services,” as used in this clause, includes services performed, workmanship, and material furnished or used in performing services.
- (b) The Contractor shall provide and maintain an inspection system acceptable to the Government covering the services under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Government during contract performance and for as long afterwards as the contract requires.
- (c) The Government has the right to inspect and test all services called for by the contract, to the extent practicable at all places and times during the term of the contract. The Government shall perform inspections and tests in a manner that will not unduly delay the work.
- (d) If any of the services performed do not conform with contract requirements, the Government may require the Contractor to perform the services again in conformity with contract requirements, for no additional fee. When the defects in services cannot be corrected by reperformance, the Government may --
 - (1) Require the Contractor to take necessary action to ensure that future performance conforms to contract requirements; and
 - (2) Reduce any fee payable under the contract to reflect the reduced value of the services performed.
- (e) If the Contractor fails to promptly perform the services again or take the action necessary to ensure future performance in conformity with contract requirements, the Government may --
 - (1) By contract or otherwise, perform the services and reduce any fee payable by an amount that is equitable under the circumstances; or
 - (2) Terminate the contract for default.

E-2 INSPECTION AND ACCEPTANCE

Inspection of all activities and acceptance for all work and effort under this Contract shall be accomplished by the Contracting Officer or any other duly authorized representative. If the Government performs inspection or evaluation on the premises of the Contractor or a subcontractor, the Contractor shall furnish and shall require subcontractors to furnish all reasonable facilities and assistance for the safe and convenient performance of these duties. Only the Contracting Officer is authorized to accept work which does not comply with the Contract requirements (including requirements of Work Authorizations) or to

otherwise waive any applicable requirements. Acceptance of nonconforming work by any other individual shall not constitute acceptance on behalf of the Government.

E-3 FAR 52.246-9 INSPECTION OF RESEARCH AND DEVELOPMENT (SHORT FORM) (APR 1984)

The Government has the right to inspect and evaluate the work performed or being performed under the Contract, and the premises where the work is being performed, at all reasonable times, and in a manner that will not unduly delay or disrupt the work. If the Government performs inspection or evaluation on the premises of the Contractor or a subcontractor, the Contractor shall furnish and shall require subcontractors to furnish all reasonable facilities and assistance for the safe and convenient performance of these duties.

SECTION F: DELIVERIES OR PERFORMANCE**F-1 FAR 52.242-15 STOP-WORK ORDER (AUG 1989) ALTERNATE I (APR 1984)**

- (a) The Contracting Officer may, at any time, by written order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this contract for a period of 90 days after the order is delivered to the Contractor, and for any further period to which the parties may agree. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of 90 days after a stop-work is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the Contracting Officer shall either--
- (1) Cancel the stop-work order; or
 - (2) Terminate the work covered by the order as provided in the Termination clause of this contract.
- (b) If a stop-work order issued under this clause is canceled or the period of the order or any extension thereof expires, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule, the estimated cost, the fee, or a combination thereof, and in any other terms of the contract that may be affected, and the contract shall be modified, in writing, accordingly, if--
- (1) The stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this Contract; and
 - (2) The Contractor asserts its right to the adjustment within 30 days after the end of the period of work stoppage; provided that, if the Contracting Officer decides the facts justify the action, the Contracting Officer may receive and act upon the claim submitted at any time before final payment under this contract.
- (c) If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the Government, the Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.
- (d) If a stop-work order is not canceled and the work covered by the order is terminated for default, the Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

F-2 STOP WORK IN EVENT OF IMMINENT DANGER

The Contractor shall immediately cease any activity that is imminently dangerous to the life or health of the workers, the public, or the environment. In the event of imminent danger, any Federal or Contractor employee is authorized to instruct the Contractor to stop work. The Contracting Officer must be contacted immediately after the event such that a written stop-work order can be issued in accordance with Section F clause FAR 52.242-15, *Stop-Work Order, Alternate I*. Employees of the Contractor shall be apprised of their right to stop work pursuant to this clause. The Contractor shall include this clause in all subcontracts to be performed at the sites.

F-3 PERIOD OF PERFORMANCE

The period of performance of this Contract shall expire five years after completion of the Transition Term, unless sooner reduced, terminated or extended in accordance with this Contract. The period of performance may be extended in increments, or portions thereof, for up to an additional five years of performance. The Contract's maximum period of performance, including the Transition Term and Option Term(s), if exercised, shall not exceed 10 years and four months. The period of performance of this Contract consists of:

- (1) Transition Term: A period of four months beginning on the effective date of the Contract. During the Transition Term, the Contractor shall perform the activities and provide the documents identified in Clause F-6 entitled "Deliverables During Transition" and Section J, Appendix J – Transition Plan. The Contractor's responsibility for management and operation of the Sandia National Laboratories shall commence with the Base Term.
- (2) Base Term: A period of five years beginning after completion of the four month Transition Term.
- (3) Option Term(s): A period from one to five years beginning after completion of the Base Term, if the DOE/NNSA chooses to exercise one or more of the following options:
 - Option Term 1: If exercised, one year from the end of the Base Term.
 - Option Term 2: If exercised, one year from the end of Option Term 1.
 - Option Term 3: If exercised, one year from the end of Option Term 2.
 - Option Term 4: If exercised, one year from the end of Option Term 3.
 - Option Term 5: If exercised, one year from the end of Option Term 4.

F-4 PRINCIPAL PLACES OF PERFORMANCE

The work under this Contract is to be carried out at a variety of locations within the United States and outside of the continental U.S. The principal place of performance will

be at Albuquerque, New Mexico and Livermore, California. Work is also conducted at satellite facilities listed in the Statement of Work.

F-5 EVALUATION OF PERFORMANCE AND EXERCISE OF OPTION(S)

The decision to extend this Contract via the exercise of an option will be a unilateral decision made by NNSA. Exercise of any option shall be in accordance with Section I clause FAR 52.217-9, *Option to Extend the Term of the Contract*. At a minimum, the NNSA will consider the following in determining whether to extend the Contract:

- (1) The Contractor's overall performance, taking into consideration performance evaluations pursuant to the Contractor Performance Assessment Reporting System (CPARS);
- (2) The considerations under DEAR 970.1706-1(b) for exercising options under M&O contracts.

F-6 DELIVERABLES DURING TRANSITION

In addition to the transition deliverables identified elsewhere in this Contract, the following deliverables shall be submitted during the Transition Term:

(a) Transition Plan

The Contractor shall provide, for approval by the Contracting Officer, a Transition Plan, including a Transition Cost Estimate, 10 days after Contract award. The Transition Term is specified in paragraph F-3, *Period of Performance*. Upon written approval by the Contracting Officer, the Transition Plan, shall be incorporated into Section J, Appendix J -*Transition Plan*.

(b) Transition Cost Estimate

- (1) The Transition Cost Estimate shall include the costs associated with the Transition Plan and the costs necessary for the Contractor to meet the transition requirements during the Transition Term. A detailed schedule for accomplishment of these tasks during the Transition Term shall also be provided to support the requested cost estimate.
- (2) The Contractor shall provide a cost summary for the Transition Plan that clearly identifies, by cost element, the portion of the cost proposal that pertains to each participant (if a teaming arrangement is proposed), including subcontractors. In addition, each participant and each subcontractor must provide separate exhibits, summary schedules, and supporting cost information in the same format and level of detail as required below. A transition fee is not allowable.
 - (i) Labor: Identify proposed transition labor hours and unburdened labor rates by labor category and or/specific individual, including

Key Personnel. Explain the basis for the proposed labor hour and labor rate estimates.

- (ii) Indirect Costs: Identify the cost elements included in each indirect rate cost pool and allocation base. Explain the basis of estimate for each indirect cost rate proposed and the methods used to derive the proposed rates.

(c) Conflict of Interest Compliance and Management Plan

The Contractor shall submit a Conflict of Interest Compliance and Management Plan (Plan) to the Contracting Officer for approval within 60 days after the effective date of this Contract. The Plan shall address the Contractor's approach for adhering to Section I clause DEAR 952.209-72, *Organizational Conflicts of Interest* (AUG 2009), Alternate I, and describe its procedures for aggressively self-identifying and resolving both organizational and employee conflicts of interest. The overall purpose of the Plan is to demonstrate how the Contractor will assure that its operations meet the highest standards of ethical conduct, and how its assistance and advice are impartial and objective.

SECTION G: CONTRACT ADMINISTRATION DATA

G-1 GOVERNMENT CONTACTS

- (a) The NNSA Manager, Sandia Field Office (SFO) is the Contractor's primary point of contact for all operational and policy matters, except as identified in (b, c, d, etc.) below, regarding performance of this contract. The SFO Administrative Contracting Officer is the Contractor's primary point of contact for all contractual matters. The SFO Manager and Administrative Contracting Officer can be reached at:

U.S. Department of Energy, National Nuclear Security Administration
Sandia Field Office
P.O. Box 5400, Mail Stop 0184
Albuquerque, NM 87185-5400

- (b) The Patent Counsel for items concerning patent, intellectual property, technology transfer, copyright, open source, licenses and technical data issues is identified below. Correspondence being sent to the NNSA Patent Counsel should be addressed to:

U.S. Department of Energy, National Nuclear Security Administration
NNSA Patent Counsel
Office of the General Counsel (NA-GC)
P.O. Box 5400
Albuquerque, NM, 87185-5400

- (c) The Contractor may use the Organizational Property Management Officer as a point of contact for guidance and assistance involving personal property requirements. The Contracting Officer shall be contacted for any matter that involves a change in any of the express terms and conditions of the Contract. Correspondence being sent to the Organizational Property Management Officer should be addressed to:

U.S. Department of Energy/National Nuclear Security Administration
Organizational Property Management Officer (OPMO)
Personal Property Albuquerque
P.O. Box 5400
Albuquerque, NM, 87185-5400

- (d) Technical and Administrative Correspondence:

Technical and administrative correspondence concerning performance of this Contract shall be addressed to the responsible NNSA SFO Contracting Officer Representative (COR), with an information copy to the Contracting Officer.

(e) Designation of Contracting Officer Representative(s)

The COR's official delegation of authority will be provided by the Contracting Officer to the Contractor. This delegation will describe the COR's authorities in detail. However, it is emphasized that only the Contracting Officer has the authority to modify the terms of this Contract, therefore, in no event will any understanding, agreement, modification, change order, or other matter deviating from the terms of the basic Contract between the Contractor and any other person be effective or binding on the Government. When/If, in the opinion of the Contractor, an effort outside the existing scope of this Contract is requested, the Contractor shall promptly notify the Contracting Officer in writing, before proceeding with the COR direction. No action shall be taken by the Contractor unless the Contracting Officer has issued a formal contractual change.

If an effort under this Contract requires that an Alternate COR perform duties in the absence of the responsible COR, all responsibilities and functions assigned to the COR shall be the responsibility of the Alternate COR acting on behalf of the COR.

(f) Contractual Correspondence/Matters

Correspondence involving contractual matters shall be addressed to the Administrative Contracting Officer (ACO), who is also primarily responsible for all contractual actions required to be taken by the Government under the terms of this Contract. The ACO may be contacted at

Contracting Officer
U.S. Department of Energy/NNSA
Sandia Field Office
P.O. Box 5400, Mail Stop 0184
Albuquerque, NM 87185-5400

(g) Marking

To promote timely and effective administration, correspondence submitted under this Contract shall contain a subject line commencing with the Contract number, as illustrated:

SUBJECT: Contract Number DE-NA0003525, (insert topic of correspondence after Contract Number)

G-2 MODIFICATION AUTHORITY

Notwithstanding any of the other clauses of this Contract, a Contracting Officer is the only individual authorized, on behalf of the Government, to:

- (a) Accept nonconforming work;

- (b) Waive any requirement of this Contract; or
- (c) Modify any term or condition of this Contract.

G-3 CONTRACTOR CONTACT (MODIFIED 0026)

The Contractor shall identify to the Contracting Officer the point of contact who has the authority and is responsible for managing, administering, and negotiating changes to the terms and conditions of this Contract as well as executing contract modifications on behalf of the Contractor.

Name: James Eanes
Position: Senior Manager, Prime Contract and Export Control
Company: National Technology & Engineering Solutions of Sandia (NTESS)
Address: PO Box 5800, MS 0180
Albuquerque, NM 87185
Phone: (505) 844-4412
E-mail: jleanes@sandia.gov

G-4 PERFORMANCE GUARANTEE(S)

If the Contractor has organized a separate legal entity to perform the work under this Contract, the Contractor's parent organization(s) or all member organizations, if the Contractor is a joint venture, limited liability company, or other similar entity, where more than one company is involved in a business relationship created for the purpose of performing under this contract, shall guarantee performance as evidenced by the Performance Guarantee Agreement(s) incorporated in Section J, Appendix I, Performance Guarantee Agreement(s)(subcontractors are not be required to provide a performance guarantee). If the Contractor is a joint venture, limited liability company, or other similar entity, where more than one company is involved, the parent or all member organizations shall assume joint and severable liability for the performance of the Contract. In the event any of the signatories to the Performance Guarantee Agreement(s) enters into proceedings related to bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish written notification of the bankruptcy to the Contracting Officer.

G-5 RECOGNITION OF PERFORMING ENTITY

- (a) The Contractor and the Government recognize that the parties named below form the performing entity on which the award of this Contract was based.

The performing entity is National Technology & Engineering Solutions of Sandia, LLC (NTESS). This entity is a wholly-owned subsidiary of Honeywell International, Inc.

- (b) Accordingly, the Contractor and the Government agree that the Contractor shall take no action to replace the components of the entity named in paragraph (a) of this clause without the prior written approval of the Contracting Officer.

G-6 RESPONSIBLE CORPORATE OFFICIAL (MODIFIED 0026)

Notwithstanding G-4, Performance Guarantee(s), the Government may contact, as necessary, the single responsible Corporate Official identified below, who is at a level above the senior Contractor official on-site and who is accountable for the performance of the Contractor. Should the responsible Corporate Official change during the period of the Contract, the Contractor shall promptly notify the Government of the change in the individual to contact.

Name: Mike Madsen

Position: Vice-President, Integrated Supply Chain and Chair, National Technology & Engineering Solutions of Sandia, LLC Board of Managers

Company: Honeywell Aerospace

Address: 1944 E. Sky Harbor Circle N, Mail stop 2102-4 (Executive Suite)

Phoenix, AZ 85034

Phone: (602) 365-1330

E-mail: Michael.Madsen@Honeywell.com

G-7 INVOICING FOR TRANSITION COSTS

- (a) The Contractor shall submit vouchers electronically through the Oak Ridge Financial Service Center's (ORFSC) Vendor Inquiry Payment Electronic Reporting System (VIPERS) for reimbursement for work performed under CLIN 0001A, Contract Transition Term. VIPERS allows vendors to check the payment status of any voucher submitted to the DOE. To obtain access to and use VIPERS, please visit the web page at <https://vipers.doe.gov/>. The Contractor shall contact the Contracting Officer if the Contractor is unable to submit invoices electronically.
- (b) The Contractor shall invoice for work performed in accordance with FAR 52.216-7 and as directed by the Contracting Officer following the procedures at paragraph (a) of this clause. All works completed during transition shall be billed within 60 days after the end of transition period.

SECTION H: SPECIAL CONTRACT REQUIREMENTS**H-1 CONTINUATION OF PREDECESSOR CONTRACTOR'S OBLIGATIONS AND TRANSFER OF OBLIGATIONS TO SUCCESSOR CONTRACTOR**

(a) Existing contractual agreements and regulatory obligations entered into under Contract DE-AC04-94AL85000 will continue during performance of this contract. The Contractor shall assume all existing contractual, commercial, regulatory, and other similar obligations incurred under the predecessor Contract, and shall be fully responsible and accountable under this Contract for the performance of such obligations. Examples of existing obligations include, but are not limited to:

- (1) Subcontracts and purchase orders;
- (2) Agreements and memoranda of understanding with research organization, universities, and colleges;
- (3) Strategic Partnership Project Agreements;
- (4) Collection of unpaid accounts receivables';
- (5) Real Property Leases, Land Use Permits, and the Kirtland Air Force Base Support Agreement;
- (6) Environmental and other permits and licenses;
- (7) Mutual Aid and emergency response agreements;
- (8) Ongoing litigation and claims by or against the predecessor contractor; and,
- (9) Other similar agreements.

(b) Additionally, unless otherwise stated in this Contract, management systems, plans, permits, procedures, and other agreements that exist on the effective date of the Contract will continue until the Contractor addresses the applicable requirements contained in this Contract. For changes that require NNSA approval, the Contractor shall not implement a change until it is formally approved by the Contracting Officer.

(c) The Contractor agrees that all obligations entered into under this Contract shall be transferrable and assignable to the successor contractor as directed by the Contracting Officer. If, at the completion or termination of this Contract, the Contracting Officer does not direct the Contractor to transfer or assign such obligations to the successor contractor, the Contractor shall be liable, responsible, and accountable for closing out and liquidating such obligations, or for taking such other action as the Contracting Officer may direct. The Contractor shall remain liable and responsible for any unallowable costs which it incurred, or caused to be incurred, in performance of this contract, regardless of whether they arise out of, or relate to, any obligations transferred or assigned to the successor contractor or to another entity.

H-2 SMALL BUSINESS PARTICIPATION

(a) The Small Business Subcontracting Plan is incorporated in Section J, Appendix E. The Contractor shall submit annual subcontracting goals 60 days prior to the beginning of each fiscal year during the term of this Contract, or by such other date as authorized in writing by the Contracting Officer.

(b) Implementation of FAR 52.219-10: Determinations made under paragraph (b) of clause entitled "Incentive Subcontracting Program" are unilateral decisions made solely at the discretion of the Government. During performance of this contract the Contracting Officer makes the determination of the appropriate percentage and category for incentives. The Contracting Officer can limit the percentage to a specific year(s).

H-3 REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS OF OFFEROR

The Representations, Certifications, and Other Statements of Offeror completed by the Contractor and dated July 13, 2016, are hereby incorporated in this Contract by reference.

H-4 ORGANIZATIONAL CONFLICT OF INTEREST (OCI) – SPECIAL PROVISION (MODIFIED 0008)

The Contractor and the Contractor's parent(s) and affiliate(s), if any, shall comply with the provisions of the approved SNL OCI Management Plan in the performance of the Contract and any deviations or amendments to the Plan shall require the express written approval, in advance, from the Contracting Officer. The Contractor shall submit to the Contracting Officer annual Organizational Conflict of Interest (OCI) Disclosure Update Statements beginning the first week in December of each year after Contract award. Notwithstanding the annual disclosure requirement, any change in relevant facts since the last OCI Disclosure Update Statement shall be disclosed to the Contracting Officer pursuant to Section I clause DEAR 952.209-72, *Organizational Conflicts of Interest, Alternate I*, paragraph (c)(1), *Disclosure After Award*. Initial notification to the Contracting Officer shall be accomplished as soon as the facts are known with a full disclosure within 60 days of the initial notification, unless otherwise directed by the Contracting Officer.

H-5 LOBBYING RESTRICTION

The Contractor agrees that none of the funds obligated on this award shall be expended, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. § 1913. This restriction is in addition to those prescribed elsewhere in statute and regulation.

H-6 FLOWDOWN OF RIGHTS TO PROPOSAL DATA

The Contractor shall include the clause of 48 CFR 52.227-23 "Rights of Proposal Data (Technical)" in any subcontract awarded based on consideration of a technical proposal.

H-7 PRIVACY RECORDS

The Contractor shall design, develop, or operate the following systems of records on individuals to accomplish an agency function pursuant to the Contract's "Privacy Act" clause to include:

<u>DOE System No.</u>	<u>Title</u>
DOE-31	Firearms Qualification Records
DOE-45	Weapon Data Access Control System
DOE-48	Security Education and/or Infraction Reports
DOE-52	Alien Visits and Participation

H-8 SANDIA NATIONAL LABORATORIES MANAGEMENT SYSTEM (SEP 2015)

- (a) The Contractor shall maintain registration of its management system to a national or international consensus standard such as ISO 9001. The management system description shall be approved and monitored by the Contractor's Board of Directors. This management system will provide transparency to enable the Government to monitor the Contractor's performance. The Contractor shall notify the Contracting Officer of significant changes to the management system. An effectively working management system will provide the government the opportunity to reduce transactional performance monitoring.
- (b) The Contractor's management system shall have the following key attributes:
- (1) Description of the management system to include vision, mission, management structure, key activities, management entity accountabilities and commitment to operational and business excellence.
 - (2) Electronic access to the management system information by government personnel with performance monitoring responsibilities.
- (c) The Contractor's management system shall include the application of quality principles and defect prevention methods to plan the work, execute the work according to the plan, check the work against requirements, policies, and objectives, and report the results. The results shall be acted upon to continually improve the performance and quality of the work. The Contractor's management system shall have the following minimum attributes:
- (1) A risk management process.
 - (2) Performance monitoring including metrics and associated performance targets.
 - (3) Rigorous, risk-based, credible assessments (including self-assessments and internal independent assessments). The Contractor is encouraged to seek external audits, peer reviews, assessments and risk and vulnerability studies from nationally recognized experts to assess and improve its work processes.
 - (4) Identification and correction of negative performance/compliance trends before they become significant issues.
 - (5) Maintain ISO 14004 for Environmental Management System (EMS) registration and pursue other registrations/certification as appropriate.

- (6) Incident/event reporting including accident investigations.
 - (7) Issues management (including graded analysis of causes, identification of corrective actions, corrective action tracking, monitoring and closure, validation of effectiveness, and trend analysis).
 - (8) Feedback (customer and worker), lessons learned, and improvement activities. The Contractor will maintain an operating experience/lessons learned program that develops and evaluates site-specific lessons learned across all aspects of operations with a focus on preventing recurrence of problems.
- (d) The Contractor will benchmark, share and incorporate good work practices locally and among DOE sites through the DOE Lessons Learned Database. The Contractor will also provide feedback through the Sandia Field Office to the issuing authority for DOE Corporate Operating Experience Documents (i.e., Special Operations Reports (SORs), Safety Alerts (SAs), and Safety Bulletins (SBs)) when specific implementation of lessons learned or corrective actions with a formal response are required.
- (e) If the Contracting Officer determines that the Contractor is not fully complying with applicable laws or regulations, or that performance has degraded and that the Contractor is not taking appropriate and timely corrective action, the Contracting Officer may take any action deemed necessary and reasonable under the Contract to include increasing performance monitoring of the Contractor.
- (f) NNSA will revise its performance monitoring in accordance with the Contract Clause entitled “NNSA Oversight” when the Contractor has demonstrated to the Contracting Officer’s satisfaction that the management system or components of the system are operating effectively.
- (g) The Contractor shall develop a Contractor Assurance System that is agreed to and monitored by the Field Office and contractor personnel. The Contractor’s Assurance System, at a minimum, shall have the following key attributes:
- (1) A comprehensive description of the Contractor Assurance System with risks, key activities and accountabilities clearly identified.
 - (2) A Process for notifying the Contracting Officer of significant assurance system changes.
 - (3) Rigorous, risk based credible self-assessments, feedback and improvement activities, including utilization of nationally recognized experts, and other independent reviews to assess and improve its work process and to carry out independent risk and vulnerability studies. The Contractor is encouraged to seek third party certification (such as VPP and ISO 9001 or ISO 14001), audits, peer reviews and independent assessments with external certification or validation.
 - (4) Identification and correction of negative performance/compliance trends before they become significant issues.

- (5) A method for validating assurance processes.
- (6) Integration of the assurance system with Contractor management systems including Integrated Safety Management.
- (7) A process for defining performance metrics and performance targets to assess performance, including benchmarking of key functional areas with other NNSA/DOE contractors and industry and research institutions to enhance processes and to assure development of performance metrics and performance targets that will result in achievement of best in class/industry performance where efficient and cost effective.
- (8) Continuous feedback and performance improvement.
- (9) A process capable of identifying, prioritizing, and addressing issues that will affect mission performance.
- (10) A process for timely and appropriate communication to the Contracting Officer, including electronic access, of assurance related information.

H-9 TRANSITION

The Laboratories' management systems that exist on the date of Contract award will continue until the Contractor addresses the applicable requirements contained in the Contract. For changes that require NNSA approval, the Contractor will not implement a change until it is formally approved by the Contracting Officer.

H-10 CONFERENCE MANAGEMENT (SEP 2015)

The Contractor agrees that:

- a) The contractor shall ensure that contractor-sponsored conferences reflect the DOE/NNSA's commitment to fiscal responsibility, appropriate stewardship of taxpayer funds and support the mission of DOE/NNSA as well as other sponsors of work. In addition, the contractor will ensure conferences do not include any activities that create the appearance of taxpayer funds being used in a questionable manner.
- b) For the purposes of this clause, "conference" is defined in Attachment 2 to the Deputy Secretary's memorandum of August 17, 2015 entitled "Updated Guidance on Conference-Related Activities and Spending." A copy of the memorandum may be found at <http://energy.gov/management/downloads/policy-flash-2015-36-al-2015-09>.
- c) Contractor-sponsored conferences include those events that meet the conference definition and either or both of the following:

- 1) The contractor provides funding to plan, promote, or implement an event, except in instances where a contractor:
 - i) covers participation costs in a conference for specified individuals (e.g. students, retirees, speakers, etc.) in a total amount not to exceed \$10,000 (by individual contractor for a specific conference) or
 - ii) purchases goods or services from the conference planners (e.g., attendee registration fees, renting booth space).
- 2) The contractor authorizes use of its official seal, or other seals/logos/ trademarks to promote a conference. Exceptions include non-M&O contractors who use their seal to promote a conference that is unrelated to their DOE contract(s) (e.g., if a DOE IT contractor were to host a general conference on cyber security).
- d) Attending a conference, giving a speech or serving as an honorary chairperson does not connote sponsorship.
- e) The contractor will provide information on conferences they plan to sponsor with expected costs exceeding \$100,000 in the Department's Conference Management Tool, including:
 - 1) Conference title, description, and date
 - 2) Location and venue
 - 3) Description of any unusual expenses (e.g., promotional items)
 - 4) Description of contracting procedures used (e.g., competition for space/support)
 - 5) Costs for space, food/beverages, audio visual, travel/per diem, registration costs, recovered costs (e.g., through exhibit fees)
 - 6) Number of attendees
- f) The contractor will not expend funds on the proposed contractor-sponsored conferences with expenditures estimated to exceed \$100,000 until notified of approval by the contracting officer.
- g) For DOE-sponsored conferences, the contractor will not expend funds on the proposed conference until notified by the contracting officer.
 - 1) DOE-sponsored conferences include events that meet the definition of a conference and where the Department provides funding to plan, promote, or implement the conference and/or authorizes use of the official DOE seal, or other

seals/logos/ trademarks to promote a conference. Exceptions include instances where DOE:

- i) covers participation costs in a conference for specified individuals (e.g. students, retirees, speakers, etc.) in a total amount not to exceed \$10,000 (by individual contractor for a specific conference) or
 - ii) purchases goods or services from the conference planners (e.g., attendee registration fees; renting booth space); or provide funding to the conference planners through Federal grants.
- 2) Attending a conference, giving a speech, or serving as an honorary chairperson does not connote sponsorship.
 - 3) The contractor will provide cost and attendance information on their participation in all DOE-sponsored conference in the DOE Conference Management Tool.
- h) For *non-contractor sponsored conferences*, the contractor shall develop and implement a process to ensure costs related to conferences are allowable, allocable, reasonable, and further the mission of DOE/NNSA. This process must at a minimum:
- 1) Track all conference expenses.
 - 2) Require the Laboratory Director (or equivalent) or Chief Operating Officer approve a single conference with net costs to the contractor of \$100,000 or greater.
- i) Contractors are not required to enter information on non-sponsored conferences in DOE'S Conference Management Tool.
 - j) Once funds have been expended on a non-sponsored conference, contractors may not authorize the use of their trademarks/logos for the conference, provide the conference planners with more than \$10,000 for specified individuals to participate in the conference, or provide any other sponsorship funding for the conference. If a contractor does so, its expenditures for the conference may be deemed unallowable.

H-11 FEDERAL FLEET MANAGEMENT SYSTEM

When the Contracting Officer has issued the Contractor authorization to obtain interagency fleet management system vehicles in performance of the contract, the Contractor shall follow the requirement of the Federal Fleet Management System known as FedFMS (<http://www.gsa.gov/portal/category/100759>). The Contractor shall provide the information needed to satisfy the reporting requirement as stated in FedFMS on a monthly basis using the Fleet Management Information System. The Contractor shall also address any of the data gaps/incomplete records that already exist.

H-12 ACCOUNTABILITY

The Contractor is responsible for the quality of its products and services and for assessing its operations, programs, projects and business systems and identifying deficiencies and implementing needed improvements in accordance with the terms and conditions of this Contract, regardless of whether NNSA has evaluated the Contractor's performance in any area of the Contract. The Contractor is encouraged to collaborate with its corporate parent (as applicable) to ensure corporate leadership, the parent's systems, processes and independent assessments are used to assess the Contractor's performance. The purpose of NNSA oversight is for assessing the Contractor's performance in meeting its obligations under this Contract, in addition to measuring progress toward NNSA missions. The Contractor's accountability described in this clause is not reduced by the fact that NNSA conducts oversight activities.

H-13 NNSA OVERSIGHT

At all times during the term of this contract, NNSA will continue, preserve and maintain its right to determine the level of NNSA oversight of all Contractor activities under this Contract. In addition to the rights and remedies provided to the Government under provisions of this Contract, the Contractor shall fully cooperate with NNSA oversight personnel, NNSA subject matter experts in the performance of their assigned oversight functions and shall provide complete access to facilities, information, and Contractor personnel.

**H-14 CLAUSE UPDATES AND IMPLEMENTATION SECTION TO FAR CLAUSES
(MODIFIED 0018, 0026)**

(a) The Contractor agrees that the Contracting Officer may, from time to time and at any time, unilaterally modify the Contract to revise, add or delete Section H clauses, and FAR or DEAR clauses due to changes in the law or regulations or policy resulting from the approval of new deviations.

(b) The following Implementation of Section I Clauses applies:

(a) For purposes of implementation of Paragraph (d) of Contract Clause entitled "Accounts, Records, and Inspection" The parties agree that contractor official procurement file records are contractor-owned records. Associated official financial records that are stand alone, separate and apart from the official procurement file records remain government owned records.

(b) For the purposed Implementation of paragraph (b) (1) of the Contract Clause entitled "Access to and Ownership of Records," the parties agree to the following:

(c) For purposes of implementation of Paragraph (b)(2) of Contract Clause entitled "Required Sources For Helium And Helium Usage Data," the parties agree to the following:

- i. Contractor delivery of Helium Supplier and Helium Usage Data to the Contracting Officer shall be considered met if the required data is entered into an appropriate database of Helium deliveries; and
- ii. a copy of this data must be made available to the Contracting Officer upon request.

(1) "Employee relations records" include records pertaining to qualifications or suitability for employment of any employee, applicant, or former employee, allegations, investigations, and resolution of employee misconduct, discipline, or charges of discrimination, negotiations, arbitration or grievance proceedings with any labor organization in connection with any labor contract, or affirmative action plan and related records.

(2) "Employee assistance program records" include psychological/psychiatric records and files maintained on individual employees, applicants, and former employees of the contractor.

(3) "Internal corporate governance records and correspondence between the contractor and other segments of the contractor located away from the DOE facility (i.e. the contractor's corporate headquarters) means records directly related to the operations of the Contractor's Board of Directors and parent entity.

- (c) For purposes of implementation of Paragraph (b) of Contract Clause entitled "Laws, Regulations, and DOE Directives," the parties agree to the following:

The NNSA Supplemental Directive (SD) 452.3-IA, Defense Programs Business Process System (DPBPS), defines the method used to incrementally replace the requirements in NNSA SD 56XB, Rev 2, Nuclear Weapon Development and Production, the Appendix 56XB Development and Production (D&P) Manual, and the associated Technical Business Practices (TBPs), Infrastructure Business Practices (IBPs), Engineering Procedures (EPs), and Product Realization Standards (PRS).

Before the release of any DPBPS derived requirements, the contractor will be notified by the Contracting Officer (CO), or an authorized designee, and will have the opportunity to assess the impact of the contractor's compliance with the change on contract via a Site Impact Analysis. The contractor's analysis shall include cost and funding, technical performance, an implementation schedule, and shall also identify any potential inconsistencies between the change and other terms and conditions of the contract.

Within 30 days of receipt by the contractor from the CO of notification of an approved change, the contractor shall advise the CO, in writing, if the change will result in an impact to the contractor. The contractor will outline the impact, to include cost and schedule, and may identify appropriate consideration pursuant to DEAR 970.5243-1, Changes.

H-15 MANAGEMENT TEAM COSTS (MODIFIED 0026)

Amounts of compensation reimbursed during the first two years of contract performance shall not exceed the proposed management team costs for any position, as reflected in Section L Attachment G "Management Team Cost Sheet" of the Contractor's proposal in response to solicitation no. DE-SOL-0008470. For the remaining years of the Contract, approvals for Key Personnel compensation will be in accordance with the Statement of Work, Chapter III, paragraph 5.2.2."

H-16 CONFIDENTIALITY OF INFORMATION

- (a) To the extent that the work under this Contract requires that the Contractor be given access to or be furnished with confidential or proprietary business, technical, or financial information or data belonging to other entities that is confidential or proprietary, the Contractor shall, after receipt thereof, treat such information in confidence and agrees not to appropriate such information to its own use or to disclose such information to third parties unless specifically authorized in writing by the Contracting Officer. Unless covered by other existing confidentiality requirements, the foregoing obligations shall not apply to:
- (1) Information or data that is in the public domain at the time of receipt by the Contractor;
 - (2) Information or data that is published or otherwise subsequently becomes part of the public domain through no fault of the Contractor;
 - (3) Confidential or proprietary information or data owned by a third party that has expressly authorized unlimited distribution.
- (b) The Contractor agrees to enter into an agreement, identical in all material respects to the requirements of paragraph (a) above, with each entity supplying such confidential or proprietary information or data to the Contractor under this Contract and to supply a copy of such agreement to the Contracting Officer. Upon request of the Contracting Officer, the Contractor shall furnish the Government with reports that specify any information or data received as confidential or proprietary and that identify the entity or entities who supplied the Contractor with such information or data.
- (c) The Contractor shall obtain the written agreement of each employee permitted access to or furnished with confidential or proprietary business, technical, or financial information or data, whereby the employee agrees that such information or data that the Contractor is obligated to treat in confidence will not be discussed, divulged or disclosed except to those persons within the Contractor's organization directly concerned with the performance of this Contract or to Government representatives. Notwithstanding the foregoing Contractor-employee agreement, upon request of the Contracting Officer, the Contractor agrees to obtain from each employee a confidentiality agreement acceptable to the Contracting Officer.

- (d) This clause, including this paragraph (d) shall be included in subcontracts if there is a requirement or there becomes a requirement that the subcontractor be given access to or be furnished with confidential or proprietary business, technical, or financial information or data.

H-17 NNSA PRIME CONTRACTS

- (a) In accordance with the Contract's Section I Clause entitled "DEAR 970.5243-1, *Changes*," the Contracting Officer may identify any of the work contemplated by Section J, Appendix A, Statement of Work, of this Contract, or any other work, to be performed either by another contractor directly contracted by the NNSA or by Government employees. The Contractor agrees to provide site access to such other contractors and to accommodate, to cooperate and coordinate with, and to provide reasonable support to such contractors and/or Government employees as necessary and/or as directed by the Contracting Officer. Notwithstanding any other provision of this Contract, the Contractor shall not perform any inherently governmental function, as set forth in 48 C.F.R. Subpart 7.5. The Contractor shall not commit or permit any act or omission which will interfere with the performance of work performed by any other contractor and/or by Government employees, and the Contractor shall be liable for any added costs resulting from such acts or omissions (such as delay costs) whether such costs are incurred by the Government, another contractor, or other parties. The following shall apply to work identified for performance by another contractor:

- (1) The Government and the Contractor will confer in advance on the strategy for changing responsibility for the work and will do so with the objective of minimum disruption to the site operations.
- (2) The Government may designate the Contractor as the Technical Monitor (not authorized to accept or provide technical direction) for such contracts that are directly related to the scope of this Contract. The Contractor agrees to perform such monitoring duties as shall be further described in the designation for each such contract. No designation shall include, and the Contractor shall not perform any function determined to be inherently Governmental. These functions include, but are not limited to:
 - (i) Award, modification, change, or termination of a Government contract.
 - (ii) Receipt, processing or adjudication of any claims, invoices, or demands for payment of any form.
- (3) The Technical Monitor shall report to the Contracting Officer, or the Contracting Officer Representative (COR), any performance of a designated Contract that may not be in compliance with its terms and conditions but is not authorized to take any other action regarding such noncompliance.
- (4) Additionally, the NNSA agrees to insert the clause below entitled "*Other*

Government Contractors Performing Work at Sandia National Laboratories,” substantially as written here, in all such contracts as follows:

OTHER GOVERNMENT CONTRACTORS PERFORMING WORK AT THE SNL

In addition to this Contract, (Insert Contract Number), the Government may undertake or award other contracts for additional work or services at any SNL sites. The Contractor agrees to fully cooperate with the M&O Contractor, other contractors, and Government employees, and carefully coordinate its own work with other work being performed at the site as necessary and/or as may be directed by the Contracting Officer. The contractor shall not commit or permit any act or omission which will interfere with the performance of work by any other contractor or by Government employees at the site, and the Contractor shall be liable for any added costs resulting from such acts or omissions (such as delay costs), whether such costs are incurred by the Government, another contractor, or other parties.

The Government may designate the M&O Contractor to be the Technical Monitor for any right, duty or interest in this Contract. If the M&O Contractor is designated, a copy of the designation letter will be provided to the Contractor by the Government. The Contractor further agrees to fully cooperate with the M&O Contractor for all matters under the terms of the designation.

- (b) Adjustments shall be made to the Contractor's Subcontracting Plan to recognize the changes to the subcontracting base and goals, if appropriate.

H-18 INSTRUCTIONS FOR UPDATING FOREIGN OWNERSHIP, CONTROL OR INFLUENCE (FOCI) INFORMATION

- (a) In order to submit periodic updates or to report changes to Foreign Ownership, Control or Influence information as required by DEAR 952.204-2, *Security*, the Contractor shall use the DOE FOCI electronic submission system located at [\https://foci.anl.gov.\](https://foci.anl.gov)
- (b) New users, when registering to update information under this contract, should select "NNSA Albuquerque Complex - Acquisition and Project Management (NA-APM)" as the FOCI Office that will review the FOCI Submission.
- (c) Electronic signatures are not accepted; all FOCI documentation/forms requiring signatures, dates, and company seal (if applicable), must be printed, completed, and uploaded under the Miscellaneous Tab within the e-FOCI system. NOTE: Hard copies of electronic FOCI submission package are no longer required, as indicated in the e-FOCI system. Specific problems maneuvering through the fields within the e-FOCI system can be clarified by contacting the e-FOCI help desk at (630) 252-6566 or fociserver@anl.gov.

H-19 CONTRACTOR EMPLOYEES

In carrying out the work under this Contract, the Contractor shall be responsible for the employment of all professional, technical, skilled, and unskilled personnel engaged by the Contractor in the work hereunder, and for the training of personnel. Persons employed by the Contractor shall be and remain employees of the Contractor and shall not be deemed employees of the NNSA or the Government; however, nothing herein shall require the establishment of any employer-employee relationship between the Contractor and consultants or others whose services are utilized by the Contractor for the work hereunder.

H-20 CONSTRUCTION PROJECTS

For Capital Construction Projects, the Contractor agrees that the NNSA will incorporate, as appropriate, construction terms and conditions into the M&O Contract or work authorization for the completion of that project that are not otherwise contained in the M&O Contract. The work authorization will also include specific work requirements in accordance with applicable DOE Orders and the Contract's Section I Clause entitled "DEAR 970.5211-1, *Work Authorization*."

The Contractor shall provide the personnel, equipment, materials, supplies, and services (except as may be furnished by the Government) and otherwise do all things necessary for, or incidental to, the efficient, effective, and safe management and/or performance of Capital Projects as the Parties may agree.

- (a) Capital Construction Projects are defined for the purposes of this Contract as construction projects which are anticipated to exceed a total of \$10M for all design and construction costs.
- (b) The Contracting Officer may, in its sole discretion, direct the Contractor to manage and/or perform Capital Construction Projects, or any portion thereof, as they arise. The Parties shall establish by mutual agreement the price and applicable price structure (such as Firm Fixed Price, Cost-Plus Incentive-Fee, or other price structures as agreed) and any special terms and conditions which shall apply to each Capital Construction Project. The Contractor agrees to enter into good-faith negotiations with the Government to establish the price, price structure, and special terms and conditions which may apply to each Capital Construction Project. However, if the Parties cannot reach mutual agreement, the Contracting Officer may, within its sole discretion, (1) withdraw the direction to perform and/or manage a particular Capital Construction Project or (2) direct the Contractor to proceed with the performance and/or management of the Capital Construction Project in accordance with specified terms and conditions via a unilateral contract modification, in which case the Contractor shall be entitled to an equitable adjustment. If the Parties are unable to agree on an equitable adjustment, the matter shall be treated as a dispute under the Disputes Clause of this Contract and the Contractor shall diligently proceed with the performance or management of the Capital Construction Project pending the final outcome of the dispute.

- (c) Each Capital Construction Project which is authorized under this contract shall be identified via bilateral contract modification, to include SUB-CLINs, project title, contract type (such as Performance Based Incentive Fee or Firm-Fixed-Price), description of work, delivery schedule (to include major milestones and/or completion date), and associated terms and conditions necessary for the completion of a project and not otherwise contained in the Contract.
- (d) Construction projects which are not Capital Projects, as defined herein, are within the scope of CLIN 0001 and shall be performed or managed by the Contractor as directed by the Government. Such construction projects may be assigned by Work Authorizations which may include construction-related clauses prescribed in the Federal Acquisition Regulation and/or the Department of Energy Acquisition Regulation in effect at the time of the issuance of the Work Authorization (if not already included in this Contract). The Contractor agrees to comply with such clauses.
- (e) The Government reserves the right to have other contractors perform or manage any or all construction projects, including Capital Construction Projects, or any portion thereof at Sandia National Laboratories sites. The Contractor agrees to provide site access to such other contractors and to cooperate with, accommodate, and to provide such logistical support to such other contractors as needed and/or as directed by the Contracting Officer. Added project costs resulting from the Contractor's failure to cooperate with any such other contractors (such as delay costs), regardless of whether incurred by the Contractor or such other contractor(s) or by the Government, shall be borne by the Contractor and shall not be an allowable cost of this Contract. Activities conducted pursuant to this paragraph related costs are within the scope of CLIN 0001.

H-21 [RESERVED] (REMOVED 0026)

H-22 MANAGEMENT AND OPERATING CONTRACTOR (M&O) SUBCONTRACT REPORTING (SEP 2015)

- (a) Definitions. As used in this clause only—

“First-tier subcontract” means a subcontract awarded directly by the Contractor for the purpose of acquiring supplies or services (including construction) for performance of a prime contract. It does not include the Contractor's supplier agreements with vendors, such as long-term arrangements for materials or supplies that would benefit multiple contracts and/or the costs of which are normally applied to a Contractor's general and administrative expenses or indirect cost.

“M&O Subcontract Reporting Capability (MOSRC)” means a DOE system and associated processes to collect key information about M&O first-tier subcontracts for reporting to the Small Business Administration.

“Transaction” means any awarded contract, agreement, order, or modification, etc. (other than one involving an employer-employee relationship) entered into by a DOE

M&O prime contractor calling for supplies and services (including construction) required solely for performance of the prime contract.

(b) Limited Interim Reporting.

The Contractor shall report no less than the twenty highest dollar value first-tier small business subcontract transactions under the contract by December 1 for the previous fiscal year until the Contractor business systems can report the required data as set forth in paragraph (c) below. Classified subcontracts shall be excluded from the reporting requirement and shall not be counted towards the total number of transactions of the reporting requirement.

(1) Transactions with a corporation, company, or subdivision that is an affiliate of the Contractor are not included in these reports.

(2) The Contractor shall provide the data on first-tier small business subcontract transactions under the contracts, as described in the MOSRC Guide via the Microsoft Excel spreadsheet co-located at <https://max.gov> in the MOSRC Collaboration Center. The spreadsheet will be submitted to HQProcurementSystems@hq.doe.gov.

(3) Full Reporting. The Contractor shall update their business systems and processes to collect and report data to MOSRC in compliance with the MOSRC Guide. The Contractor shall report data in MOSRC for FY18 (and each year thereafter) first-tier small business subcontracting transactions under the contract. Classified subcontracts shall be excluded from the reporting requirements. All Contractor systems shall be updated in order to provide the first FY18 report in November 2017 for October 2017 transactions.

H-23 INDIRECT COST MANAGEMENT

(1) The Government has a fiduciary responsibility to ensure that taxpayer funds are spent appropriately. This clause provides for transparency with respect to indirect costs. Allowable cost shall be determined in accordance with FAR 52.216-7 "Allowable Cost and Payment" and as required herein.

(2) Indirect Rate Submissions:

(a) The Contractor shall provide Indirect Rate Submissions to the Contracting Officer (CO) by August 1st of each year in order to establish billing rates in accordance with FAR 42.704 for the upcoming GFY.

(b) Where there are advanced agreements on certain elements of indirect costs, the Contractor shall submit planned changes to the CO 30 days in advance of implementing the change.

(c) The Contractor shall submit final annual indirect rate submission in accordance with FAR 52.216-7 "Allowable Cost and Payment JUN 2013" as modified by DEAR 952.216-7.

(3) Indirect Rate Submission

(a) The Contractor shall provide a summary of how the indirect rates were derived including pool, base, and calculated indirect rate by major functions, activities, and elements of cost as identified in accounting records unless otherwise specified by the CO.

(b) The submission shall provide the information required by FAR 52.216-7 (d) (iii) and (iv).

(4) The Contractor shall brief NNSA stakeholders as determined by the CO concerning the composition of the indirect pools to ensure alignment with agency goals, priorities, and budgets. Additionally, the Contractor shall discuss the impact any resulting rate change will have on NNSA programs and projects.

(5) The NNSA and Contractor shall document any advanced agreements on items of particular interest within the indirect cost pools.

(6) The Contractor shall submit a summary level report covering all indirect cost pools by March 31st each year to the CO that provides an analysis of incurred cost to date, projected indirect costs to agreed-upon pools/bases for the current GFY, and a brief discussion of variances.

H-24 CONTRACTOR COMMUNITY COMMITMENTS (MODIFIED 0008)

The Contractor shall deliver within 180 calendar days after the effective date of the Contract, a community commitment plan that has been discussed between the Contractor and the community. The plan shall be consistent with the intent of DEAR 970.5226-3, "Community Commitment". The plan shall describe the Contractor's planned activities as to how it will be a constructive partner to the communities in the State of New Mexico and California. The Contractor is encouraged to consider specific performance goals around maximizing subcontracting to businesses within New Mexico and Strategic Partnerships with New Mexico's system of higher education. Reasonable costs associated with the development of the plan will be considered allowable, while costs associated with implementing the plan are unallowable.

H-25 ASSET MANAGEMENT REQUIREMENTS (MODIFIED 0018)

(a) Facilities Management Performance

(1) General

The minimum industry codes and standards for design and construction activities shall be as designated in applicable regulatory requirements (such as 10 CFR 851), and the applicable Directives in Contract Section J, Appendix B, List of Applicable Directives (such as DOE Order 420.1C). In addition to required codes and standards, NNSA Policy Letters shall also be used for the design and construction of nuclear facilities and accelerators.

(2) Site Facility Plan

The Contractor shall establish and maintain a Site Facility Plan that addresses the current condition of the Laboratories and future needs based on the strategic plan for the Laboratories. The Site Facility Plan shall be updated annually. The NNSA shall provide to the Contractor guidance for the preparation of the Site Facility Plan for which the Contractor is responsible under the terms and conditions of this contract. However, the contractor is not responsible for land use decisions. Based upon this guidance, the Contractor shall prepare, and maintain through annual updates, the Site Facility Plan to reflect those actions necessary to keep the development of facilities current with the needs of the Government and allow the Contractor to successfully accomplish its mission in support of National Security. In developing this Site Facility Plan, the Contract shall follow the procedure guidance set forth in the applicable Directive in Contract Section J, Appendix B, List of Applicable Directives and NNSA Policy Letters. The Contractor shall use the Site Facility Plan to manage and control the development of facilities and lands. The Site Facility Plan and any NNSA directed revisions to the Site Facility Plan shall be submitted to the Contracting Officer for review and approval by NNSA. The Contractor may periodically during the year update and revise the Site Facility Plan to reflect changing mission needs. Changes to planned projects between official updates of the Site Facility Plan and the related NNSA approvals shall be approved through the NNSA project authorization process.

(3) Project Management

All capital investments shall be managed and controlled by the Contractor in Accordance with the Project Execution Plan for each project.

(4) Real Property

Real property at the sites shall be acquired, operated, and disposed of in a manner to support the policies and standards established by DOE/NNSA. Each acquisition of real property, whether by lease or purchase or by any other means, requires the express written authorization of the Contracting Officer and a cognizant Certified Realty Specialist, and may require additional DOE/NNSA and/or Government approvals (e.g. OMB) as directed by the Contracting Officer.

The Contractor shall provide an “Annual Real Property Management Plan” within the first quarter of each fiscal year. The Contractor’s processes for acquisition and disposal of Real Property must incorporate the NNSA supplemental guidance on real property acquisition and disposal, the U.S. Department of Energy Real Estate Desk Guide (Rev 2013)(or its successor), and all other applicable directives and policies as indicated in Contract Section J, Appendix B, List of Applicable Directives and NNSA Policy Letters.

(5) Operations and Maintenance

Facilities shall be operated and maintained in such a manner that they are fit for the intended use; promote operational safety; protect the environment, the workers, and the public; enhance the Laboratories' missions; minimize the use of energy resources; and protect the Government's capital investment.

(6) Utilities Acquisition and Management

Utility systems including without limitation electrical, water, natural gas, sewage, telecommunications, internet, and steam, unless furnished by the government, shall be acquired, operated, and maintained by the contractor to provide highly reliable and efficient systems.

(7) Resources Management

The Contractor shall manage the use of energy and water resources in a manner that minimizes consumption.

- (b) Subcontract Requirements. To the extent the Contractor subcontracts performance of any of the responsibilities discussed in this clause, the subcontract shall contain the requirements of this clause relative to the subcontracted responsibilities.

H-26 STANDARDS MANAGEMENT

- (a) Benchmark with Industry. The Contractor shall regularly benchmark with industry to identify best commercial standards and best business practices that will improve site operations with the goal of improving performance effectively and efficiently without compromising Integrated Safety Management (ISM) and Integrated Safeguards and Security Management (ISSM).
- (b) Proposal of Alternative. Where best commercial standards or best business practices are identified that will improve site operations consistent with paragraph (a) above, the Contractor may, at any time during performance of this Contract, propose an alternative procedure, standard, or assessment mechanism (collectively referred to herein as "alternative") for a Directive or DOE/NNSA requirement by submitting to the Contracting Officer a signed proposal(s) that describes (1) the nature and scope of alternative and Contractor system of oversight, (2) the anticipated benefits, including any cost benefits to be realized in performance under the Contract, (3) a schedule for implementation of the alternative is an effective, efficient means to meet the Directive without compromising ISM and ISSM, and (4) any additional information required by NNSA. NNSA will evaluate the Contractor's proposal, and the Contractor will not implement a proposed change until it is formally approved by the NNSA and communicated to the Contractor by the Contractor Officer.
- (c) Deficiency and Remedial Action. If, during performance of this Contract, NNSA determines that a previously approved alternative is not satisfactory, the Contracting Officer will require the Contractor to prepare a corrective action to be taken, and, the

Contracting Officer may direct corrective action to remedy the deficiency, including, if appropriate, the reinstatement of the Directive or DOE/NNSA requirement.

- (d) Law and Regulations Exempted. The process described in this clause shall not affect the Application of otherwise applicable laws and regulations of the United States, including DOE regulations.

H-27 STRATEGIC PURCHASING

- (a) The Contractor shall participate with NNSA and other NNSA contractors as part of an “enterprise organization” taking advantage of the many benefits that can be achieved through strategic purchasing. Strategic purchasing can result in better pricing, better products, more timely delivery, reduced administrative costs and lead times for both the contractor and the NNSA, greater standardization and interchangeability across the NNSA complex, and increased award to small business entities.
- (b) The Contractor shall cooperate with NNSA and other NNSA contractors in identifying requirements under this Contract that are suitable for strategic purchasing and shall facilitate the identification of work to be directly acquired by NNSA to support the objectives discussed below. The Contractor shall use the contracting vehicles identified by the NNSA as strategic purchases and those awarded by the Integrated Contractor Purchasing Team (ICPT) to meet all suitable requirements under this Contract unless the cost of using such contracting vehicles is shown to be excessive, does not provide the best value and or impacts the Contractor’s schedule. The Contractor may propose alternative acquisition strategies to the Contracting Officer.

H-28 UTILIZATION OF PARENT CORPORATE SYSTEMS

If the Contractor, in the interest of efficiency and effectiveness of business operations, decides to adopt or adapt its parent corporate systems or services, it will ensure that the Government and Contractor’s data in such systems is readily transferable to a successor contractor.

H-29 PERFORMANCE BASED MANAGEMENT SYSTEM

This Contract is a management and operating performance-based contract, which holds the Contractor accountable for performance. This Contract uses performance measures as described in Contract Clause entitled “Leadership Performance Evaluation.”

H-30 BUSINESS ENTITY – FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTER (FFRDC)

The Contractor shall operate and manage Sandia National Laboratories consistent with Federal Acquisition Regulation (FAR) Subpart 35.017, and have as its sole purpose the management and operation of Sandia National Laboratories. Accordingly, the Contractor will establish and maintain its own system of policies and procedures related to the

management and operation of the Laboratories, which is consistent with the terms of this Contract, DOE Directives, regulations and practices.

H-31 IMPLEMENTATION OF ITER AGREEMENT ANNEX ON INFORMATION AND INTELLECTUAL PROPERTY

- (a) Contractor agrees to be subject to the Agreement on the Establishment of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project (the ITER Agreement) as it applies to intellectual property, as follows: specifically, and without limitation, subject inventions and data produced in the performance of this contract and subcontracts related to the ITER project are subject to the license rights and other obligations provided for in the ITER Agreement's Annex on Information and Intellectual Property.
- (b) Background intellectual property of the Contractor, as defined in the Annex, is also subject to the provisions of the ITER Agreement. In particular and under certain circumstances, Contractor shall use its best efforts to identify Background Intellectual Property (including patents and data) and grant a nonexclusive license in certain Background Intellectual Property to the parties to the ITER Agreement (Members) for commercial fusion use. However, in individual cases and for good cause shown in writing, the requirement for such a license may be waived by DOE.
- (c) Further, intellectual property generated by Contractor employees who are designated as seconded staff to the ITER organization shall be owned by the ITER Organization and the Contractor gets no rights to such intellectual property except those rights provided the Contractor by the Government as a result of the Government being a member of the ITER Organization. Contractor agrees that Contractor employee agreements will be suitably modified as necessary to effectuate this provision and that employees will be required to execute a separate secondary agreement with the ITER Organization.
- (d) The Government may provide to each ITER Member, as defined in the ITER Agreement, the right, for non-commercial uses, to translate, reproduce, and publicly distribute data produced in the performance of this contract. Contractor will deliver, at a minimum, to DOE, copies of all ITER-related peer-reviewed manuscripts provided to scientific and technical journal publishers which may then be distributed to Members in accordance with the ITER Agreement. Contractor agrees that the ITER Organization may impose a different delivery requirement in order to be in compliance with this paragraph and that, if so, Contractor agrees that this paragraph may be suitably modified to be in accordance with the ITER Agreement.
- (e) Contractor shall include the ITER patent and data rights clauses transmitted to the Contractor from the U.S. ITER Project Office, suitably modified to identify the parties, in all subcontracts related to ITER, at any tier, for experimental, developmental, demonstration or research work and in subcontracts in which technical data or computer software is expected to be produced or in subcontracts that contain a requirement for production or delivery of data.

H-32 PERFORMANCE OF WORK AT FACILITIES AND SITES OTHER THAN SANDIA NATIONAL LABORATORIES

In performance of the Contract’s work at facilities and sites other than SNL, the Contractor shall comply with applicable requirements set forth in this Contract’s Appendix B entitled “List of Applicable Directives and NNSA policy letters,” and any additional directives which have been established for the NNSA Prime Contractor at that facility/site that are applicable to the Contractor’s work being performed and that are applicable to the associated hazards at the particular facility or site.

H-33 ADVANCE UNDERSTANDING REGARDING ADDITIONAL ITEMS OF ALLOWABLE AND UNALLOWABLE COSTS AND OTHER MATTERS (ADDED APPENDIX C AND MODIFIED 0008, 0018, 0026)

Allowable costs under this Contract shall be determined according to the requirements of the Contract’s Section I clause entitled “Payments and Advances.” For purposes of effective Contract implementation, certain general types of cost are being specifically identified below as allowable (to the extent reasonable and allocable to the contract and in accordance with other applicable requirements and limitations) and/or unallowable under this Contract to the extent indicated:

(a) ITEMS OF ALLOWABLE COSTS:

- (1) Personnel costs in accordance with Appendix A, Statement of Work, Chapter III, Human Resources, and Appendix C, Personnel Appendix, attached to this Contract.
- (2) Board of Managers Costs, consistent with Appendix A, subsection 3.3, Parent Organization(s), paragraphs (iv – vi). Annually the contractor shall submit to the Contracting Officer a request for approval of the BOM costs for the upcoming fiscal year NLT July 1st, this request will establish a not-to-exceed ceiling and will be captured below. The established cost ceiling set forth below shall not be exceeded without prior Contracting Officer approval. Costs may be reviewed at any time. In addition, the Contractor shall implement a tracking process, acceptable to the Contracting Officer, providing sufficient detail for reasonable accountability of these costs.

Contract Period	Cost Ceiling	Mod #
May 1, 2017 – September 30, 2017	\$ 38,500	M0018
FY2018	\$ 390,000	M0026
FY2019		
FY2020		
FY2021		
FY2022		

(b) ITEMS OF UNALLOWABLE COSTS:

- (1) Premium Pay for wearing radiation-measuring devices for Laboratory and all-tier cost-type subcontract employees.
- (2) Home office expenses, whether direct or indirect, relating to activities of the Contractor, except as otherwise specifically provided in the Contract or specifically agreed to in writing by the Contracting Officer.
- (3) Facilities capital cost of money for the Contractor including its “teaming arrangement” as defined in FAR 9.601.
- (4) Meals, snacks, refreshment and catering services, except as otherwise specifically agreed to in writing by the Contracting Officer.
- (5) Compensation of a Senior Executive in excess of the benchmark compensation amount determined applicable for the contractor fiscal year by the Administrator, Office of Federal Procurement Policy, are unallowable.
- (6) Costs that are unallowable under other contract terms shall not be allowable as compensation for personnel services.

H-34 INTELLECTUAL AND SCIENTIFIC FREEDOM

- (a) The Parties recognize the importance of fostering an atmosphere at the Laboratories conducive to scientific inquiry and the development of new knowledge and creative and innovate ideas related to important national interests.
- (b) The Parties further recognize that the free exchange of ideas among scientists and engineers at the Laboratories and colleagues at universities, colleges and other laboratories or scientific facilities is vital to the success of the scientific, engineering, and technical work performed by Laboratory personnel.
- (c) In order to further the goals of the Laboratories and the national interest, it is agreed by the Parties that the scientific and engineering personnel at the Laboratories shall be accorded the rights of publication or other dissemination of research, and participation in open debate and in scientific, educational, or professional meetings or conferences, subject to the limitations included in technology transfer agreements and such other limitations to related to the obligations of the Parties to protect classified and unclassified controlled nuclear information or other sensitive or confidential information, as provided by law, regulations, DOE/NNSA directives or policies, this contract, or other applicable requirements or agreements.

H-35 CONTRACTOR PERFORMANCE EVALUATIONS

In accordance with Federal Acquisition Regulation (FAR) Subpart 42.15, the NNSA will prepare and submit past performance evaluations to the Past Performance Information Retrieval System (PPIRS). Evaluation reports will be documented not later than 120

days after the end of an evaluation period by using the Contractor Performance Assessment Reporting System (CPARS) which has connectivity with PPIRS. Contractor must register in CPARS in order to view/comment on their performance reports.

H-36 STRATEGIC PLANNING (MODIFIED 0010)

A key element to sound laboratory stewardship and governance is a shared strategic level vision for the future of the laboratory and the strategic investments necessary across mission support areas to assure the laboratory's continued future vitality and capability to perform its missions. To aid in strengthening this alignment, the M&O partner leadership from each NNSA Laboratory shall work in coordination with NNSA site office and HQ functional and program leadership in developing and presenting annual laboratory strategic plans. To enable a uniform and consistent reporting approach and to allow for the process to evolve and change as necessary, NNSA will provide annual report and presentation guidance. The information from these activities provides the starting point for periodic and continuous discussions between the DOE/NNSA and management and operating partners' leadership about the site's future directions, immediate and long range challenges, and resource needs. The results of these activities are intended to ensure alignment with agency goals, priorities, and budgets.

H-37 DEFINITION OF UNUSUALLY HAZARDOUS OR NUCLEAR RISK AND OTHER TERMS FOR PURPOSES OF FAR CLAUSE 52.250-1, INDEMNIFICATION UNDER PUBLIC LAW 85-804 (APR 1984) ALT I (APR 1984) (ADDED 0008)

- i. The term "a risk defined in this contract as unusually hazardous or nuclear" as used in FAR Clause 52.250-1 means the risk of legal liability to third parties (including legal costs as defined in paragraph jj of Section 11 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. Section 2014 jj, notwithstanding the fact that the claim or suit may not arise under Section 170 of said Act), arising from actions or inactions in the course of the following performed by the Contractor, under this contract:
 1. Participation in activities in support of a nonproliferation effort on behalf of the United States, outside the United States, as described in (i) through (iii):
 - a. Participation in DOE/NNSA's Nuclear Emergency Search Team ("NEST");
 - b. Participation in DOE/NNSA's Accident Response Group ("ARG");
 - c. Participation in DOE/NNSA's Joint Technical Operations Team ("JTOT");

to the extent participation in these foregoing activities described in subparagraphs (i.), (ii.), or (iii.) above encompass nuclear activities involving real or suspected nuclear

weapons, nuclear weapons components, or nuclear materials which can be readily utilized either (A) for the production or fabrication of nuclear weapons without substantial effort; or (B) for intentional widespread contamination or dispersal of harmful nuclear materials, whether or not such real or suspected weapons, components, or harmful nuclear materials are owned by the United States; and

2. Maintenance and repair of United States-owned nuclear weapons, as requested by the Department of Defense under DOE's Stewardship role for the United States nuclear weapons stockpile; and
3. Activities on behalf of the DOE/NNSA or other United States sponsored high risk activities as described in (i.) through (iv.) in response to imminent terrorist threats:
 - a. Chem-Bio Decontamination Foam which was developed by Sandia National Laboratories rendering inert both biological and chemical agents. These have been extensively tested in normal conditions and used to decontaminate facilities in the U.S., including the Senate Hart Office Building and may be slated for possible use outside the United States.
 - b. Synthetic Aperture Radar Systems which were developed, miniaturized, and produced for use by the military to provide all-weather, high-resolution imagery. The military is increasingly relying on the resulting images for maps of operations.
 - c. Monitors for Detecting Traces of Explosives which were developed by Sandia National Laboratories in both stationary and portable formats for screening personnel, cargo, small packages, and vehicles, and are being used by domestic and foreign governments at both public and private facilities.
 - d. Chem-Bio Detectors, developed by Sandia National Laboratories, to provide early warning of the presence of agents in public areas such as mass transportation systems including those deployed in the Washington, D.C. Metro and elsewhere.
4. Participation in tasks or activities by NTESS or its subcontractors on or after March 11, 2011, that is directed or authorized by the DOE/NNSA as an element of activities taken in response to the Japan earthquake and tsunami, including efforts to address and access damage to nuclear power plants and potential radioactive releases from these plants now and in the future; and
5. Other activities relating to non-proliferation, emergency response, anti-terrorism activities, or critical national security activities that involve the use, detection, identification, assessment, control, containment, dismantlement, characterization, packaging, transportation, movement,

storage, or disposal of nuclear, radiological, chemical, biological, or explosive material, facilities, or devices, and nuclear weapons research, design, development, production, testing and maintenance, and development of technology as part of Government programs for nuclear weapons deployment, storage and stockpile stewardship, transportation, demilitarization, dismantlement or disposition, provided such activities are specifically requested or approved, in writing, by the President of the United States, the Secretary of Energy, the Deputy Secretary of Energy, or an Under Secretary, and further provided that the request or approval specifically identifies a particular project involving one of those activities and makes the indemnity provided by this clause applicable to that particular project under the contract.

ii. The unusually hazardous or nuclear risks described above are indemnified only to the extent that they are not covered by the Price-Anderson Act, Section 170d of the Atomic Energy Act of 1954, as amended, (42 U.S.C. Section 2210d) or where the indemnification provided by the Price-Anderson Act is limited by the restriction on public Liability imposed by Section 170e of the Atomic Energy Act of 1954, as amended (42 U.S.C. Section 2210e) to an amount which is not sufficient to provide complete indemnification for the legal liability to which the contractor is exposed.

iii. Additional Definitions of Terms

1. As used in this H-37 clause,

a. the term "nuclear materials" means source, special nuclear, or byproduct materials as those terms are defined in Section 11 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. Section 2014.

2. As used in FAR 52.250-1 INDEMNIFICATION UNDER PUBLIC LAW 85- 804 (APR 1984) (ALTERNATE I) (APR 1984),

a. the term "Contractor" except as used in paragraphs (a) and (e) of I-29 FAR 52.250-1 means

i. National Technology & Engineering Solutions of Sandia, LLC (NTESS),

ii. NTESS' parent organization, Honeywell International, Inc., corporate successors of Honeywell International, Inc., and corporate affiliates of Honeywell International, Inc., and

iii. Employees, officers and directors of (A) and/or (B) above named or threatened to be named as defendants in lawsuits or litigation threatened or initiated by third parties which seek to impose or establish, or which could result in, a risk which is defined in this contract as unusually hazardous or

nuclear, on account of actions or inactions of NTESS, or on account of actions or inactions undertaken by the corporations or individuals identified in subparagraph (A) and/or (B) above for, on behalf of, or with respect to, NTESS under this contract; and

- b. the term "Contractor" as used in paragraphs (a) and (e) of I-29 52.250-1 means NTESS;
- c. term "Contractor's business" means the management and operation of Sandia National Laboratories for DOE/NNSA under this contract;
- d. the terms "Contractor's operations at any one plant or separate location in which this contract is being performed" and "a separate and complete major industrial operation in connection with the performance of this contract" mean the Sandia National Laboratories facilities located at Kirtland Air Force Base in Albuquerque, New Mexico and Livermore, California, and facilities in Tonopah, Nevada, and the Pacific Missile Range Facility in Barking Sands Hawaii (Kauai Test Facility);
- e. the term "agency head" means the Secretary of Energy; and
- f. the term "corporate affiliates of Honeywell International, Inc." means
 - i. any company that, directly or indirectly, owns 50 percent or more of Honeywell International, Inc. (including its corporate successors), or which otherwise controls Honeywell International, Inc., and
 - ii. companies, other than NTESS, that directly or indirectly, are 50 percent or more owned by Honeywell International, Inc. or by any company referred to in paragraph (A) above, or which are otherwise controlled by Honeywell International, Inc., or by any such company.