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| **SUBCONTRACT**  **NO. B644990** |  | Lawrence Livermore National Laboratory  Supply Chain Management Department  P.O. Box 5012  Livermore, CA 94551 |
| **Subcontractor:**  TBD | **LLNS Contract Analyst:**  Gary M. Ward  **Phone:** (925) 423-5952  **E-Mail:** [ward31@llnl.gov](mailto:ward31@llnl.gov) | |

**Introduction**

This is a Fixed Price Subcontract for Next-Generation High Performance Computing Network (NG-HPCN) Research & Development (R&D), as further described herein.

The parties to this Subcontract are Lawrence Livermore National Security, LLC (hereinafter called "LLNS") and the party identified above as the "Subcontractor".

This is a Subcontract under Prime Contract No. DE-AC52-07NA27344 between LLNS and the United States Government (hereinafter called "Government"), represented by the Department of Energy National Nuclear Security Administration (hereinafter called "DOE/NNSA"), for the management and operation of the Lawrence Livermore National Laboratory (hereinafter called "LLNL") and the performance of certain research and development work. Pursuant to the DOE’s policy objectives and Small Business Administration reporting requirements, the existence of this Subcontract and certain related information including the general description of the items/services purchased, value, and place of performance and the Subcontractor’s name, address and socio-economic attributes will be disclosed to the Small Business Administration and published on [www.data.gov](http://www.data.gov).

**Agreement**

The parties agree to perform their respective obligations in accordance with the terms, conditions, and provisions of the attached SCHEDULE OF ARTICLES and any documents referenced or incorporated therein, which together with this Subcontract Signature Page shall collectively constitute the entire Subcontract and shall supersede all prior negotiations, representations, or agreements, whether verbal or written.

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| **TBD** | | **LAWRENCE LIVERMORE**  **NATIONAL SECURITY, LLC** | |
| BY: |  | BY: |  |
|  |  |  | Gary M. Ward |
| TITLE: |  | TITLE: | Contract Analyst |
|  |  |  | LLNL Supply Chain Management Dept. |
| DATE: |  | DATE: |  |

**SCHEDULE OF ARTICLES**

**FOR**

**SUBCONTRACT B644990**

**NOTE:** Prior to initial subcontract award, LLNS and the successful offeror will negotiate a final Statement of Work (SOW) based on the successful offeror’s proposal and LLNS’ requirements / interests. The resulting final negotiated SOW will be incorporated by reference in final subcontract Article 1.

1. INCORPORATED DOCUMENTS

The following documents are hereby incorporated as a part of this Schedule of Articles of the Subcontract and are referenced, or attached hereto.

**Documents**

GENERAL PROVISIONS FOR FIXED PRICE SUPPLIES & SERVICES (GPs #600C; 01/10/20) \*

STATEMENT OF WORK (TBD)

access to llnl computer resources provisions (Access to llnl computers; 06/25/21) \*

SECURITY AND SITE ACCESS PROVISIONS (S&SAP; 06/25/21) \*

INJURY AND ILLNESS REPORTING PROVISIONS (INJURY & ILLNESS REPORTING; 05/31/19) \*

\* The document marked with an asterisk, as well as links to Federal and State Tax Forms websites, are available on-line at the following website: <https://supplychain.llnl.gov/> (under Supplier Information, select either General Provisions & Forms, or Special Provisions).

The parties shall resolve any inconsistencies in the documents comprising the Subcontract by giving precedence in the following order: (a) the Subcontract document; (b) the General Provisions; (c) any incorporated documents and attachments related to safety and security; (d) any referenced specification or statement of work; and (e) other referenced documents, exhibits, and attachments.

In the event any attachments, specifications, drawings or other documents referenced or incorporated in this Subcontract reference *Contract Administrator*, all such references shall mean *Contract Analyst*.

1. SCOPE OF WORK

A. The Subcontractor shall conduct certain work generally described as NG-HPCN R&D. The work is more specifically described in the incorporated STATEMENT OF WORK. Acceptance of the work under this Subcontract shall be based on the Subcontractor's performance and completion of the work in consonance with high professional standards and compliance with the delivery and reporting requirements specified herein.

B. The Subcontractor shall furnish all personnel, supervision, materials, supplies, equipment, tools, facilities, transportation, testing, and other incidental items and services necessary for performance of the work, except for Government Property specified herein to be furnished by LLNS. The Subcontractor shall deliver the materials, products, supplies, reports and residuals, as specified.

C. The work shall be performed by the Subcontractor at the Subcontractor's facility located at TBD, and at other locations approved by the LLNS Contract Analyst.

D. LLNS may, at its option, by written unilateral modification to this Subcontract, require additional NG-HPCN R&D as specified in ARTICLE 5 – FIXED PRICE OPTIONS.

1. PERIOD OF PERFORMANCE

The period of performance for this Subcontract shall commence on signature execution of this Subcontract by LLNS, and shall be completed on or before the latest milestone due date of this Subcontract.

**NOTE:** Article 4 / Paragraph A is the Baseline Milestone Payment Schedule that will identify milestones / R&D scope LLNS considers first order of importance, and that LLNS intends to fund and authorize for performance during lifetime of subcontact. Full funding (i.e., aggregate funding necessary to authorize all baseline milestones for performance) will not be available at the time of initial subcontract award. Therefore, Article 4 / Paragraph B allows a method for LLNS to incrementally and periodically fund baseline milestones for performance based on funding availablity and other considerations.

1. FIXED PRICE

A. Fixed Price

The Subcontractor shall perform this Subcontract for the total fixed price of $TBD. The fixed price for each milestone is identified in the Baseline Milestone Payment Schedule, as follows.

| **Milestone No.** | **Milestone Description** | **Due Date** | **Payment Amount** |
| --- | --- | --- | --- |
| TBD | TBD | TBD | $TBD |
| TBD | TBD | TBD | $TBD |
| TBD | TBD | TBD | $TBD |

B. Allocated Funding Limit

Full funding is not presently available for this Subcontract. The total funding amount currently allocated for payments under this Subcontract (the “allocated funding limit”) is $TBD. The allocated funding limit shall cover performance of specific milestones of the Baseline Milestone Payment Schedule, identified as follows.

**Milestones Authorized for Performance**

TBD

It is anticipated that LLNS will periodically increase the allocated funding limit, subject to annual appropriated funding from Congress. The allocated funding limit may only be changed by a written unilateral modification to this Subcontract issued by the LLNS Contract Analyst, or a designee.

C. Limitation of LLNS’ Liability

LLNS’ obligation for payment hereunder is expressly limited to the allocated funding limit of this Subcontract, any other provision to the contrary notwithstanding. In no event shall LLNS’ liability to the Subcontractor hereunder exceed the allocated funding limit of this Subcontract. The Subcontractor is not obligated to perform work or otherwise continue performance beyond the milestones specifically authorized for performance and identified in Paragraph B, above.

D. Work Authorization

LLNS will use a phased approach to authorizing work under this Subcontract. The Subcontractor is only authorized and obligated to perform work for specific milestones, which are identified in Paragraph B, above. It is anticipated that LLNS will periodically authorize additional milestones for performance, subject to annual appropriated funding from Congress and research results achieved by the Subcontractor. LLNS will authorize additional milestones for performance under this Subcontract by a written unilateral modification to this Subcontract issued by the LLNS Contract Analyst, or a designee.

**NOTE:** Article 5 will identify optional milestones / R&D scope (if any) that LLNS considers second order of importance. LLNS may or may not execise one or more optional milestones during the lifetime of the subcontract.

1. FIXED PRICE Options
2. LLNS and the Subcontractor agree to fixed price options in this Subcontract for additional NG-HPCN R&D, as follows.

| **Option No.** | **Milestone No.** | **Milestone Description** | **Due Date** | **Payment Amount** |
| --- | --- | --- | --- | --- |
| TBD | TBD | TBD | TBD | $TBD |
| TBD | TBD | TBD | TBD | $TBD |
| TBD | TBD | TBD | TBD | $TBD |
| All Options Total | | | | $TBD |

B. LLNS may unilaterally exercise its options on or before the following dates.

| **Option No.** | **Option Expiration Date** |
| --- | --- |
| TBD | TBD |
| TBD | TBD |
| TBD | TBD |

C. The total fixed price of this Subcontract with all options is $TBD.

1. INVOICES AND PAYMENT

A. Invoices and Milestone Payments

The Subcontractor shall reference the Subcontract number on all invoices, which shall include a detailed statement of the milestone(s) achieved. The Subcontractor shall submit its invoice electronically by E-Mail, upon completion of the milestone(s), to the LLNS Contract Analyst at: [ward31@llnl.gov](mailto:ward31@llnl.gov) .

LLNS will verify completion of each milestone. Title to deliverable items or deliverable portions thereof shall vest in the Government immediately upon the date of the milestone acceptance.

Payment status inquiries should be directed to the LLNL Accounts Payable PO Payment Inquiry website at: <https://vipir.llnl.gov/vipir>

Invoice questions should be directed to the LLNS Contract Analyst at: [ward31@llnl.gov](mailto:ward31@llnl.gov)

B. Payment Terms

The terms of payment shall be Net 30 Days after receipt of a proper invoice. Payment amounts shall be less any applicable adjustments, credits, offsets, or tax withholds. Payment on an invoice shall not constitute final acceptance of the related performance.

C. Federal and State Reporting and Withholding Requirements

LLNS is required to report income and withhold income tax, as may be applicable, on payments for services (e.g., labor, travel, etc.) performed for LLNS. LLNS must, therefore, request certain certifications, exemption / classification status, and other tax related information via tax forms. Depending on your exemption status, income tax withholding may apply.

LLNS requires both a Federal (W-9 or W-8BEN-E) and California State (587 or 590) tax form to be on file prior to issuing the initial invoice under this Subcontract. (NOTE: California Form 587, if applicable, is required for each and every Subcontract.) Links to the Federal and State Tax Forms websites are available on-line at the following website: https://supplychain.llnl.gov/ (under Supplier Information, General Provisions & Forms). Tax forms shall be sent to LLNS Accounts Payable Tax Group, by E-Mail at: AP-tax@llnl.gov; by mail to: P.O. Box 5001, L-435, Livermore, CA 94551; or by Fax to: (925) 422-0310. Please reference B644990 on all correspondence.

For Subcontractors requesting a waiver (California Form 588) or reduced withholding rate (California Form 589) on payments of California source income, submit form directly to the Franchise Tax Board (FTB). Send a copy of the waiver or reduced rate authorization letter received from the FTB to the LLNS Accounts Payable Tax Group, by E-Mail at: AP-tax@llnl.gov; by mail to: P.O. Box 5001, L-435, Livermore, CA 94551; or by Fax to: (925) 422-0310.

Tax form questions should be directed to the Financial Services Help Desk at (925) 424-4444. Failure to submit required tax forms in a timely manner will result in significant delays in payment of invoices and/or amounts withheld unnecessarily.

D. Location of Services

All non-Corporations shall specify the location of services (e.g., labor, travel, etc.) by state on each invoice including the invoiced amounts for each (include hours and dollars). If work will only be performed in one state, indicate accordingly. In addition, any Corporations that do not have an office in California or are not registered to do business in California shall also list the location of services on each invoice as previously described. Only Corporations with an office residing in California or are registered to do business in California need not specify the location of services.

1. LLNL SITE ACCESS BADGING REQUIREMENTS

In addition to the requirements of the incorporated SECURITY AND SITE ACCESS PROVISIONS, individuals must show proper identification prior to gaining access to LLNL.

U.S. citizens entering LLNL will be required to show a valid driver’s license from a jurisdiction that meets the requirements of the REAL ID Act of 2005, identify themselves as U.S. citizens, and provide other identifying information such as a social security number. Information regarding the REAL ID Act, its requirements, and a list of noncompliant states may be found at http://www.dhs.gov/real-id-enforcement-brief. If an individual holds a license from a noncompliant jurisdiction, they will be required to show a secondary form of identification (i.e., U.S. passport, U.S. passport card, or U.S. military ID card) in order to be granted access to LLNL.

Foreign nationals entering LLNL will be required to show proper identification from the following list to establish identity and legal status in the United States:

* A legal permanent resident must show a valid Permanent Residency Card (green card); or Alien Documentation, Identification and Telecommunication (ADIT) stamp.
* A nonimmigrant foreign national must show a current passport with a valid I-94 card or printout (available from www.cbp.gov/I94); Visa Waiver Program travelers must provide a valid passport with an admission stamp.
* A nonimmigrant foreign national with an I-94 valid for *duration of status* must also produce the proper supporting documentation indicative of current status (e.g., DS-2019, I-20, EAD, etc.).
* Canadian citizens must provide a valid passport with entry stamp or a valid I-94.

1. ON-SITE WORK: NOTICE TO PROCEED

On-site work at LLNL is affected by the COVID-19 pandemic, which means that site access to LLNL by LLNS employees and subcontractors and other guests is restricted. LLNS follows evolving directions from the National Nuclear Security Administration (NNSA) and other authorities, including local and state government health orders and guidance from the Centers for Disease Control. Consequently, LLNL’s operational mode is dynamic, and may change with or without advance notice. Therefore, the Subcontractor may not commence any on-site work until the LLNS Contract Analyst issues a written Notice to Proceed.

When site access is authorized, the Subcontractor is required to comply with all applicable government health orders and the requirements identified in the latest *COVID-19 Site Access Requirements for Lawrence Livermore National Laboratory* document located at the following website: https://supplychain.llnl.gov (under Supplier Information and Special Provisions). To the extent that a Subcontractor requests LLNS to fill out its own Questionnaire before sending its workers on-site, the Subcontractor should review *LLNL Safeguards for Protecting Workers & Visitors* *During the COVID-19 Pandemic* document located at the above-referenced website. The Subcontractor must perform all other off-site work necessary to satisfy the requirements of the Subcontract provided such off-site work is in compliance with applicable health and safety directives.

1. SAFETY-RELATED REQUIREMENTS

A. General

The Subcontractor shall take all reasonable precautions in the performance of the work to protect the health and safety of employees and members of the public, and to minimize hazards to the surrounding environment, wildlife and property.

The Subcontractor shall comply with, and assist LLNS and the DOE/NNSA in complying with, all Environment, Safety, and Health (ES&H) requirements, training, and associated safety documents referenced, attached, or incorporated into this Subcontract, and any other safety-related documents submitted by the Subcontractor and reviewed and accepted by LLNS.

The Subcontractor shall comply with all instructions, controls, and precautions communicated to the Subcontractor by the LLNS Technical Representative, or designee, regarding any applicable area hazards associated with the Subcontractor’s work at the LLNL site.

If after expiration or termination of the Subcontract, site access is required to correct any nonconformances under the Warranty clause of the General Provision, the Subcontractor shall adhere to the requirements set forth in this Subcontract and any updated work controls.

B. Worker Safety and Health Program

All work by the Subcontractor and its lower-tier subcontractors at an LLNL worksite is subject to the *Worker Safety and Health Program* regulation at Title 10, Part 851 of the U.S. Code of Federal Regulations (10 CFR 851). LLNS has established an *LLNL Worker Safety and Health Program* to implement the requirements of 10 CFR 851 for the work at LLNL worksites. The Subcontractor shall assist LLNS and the DOE/NNSA in complying with all applicable environmental, safety, health regulations, including 10 CFR 851 and may be subject to DOE enforcement actions for violations thereof. Information on the regulation is available at the following website:

http://www.energy.gov/ehss/environment-health-safety-security

C. Safety Standards and Testing

Materials, supplies, and equipment, or systems furnished by the Subcontractor under this Subcontract shall meet safety standards recognized in the United States of America.  All electrical equipment, components, conductors, and other electrical material shall be of a type that is listed, labeled, or tested by a Nationally Recognized Testing Laboratory (NRTL) in accordance with Title 29, Part 1910, Occupational Safety and Health Standards (OSHA), of the Code of Federal Regulations (29 CFR 1910.7).  Subcontractor-provided equipment or systems which are not listed, labeled or tested by a NRTL shall be field evaluated by an OSHA accredited NRTL prior to delivery to LLNL.  The documentation consisting of a NRTL Field Report shall reference the applicable Subcontract number and be delivered electronically to the LLNS Technical Representative identified in the Coordination and Administration Article and the Authority Having Jurisdiction (AHJ) at LLNL. The Subcontractor shall not, without prior written approval from the LLNS Contract Analyst, furnish, use or provide any deliverables, materials, supplies, or equipment that do not meet these requirements. LLNS may request, and the Subcontractor shall provide, all applicable documentation enabling LLNS to review any waiver of these requirements.

1. COORDINATION AND ADMINISTRATION

A. The LLNS Contract Analyst for this Subcontract is Gary M. Ward, or any other designee(s) as may be specified from time to time by the Contract Analyst, including by e-mail notification. All matters relating to the administration, performance and non-technical interpretation of this Subcontract shall be directed to the LLNS Contract Analyst. The Subcontractor shall direct all notices and requests for approval to the LLNS Contract Analyst. The LLNS Contract Analyst will issue any notices or non-technical approvals to the Subcontractor.

B. The LLNS Technical Representative for this Subcontract is TBD, or designee, telephone (925) 42TBD, or email TBD@llnl.gov. The LLNS Technical Representative will provide technical direction in connection with the work to be performed under this Subcontract. The term “technical direction” is defined to include (1) direction to the Subcontractor which assist in the interpretation of drawings, specifications, or technical portions of the work description; and (2) the review and approval of technical reports, drawings, specifications, and information to be delivered by the Subcontractor under the Subcontract, where required. The LLNS Technical Representative will issue all technical direction in writing.

C. The LLNS Technical Representative is not authorized to issue any technical direction which would (1) constitute an assignment of work outside the general scope of the work covered by this Subcontract; (2) change the description of the work to be performed or any applicable drawings, designs, and specifications; (3) change the time or place of performance; the method of shipment or packaging, or the place of inspection, delivery or acceptance; (4) increase the estimated cost for performance of the work or the time required for performance of the work; (5) change any expressed term or condition of the Subcontract; or (6) unreasonably interfere with the Subcontractor’s ability to perform and complete the work. Any such change must first be authorized by a written modification to this Subcontract issued by the LLNS Contract Analyst. The LLNS Technical Representative is not authorized to execute on behalf of LLNS any Subcontractor provided terms, conditions, or representations without consent from the LLNS Contract Analyst. This includes end-use certifications and representations.

1. REPORTS

A. Type of Reports

The Subcontractor shall prepare and submit reports as described in the Statement of Work.

B. Distribution of Reports

The Subcontractor shall submit reports electronically by E-Mail to the following national laboratory personnel.

| **Name** | **E-Mail Address** |
| --- | --- |
| Gary Ward | [ward31@llnl.gov](mailto:ward31@llnl.gov) |
| TBD | TBD |
| TBD | TBD |

With the exception of an authorized representative of DOE/NNSA and those indicated above, the Subcontractor shall not distribute reports of work under this Subcontract to any individual or organization without prior written approval of the LLNS Contract Analyst.

C. Interim Reports

It is understood there will be other information exchanged between the parties from time to time. Such data may be exchanged directly between the parties concerned; formal reporting and distribution is not required in these cases.

1. FOREIGN TRAVEL

A. Foreign travel is defined as travel (whether wholly or partly on official business) from the United States (including Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands, and the territories and possessions of the United States) to a foreign country and return, and travel between foreign countries by persons, including foreign nationals.

B. All foreign travel shall be subject to the prior approval of LLNS and DOE/NNSA for each separate trip, regardless of whether the costs are directly or indirectly charged. Airfare may be purchased upon written approval from LLNS.  Foreign travel must be approved by both LLNS and DOE/NNSA prior to the occurrence of the travel.  All foreign travel shall be conducted pursuant to the requirements contained in DOE Order O 551.1, Official Foreign Travel, or any subsequent version in effect at the time of award. A *Request for Approval of Foreign Travel*, Form DOE F 551.1 shall be submitted to the LLNS Technical Representative at least 60 days prior to the planned departure date.

To access Form DOE F 551.1, copy and paste the following URL into your browser: https://ftms.doe.gov/TR\_form.pdf

Note: The following listed items require re-approval of the trip request should they occur after the original request has been approved:

* Addition of one or more countries;
* Change in trip sensitivity from non-sensitive to sensitive.

C. Additionally, the Subcontractor shall coordinate with the LLNS Technical Representative to verify if the foreign destination is on the *DOE List of Sensitive Countries*. If traveling to a sensitive country, the Subcontractor must be pre-briefed 30 days prior to departure and debriefed upon return. Contact the LLNL Counterintelligence Program Office at (925) 422-5557 to schedule all briefings. The Subcontractor shall also assist the LLNS Technical Representative with completion of all required forms to be submitted to the Export Control Office when traveling to a sensitive country.

D. Access to LLNL data while on foreign travel shall be in accordance with LLNL's Cyber Security Program Policy 2360, *Taking LLNL Portable Computing Resources and Data on Foreign Travel*, requirements. A copy of the requirements will be furnished upon request. The Subcontractor shall coordinate with the LLNS Technical Representative to confirm compliance with the requirements and obtain the requisite equipment. The Subcontractor shall not use its own computing resources (computers, tablets, and removable storage devices), including Subcontractor employee personal computing resources, to access LLNL data while on foreign travel. LLNL data taken on foreign travel shall be encrypted in accordance with the *USE AND RELEASE RESTRICTIONS FOR PROTECTED INFORMATION* clause of the GENERAL PROVISIONS.

1. KEY PERSONNEL

A. The personnel specified below are deemed key personnel. The Subcontractor shall assign such individual(s) to this Subcontract to perform the duties proposed. All key personnel shall perform their duties in a professional manner consistent with the requirements of the position. No removal, replacement, or diversion shall be made by the Subcontractor without the written consent of the LLNS Contract Analyst.

B. If at any time after award the Subcontractor becomes aware that any key personnel is/are unable or unwilling to perform as the key personnel, the Subcontractor shall immediately notify the LLNS Contract Analyst in writing.

C. If any key personnel is/are to be substituted or replaced as provided above, the Subcontractor shall propose candidate(s) who meet the same or substantially similar qualifications (i.e., education, experience and other professional requirements) as the key personnel being substituted or replaced. The Subcontractor shall submit a current copy of the résumé, or similar document, demonstrating that the candidate(s) is/are qualified for the position(s) being filled to the LLNS Contract Analyst and provide any other information about such proposed candidate(s) sufficient for LLNS to determine the proposed candidate(s) can satisfactorily perform the duties of the key personnel.

D. The following individuals are assigned as key personnel under this Subcontract.

|  |  |
| --- | --- |
| **Name** | **Title** |
| TBD | TBD |
| TBD | TBD |
| TBD | TBD |

1. E-VERIFY PROGRAM ENROLLMENT VERIFICATION

Within 30 calendar days after award, the Subcontractor shall demonstrate that it has enrolled as a *Federal Contractor* in the E-Verify System by providing the LLNS Contract Analyst a copy of the Subcontractor's ‘Company Information’ page printed directly from the E-Verify System.

1. APPROVAL OF TECHNICAL DATA

If this Subcontract requires the Subcontractor to furnish any drawings, specifications, diagrams, layouts, schematics, descriptive literature, illustrations, schedules, performance or test data, or other technical data (hereinafter called data) for LLNS’ approval, LLNS’ approval of the data shall not relieve the Subcontractor from responsibility for any errors or omissions in such data or from responsibility for complying with the requirements of this Subcontract, except as specified below. Any work done prior to such approval shall be at the Subcontractor’s risk.

If the data includes any variation from the Subcontract requirements, the Subcontractor shall describe such variation in writing at the time of submission of the data to LLNS, for LLNS review and approval. If LLNS approves any such variation, the variation will be incorporated into the Subcontract by a bilateral Modification to this Subcontract.

Unless otherwise specified, LLNS requires a period of 10 working days, from date of receipt, to review and approve the data. If LLNS does not approve the data within the allotted time period, the parties will establish a new time period for review and approval of the data and, if necessary, the delivery schedule or completion date will be equitably adjusted.

All submittals shall be sent to the following e-mail address to the maximum extent practical:

[ward31@llnl.gov](mailto:ward31@llnl.gov)

All submittals that cannot be sent electronically shall be sent to the following address:

Lawrence Livermore National Laboratory

Attention: Gary M. Ward, Mail Code L-555

7000 East Avenue / P.O. Box 5012

Livermore, CA 94550 / 94551

1. EXPORT CONTROL REQUIREMENTS

*To be determined, based upon the proposal and LLNS review.*

1. FOREIGN GOVERNMENT TALENT RECRUITMENT PROGRAM

A. Pursuant to DOE Order 486.1A, *Foreign Government Sponsored or Affiliated Activities*, the Subcontractor must prohibit its employees as well as the employees of its lower-tier subcontractors, from participating in a Foreign Government Talent Recruitment Program by receiving Compensation from a Foreign Country of Risk while performing on-site work within the scope of this Subcontract, without prior written approval from the LLNS Contract Analyst. The Subcontractor shall flow down the requirements of this Article into lower-tier subcontracts to the extent necessary to ensure the Subcontractor’s compliance with the requirement.

B. As of the effective date of this Subcontract, the Subcontractor hereby represents, to the best of its knowledge, that none of its employees or its lower-tier subcontractor employees performing work within the scope of this Subcontract at a DOE/NNSA owned facility, or a DOE/NNSA/LLNS leased facility, is engaged in a Foreign Government Talent Recruitment Program by receiving Compensation from a Foreign Country of Risk without the advance written approval from the LLNS Contract Analyst

C. The Subcontractor shall perform reasonable due diligence to ensure compliance with this Article. If, during performance of this Subcontract, the Subcontractor has reason to believe that one or more of its employees, or an employee of a lower-tier subcontractor, performing on-site work on this Subcontract is engaged in a Foreign Government Talent Recruitment Program by receiving Compensation from a Foreign Country of Risk, the Subcontractor must (1) reassign the affected employee until LLNS makes a determination pursuant to paragraph D. of this Article and (2) promptly notify and provide the following information to the LLNS Contract Analyst.

a. Names of the employee(s);

b. Name of the foreign country and the names of the suspected Foreign Government Talent Recruitment Program(s);

c. The actual or anticipated renumeration or Compensation paid to the employee(s) involved with the suspected Foreign Government Talent Recruitment Program(s); and,

d. Any other information reasonably requested by LLNS or the U.S. Government.

LLNS may share the information provided with the U.S. Government.

D. The Subcontractor agrees to cooperate with LLNS and/or DOE/NNSA and take appropriate actions as directed by the LLNS Contract Analyst and/or by DOE/NNSA, to ensure that neither the Subcontractor’s employee nor its lower-tier subcontractor employees are participating in a Foreign Government Talent Recruitment Program by receiving Compensation from a Foreign Country of Risk while performing on-site under this Subcontract, without the prior written approval from the LLNS Contract Analyst. Such actions may include, but are not limited to, removing the individual from participating in this Subcontract and replacing the individual with someone else who is qualified to perform the work in question. The Subcontractor’s failure to comply with the requirements under this Article may result in LLNS exercising appropriate remedies.

E. The following definitions shall apply to this Article.

1. *Compensation* could take many forms including but not limited to cash, research funding, complimentary foreign travel, honorific titles, career advancement opportunities, promised future compensation, or any other type of renumeration or consideration, including in-kind compensation.

2. *Foreign Country of Risk* refers to any foreign country determined to be of risk by the U.S. Government, which includes Russia, Iran, China, and North Korea; and is subject to change.

3. *Foreign Government Talent Recruitment Program* refers to an effort directly or indirectly organized, managed, or funded by a foreign government to recruit science and technology professionals or students (regardless of citizenship or national origin, and whether having a full-time or part-time position). The term is more fully defined in the DOE Order, Attachment 2, which is hereby incorporated by reference.

1. DEBARMENT ELIGIBILITY CERTIFICATION

By acceptance of this Subcontract, the Subcontractor certifies, to the best of its knowledge and belief, it and its principals are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts (including subcontracts) by any agency of the Federal Government.

**ARTICLE 19 - OBLIGATIONS OF THE PARTIES**

LLNS and the Subcontractor agree that this Subcontract involves cutting-edge technology, research, and development under aggressive schedules. LLNS and the Subcontractor agree (i) that the Subcontractor shall use reasonable efforts to perform in accordance with the milestones, requirements, and/or schedules set forth in this Subcontract, and (ii) to reasonably consider limitations that may occur in meeting obligations under this Subcontract. If the Subcontractor is unable to meet its performance obligations, then LLNS and the Subcontractor hereby agree to negotiate the Statement of Work and/or the Subcontract price, if necessary, to reflect changes to the Subcontractor’s performance obligations. LLNS and the Subcontractor agree to use this process to address performance issues before resorting to any rights or remedies available by way of the *DISPUTES* or *TERMINATION* clauses of the GENERAL PROVISIONS.

ARTICLE 20 - GENERAL PROVISIONS

A. The clauses listed in the incorporated GENERAL PROVISIONS shall be applicable to this Subcontract based on the value of the Subcontract, the status of the Subcontractor, and the nature and location of the work as indicated in the GENERAL PROVISIONS. As used therein, the term “Seller” shall mean “Subcontractor,” and the terms “Purchase Order” and “PO” shall mean “Subcontract.”

B. This Subcontract shall not involve access to classified information and/or special nuclear material, or unescorted access to *Limited* security areas. Accordingly, the clauses listed in the GENERAL PROVISIONS related to such work shall not apply.

**NOTE:** The following Paragraph C applies if the selected offeror / Subcontractor is a Domestic Small Business or Non-Profit

Organization, as defined at FAR 27.301.

C. This Subcontract is for the conduct of research, development, or demonstration (RD&D) work, or design work involving non-standard types of construction. Accordingly, the clauses listed in the GENERAL PROVISIONS related to such work shall apply. The applicable Patent Rights clause of the GENERAL PROVISIONS shall be the clause entitled *Patent Rights-Retention by the Contractor.*

**NOTE:** The following Paragraph C applies if the selected offeror / Subcontractor is not a Domestic Small Business or Non

Profit Organization, as defined at FAR 27.301.

C. This Subcontract is for the conduct of research, development, or demonstration (RD&D) work, or design work involving non-standard types of construction. Accordingly, the clauses listed in the GENERAL PROVISIONS related to such work shall apply. The applicable Patent Rights clause of the GENERAL PROVISIONS shall be the clause entitled *Patent Rights-ACQUISITION by the GOVERNMENT.*

D. By this reference, the following clause is hereby added to the *CLAUSES INCORPORATED BY REFERENCE* clause of the GENERAL PROVISIONS, under the *Applicable to all Subcontracts* section.

|  |  |
| --- | --- |
| FAR 52.222-29 | NOTICE OF VISA DENIAL (JUN 2003). Applies if the Subcontractor is required to perform in or on behalf of a foreign country and if the Subcontract includes FAR 52.222-26 Equal Opportunity. |

E. The following clauses listed in the *Applicable to all Purchase Orders (POs)* sectionof the *CLAUSES INCORPORATED BY REFERENCE* clause of the GENERAL PROVISIONS are hereby modified as follows.

| **GP/FAR/DEAR**  **REFERENCE** | **TITLE** |
| --- | --- |
| FAR 52.204-25  FAR 52.232-40 | prohibition on contracting for certain telecommunications and video surveillance services or equipment (aug 2020), Excluding Paragraph (b)(2)  providing accelerated payments to small business Subcontractors (DEC 2013) (deviation apr 2020) |

F. By this reference, the clause entitled “NOTICES” of the GENERAL PROVISIONS is modified as follows.

“The Subcontractor shall immediately notify the LLNS Contract Analyst in writing of (1) any third party action, including any proceeding before an administrative agency or regulatory violation (i.e., federal, state, local), filed against the Subcontractor arising out of the performance of this Subcontract; (2) any third party claim against the Subcontractor, the cost and expense of which may be allowable under the terms of this Subcontract; (3) any proceedings related to bankruptcy the Subcontractor enters into; and (4) any circumstances whatsoever that the Subcontractor becomes aware of during the performance of the Subcontract which may jeopardize its fulfillment of the agreed performance of all or any portion of the Subcontract.”

G. By this reference, the clause entitled QUALITY OF ORDERED ITEMS of the GENERAL PROVISIONS is modified to add Paragraph E., as follows.

“E. Under its DOE Prime Contract, LLNS is required to notify its Contracting Officer and submit a report to the Government-Industry Data Exchange Program (GIDEP) of any suspect/counterfeit items or common items that have major or critical nonconformance as required by FAR 52.246-26, Reporting Nonconforming Items.”

(END OF SCHEDULE OF ARTICLES)