

LAWRENCE LIVERMORE NATIONAL LABORATORY
INDEMNIFICATION AND INSURANCE PROVISIONS

The following provisions shall apply to any work and other activities performed by the Subcontractor or its lower-tier subcontractors under this Subcontract at any U.S. Government location managed or operated by Lawrence Livermore National Security, LLC (also referred to herein as “LLNS”), including the Lawrence Livermore National Laboratory (hereinafter “LLNL”) and its Site 300, or at any other location except Subcontractor or lower-tier subcontractor facilities. As used herein, the term “Subcontractor” shall also mean “Seller” and the term “Subcontract” shall also mean “Agreement” or “Purchase Order.”

A. INDEMNIFICATION

The Subcontractor shall indemnify, hold harmless, and defend Lawrence Livermore National Security, LLC and its members and affiliates and the U.S. Government, their officers, employees and agents from and against all losses and expenses (including, but not limited to, costs of attorney's fees), damages and liabilities of any kind (collectively “losses”) resulting from or arising out of this Subcontract or the Subcontractor's work and completed operations (including, but not limited to, injury or death of any person, including Subcontractor’s employees, or damage or loss of any property), excepting only those losses, expenses, damages and law imposed liabilities caused solely by the intentional misconduct or active negligence of LLNS or U.S. Government personnel.

B. INSURANCE

1. Types of Coverage

The Subcontractor shall, at its expense, obtain, keep in force, and maintain insurance to cover its performance under this Subcontract of the types and in the minimum amounts set forth below. Such insurance shall be maintained in full force and effect during the performance of work required by this Subcontract:

a. <u>Commercial General Liability Insurance</u>	<u>Minimum Limit</u>
• Per Occurrence and General Aggregate	\$ 5,000,000
• Products/Completed Operations Aggregate	\$ 5,000,000
• Personal and Advertising Injury	\$ 1,000,000
b. <u>Business Automobile Liability Insurance</u>	<u>Minimum Limit</u>
• Combined Single Limit	\$ 1,000,000

The automobile liability insurance shall cover liability to third parties related to the Subcontractor’s use of owned, scheduled, non-owned, or hired vehicles, including the Subcontractor’s use of any LLNS-furnished U.S. Government owned vehicles. The automobile liability insurance shall cover liability to LLNS, as a third-party, and the U.S. Government, for any loss or destruction of, or

damage to, LLNS-furnished U.S. Government owned vehicles only if the Subcontractor's use involves hazardous activities or materials or the vehicle is assigned for exclusive, full-time use.

- c. Workers' Compensation (As required under California state law or other applicable state law for any work not performed in California). The workers' compensation insurance shall include the following minimum coverage:

	<u>Minimum Limit</u>
• Employer's Liability, Per Accident	\$ 1,000,000
• Employer's Liability Disease, Each Employee	\$ 1,000,000
• Employer's Liability Disease, Policy Limit	\$ 1,000,000

2. Certificates of Insurance, Endorsements and Other Conditions

The general liability insurance shall name and endorse Lawrence Livermore National Security, LLC and its members and affiliates and the U.S. Government as **“additional insureds”** for the work and completed operations, protecting them against losses, expenses, damages and liabilities arising out of the Subcontract activities, whether performed by the Subcontractor or its lower-tier subcontractors.

The general liability insurance and workers' compensation insurance shall endorse to the policies a **“waiver of subrogation”** provision in favor of LLNS and its members and affiliates and the U.S. Government.

All such insurance coverage shall be primary and shall not participate with or apply in excess of any other valid, collectible insurance or program of self-insurance of LLNS or the U.S. Government.

The “Certificate Holder” must be named:

Lawrence Livermore National Security, LLC and its members and affiliates
And the U.S. Government
Lawrence Livermore National Laboratory
7000 East Ave. (L-650)
Livermore, CA 94550

The required insurance shall be obtained from insurance companies authorized to do business in California that have an A.M. Best rating of A: VII or better, or an equivalent Standard & Poor's rating of AA or better, or Moody's rating of Aa or better.

The insurance shall not be written on a claims-made form or subject to a self-insured retention (SIR) or deductible of \$100,000 or more without the written approval of the LLNS Contract Analyst.

The stipulation of required coverage and limits of insurance shall not in any way limit the liability of the Subcontractor.

3. Submission of Insurance Certificates and Endorsements

Unless otherwise indicated in the Subcontract, prior to commencement of any work at a LLNS controlled or U.S. Government owned or leased premises, the Subcontractor shall provide certificate(s) of insurance for all the types of required insurance, issued by properly authorized representatives. The certificate(s) of insurance shall specifically confirm the “waiver of subrogation” and “additional insured” obligations and be accompanied by all required endorsements.

The Subcontractor shall ensure all required insurance certificates and endorsements are submitted to the LLNS Contract Analyst. Neither LLNS’s failure to notify the Subcontractor of any non-compliance with these provisions nor LLNS acceptance of Subcontractor’s insurance documentation shall be construed as a waiver of any Subcontractor’s obligations herein.

The Subcontractor shall provide written notification to the LLNS Contract Analyst at least 30 days in advance of any modification, change, or cancellation of any of the insurance coverage. Any such notification by an insurance agent or other insurance company representative shall be in addition to, and shall not satisfy, the Subcontractor’s obligation to provide a written notification.

4. Lower-Tier Subcontractor Insurance

Before permitting any lower-tier subcontractor, other than a seller or vendor of standard commercial items and supplies, to perform any work under this Subcontract, the Subcontractor shall require the lower-tier subcontractor to furnish to the Subcontractor satisfactory evidence the lower-tier subcontractor has obtained and maintains insurance consistent with the above specified types and amounts for all work the lower-tier subcontractor will perform under this Subcontract.

C. SITE 300 VALLEY FEVER HEALTH HAZARD

(Applicable if any work or activities are at LLNL Site 300.)

1. Representations

The Subcontractor represents it is aware the LLNL Site 300 area is located in San Joaquin County, which has dirt and dust containing spores that cause Coccidioidomycosis (sometimes called “Valley Fever”), a disease that is endemic throughout the county, including Site 300. The Subcontractor also represents it will take appropriate precautionary measures to protect the health of employees, other workers and individuals who may be involved with the Subcontractor's work or services at Site 300 under this Subcontract. Information on the disease and certain precautionary measures is available from the American Lung Association.

2. Required Training

All Subcontractor employees, lower-tier subcontractor personnel, consultants, and/or agents who will perform work at Site 300 shall complete LLNL course HS-0096W, a

web-based training course on Valley Fever or its equivalent, prior to commencement of any on-site work performed at Site 300 under this Subcontract.

3. Indemnification

The Subcontractor agrees to indemnify and hold harmless LLNS and its members and affiliates and the U.S. Government from any or all claims and expenses, including reasonable legal fees, arising from personal injury, including death, which may be asserted by the employees of the Subcontractor or its lower-tier subcontractors or other individuals exposed or alleged to have been exposed to the spores that cause Coccidioidomycosis as a result of Subcontractor activities at Site 300.

4. Insurance

The Subcontractor agrees that the general liability and workers' compensation insurance required to be maintained will protect LLNS and its members and affiliates and the U.S. Government from the risks enumerated above, and will contain a provision waiving any right of subrogation against LLNS and its members and affiliates and the U.S. Government which may arise by reason of any payment under the insurance.

D. LIENS

1. Upon LLNS request, the Subcontractor shall submit a sworn statement setting forth the services performed or goods furnished by its lower-tier subcontractors and suppliers, and the amount due and to become due to each, and before the final payment called for hereunder, it will, if requested, submit documentation showing all payments made for goods and services used under the Subcontract.
2. The Subcontractor shall promptly notify LLNS, in writing, of any claims, demands, causes of action, or suits arising out of or related to the furnishing of material or services under this Subcontract that are brought to its attention. The Subcontractor shall forward with such notification copies of all pertinent papers received by the Subcontractor with respect to any such claims, demands, causes of action, or suits and, at the request of LLNS, shall do all things and execute and deliver all appropriate documents and assignments in favor of LLNS and its members and affiliates and the U.S. Government of all Subcontractors' rights and claims growing out of such asserted claims as will enable LLNS and its members and affiliates and the U.S. Government to protect their respective interests by litigation or otherwise.
3. The final payment shall not be made until the Subcontractor, if required, delivers to LLNS a complete release of all liens arising out of this Subcontract, or receipts in full in lieu thereof, as LLNS may require, and if required in either case, an affidavit that as far as it has knowledge or information, the receipts include all the labor and goods for which a lien could be filed; but Subcontractor may, if any lower-tier subcontractor refuses to furnish a release or receipt in full, furnish a bond satisfactory to LLNS to indemnify it against any claim by lien or other means. If any lien or claim remains unsatisfied after all payments are made, the Subcontractor shall refund to LLNS all

money the latter may be compelled to pay in discharging such lien or claim, including all costs and reasonable attorney's fees.

(END OF PROVISIONS)