Appendix C: Standard Terms and Conditions

Article 1. Independent Contractor
The relationship of Subcontractor to RTI is that of an independent contractor, and nothing in this Subcontract shall be construed as creating any other relationship. Subcontractor shall comply with all laws and assume all risks incident to its status as an independent contractor. This includes, but is not limited to, responsibility for all applicable federal and state income taxes, associated payroll and business taxes, licenses and fees, and such insurance as is necessary for Subcontractor’s protection in connection with work performed under this Agreement. Neither Subcontractor nor anyone employed by it shall be, represent, act, and purport to act, or be deemed to be an agent, representative, employee, or servant of RTI.

Article 2. Privity of Contract
No privity between Subcontractor and RTI’s client, including the Federal Government, is established by this Subcontract. All communications regarding this Subcontract must be directed to RTI and not to RTI’s Client.

Article 3. Statement of Work/Budget
Subcontractor shall furnish the necessary personnel, materials, services, equipment and facilities, and all other items necessary to accomplish all tasks specified in Subcontractor’s Statement of Work/Budget, which is hereby incorporated and made a part of this Subcontract.

Article 4. Period of Performance and Delays
Subcontractor shall strictly adhere to the period of performance set forth in the Appendix A, Special Contract Requirements. Any changes to the period of performance shall only be authorized by RTI through the issuance of a written and fully executed Subcontract modification. In the event of any anticipated or actual delay in performance, Subcontractor shall: (i) promptly notify RTI in writing (within 5 business days) of the reasons for the delay and the actions being taken to overcome or minimize the delay; (ii) provide RTI with a written recovery schedule; and (iii) if requested by RTI, expedite performance or delivery to avoid or minimize delay to the maximum extent possible, unless Subcontractor is excused from prompt performance as provided in the “Excusable Delays” article of this Subcontract.

Article 5. Consultants/Lower-Tier Subcontracts
A. PRIOR WRITTEN approval of the RTI Subcontract Administrator is required for obtaining services of consultants and lower-tier subcontractors. Costs for consultants and lower-tier subcontractors who have not received PRIOR WRITTEN approval in accordance with this Article will not be reimbursed. Inclusion in the Subcontractor’s budget or proposal does not constitute request or approval of consultants or lower-tier Subcontractors.

B. When requesting the use of consultants or a lower-tier subcontractor, the Subcontractor shall furnish information concerning the need for such services, the reasonableness of the fees or costs, a copy of the proposed consulting agreement/subcontract, and any additional information required to make a determination of acceptability, including, as applicable, FAR 52.244-2. Cost-plus-a-percentage-of-cost subcontracts or purchase orders are prohibited.

Article 6. Assignment, Delegation and Subcontracting
A. Subcontractor shall not assign or novate any of its rights or interests in this Subcontract without prior written consent of the RTI Subcontract Administrator. Subcontractor shall not delegate any of its duties or obligations under this Subcontract. Subcontractor may not assign its right to monies due or to become due. No assignment, delegation or subcontracting by Subcontractor, with or without the RTI Subcontract Administrator’s written consent, shall relieve Subcontractor of any of its obligations under this Subcontract or prejudice any of RTI’s rights against Subcontractor whether arising before or after the date of any assignment. This Article does not limit Subcontractor’s ability to purchase standard commercial supplies or raw materials.

B. RTI shall be entitled to assign this Subcontract to any of its subsidiaries or other affiliates (including by operation of law, judicial process or otherwise) or any successor to RTI’s business or operations without prior notice to or consent from Subcontractor. RTI shall further be entitled to assign this Subcontract to its Prime Sponsor of the
agreement under which this Subcontract is issued without prior notice to or consent from Subcontractor. Any other assignment by RTI shall require Subcontractor consent.

Article 7. Technical Direction
A. The RTI Principal Investigator/Project Manager identified in Appendix A, Special Contract Requirements, does not have the authority to direct the Subcontractor to make changes in scope, period(s) of performance, place(s) of performance, cost, funding, or any other express Provisions of this Subcontract. All matters affecting the terms of this Subcontract and the administration thereof shall be referred to the RTI Subcontract Administrator. The RTI Subcontract Administrator is the only person with the authority to direct changes under this Subcontract. Any changes to the provisions of this Subcontract must be made by written modification in accordance with the Changes and Modifications Provision of this Subcontract.

B. When, in the opinion of Subcontractor, technical direction calls for effort outside the scope of the Statement of Work, Subcontractor shall notify the RTI Subcontract Administrator and the RTI Principal Investigator/Project Manager of the technical direction in writing in accordance with the Changes and Modifications Article of this Subcontract.

Article 8. Inspection and Acceptance
A. Acceptance of the work set forth in this Subcontract will be made by the RTI Principal Investigator/Project Manager as identified in Appendix A: Special Contract Requirements or his/her authorized designee. RTI has the right to inspect and test all work performed or being performed under this Subcontract and the premises where the work is being performed, at all reasonable times and places during the term of the Subcontract. RTI shall perform inspections and tests in a manner that will not unduly delay the work.

B. If RTI performs any inspection or test on the premises of the Subcontractor or a lower-tier subcontractor, the Subcontractor shall furnish, and shall require lower-tier subcontractors to furnish, without additional charge, all reasonable facilities and assistance for the safe and convenient performance of these duties. Upon RTI’s request, Subcontractor shall provide RTI the records of inspection/test for any products and/or services furnished hereunder at any time during performance and any applicable warranty period.

Article 9. Changes and Modifications
A. The RTI Subcontract Administrator may, at any time, without notice to sureties, if any, and in writing, direct changes within the general scope of this Subcontract in any of the following—(i) technical requirements and descriptions, specifications, statement of work, drawings or designs; (ii) shipment or packing methods; (iii) place of delivery, inspection or acceptance; (iv) reasonable adjustments in quantities or delivery schedules or both; (v) amount of RTI-furnished property; and, if this Subcontract includes services; (vi) description of services to be performed; (vii) time of performance (i.e., hours of the day, days of the week, etc.); and (viii) place of performance. Subcontractor shall comply immediately with such direction.

B. If any change under this Article causes an increase or decrease in the Subcontractor's cost of, or the time required for, the performance of any part of this Subcontract, the parties shall negotiate an equitable adjustment in the price or schedule, or both, and the RTI Subcontract Administrator shall modify the Subcontract in writing accordingly.

C. Subcontractor must assert its right to an adjustment under this Article to the RTI Subcontract Administrator in writing within 25 calendar days from the date of Subcontractor's receipt of the written change order from the RTI Subcontract Administrator. In support of the claim for adjustment, Subcontractor shall provide a written statement describing the general nature of the requested adjustment, as well as a fully supported proposal with the total dollar amount of the requested adjustment. RTI may, at its sole discretion, consider any claim regardless of when asserted. RTI, or mutually agreeable third-party, may examine Subcontractor’s pertinent books and records to verify the amount of Subcontractor’s claim. Failure of the parties to agree upon any adjustment shall not excuse Subcontractor from performing previously agreed upon work.

D. Notwithstanding the foregoing provisions of this article, the Subcontract ceiling and funded amount shall not be increased or deemed to be increased except by specific written modification of this Subcontract indicating the new Subcontract ceiling and authorized funded amount. Until such modification is made, Subcontractor shall not
continue performance or incur costs beyond the period of performance or the authorized funded amount as set forth in the Special Contract Requirement (SCR) Appendix of this Subcontract.

**Article 10. Invoicing**

A. RTI shall make any payments due under this Subcontract within thirty (30) calendar days after its receipt of a proper invoice from Subcontractor provided such invoice from Subcontractor complies with all requirements, which may be amended from time to time after this Agreement’s execution, delineated at the following link: [www.rti.org/files/invoice-payment.pdf](http://www.rti.org/files/invoice-payment.pdf).

B. In addition to the invoice instructions set forth in Paragraph A of this Article, Subcontractor shall submit an invoice summary page as incorporated herein with each invoice submission. Subcontractor may use its own invoice summary format if such is substantially similar to the template provided in this Subcontract.

**Article 11. Final Payment and Closeout**

Subcontractor’s final invoice and release and assignment shall be submitted to RTI within 90 calendar days following completion of the period of performance of this Subcontract. In the event that quick closeout is requested by RTI, Subcontractor shall comply with FAR Part 42.708 to complete Subcontract closeout. Payment of the final invoice will be withheld pending:

- Completion, submission, and acceptance by RTI of all work performed under the Statement of Work
- Completion of Subcontractor’s Release Form, including patent/invention report, and property report; and
- Clear, visible, and proper marking of “final invoice” on the actual final invoice

**Article 12. Taxes**

All taxes applicable to the proceeds received by Subcontractor shall be the liability of Subcontractor, and RTI shall not withhold nor pay any amounts for federal, state or municipal income tax, social security, unemployment or workman’s compensation unless required by law. RTI shall withhold and remit any amount, regardless of its description as a tax or otherwise, in countries where local laws require that such amounts be withheld and timely remitted by RTI. In accordance with law, RTI shall annually file with the Internal Revenue Service, or any other tax agency, whether domestic or not, any applicable tax forms reflecting the gross annual payments made by RTI to Subcontractor. Gross annual payments shall be the total compensation for labor and reimbursement of expenses; therefore, it is the Subcontractor’s responsibility to retain copies of expenses incurred during the performance of services under this Agreement for tax reporting purposes. It is the Subcontractor’s responsibility to determine if a value added tax (VAT) is applicable to services provided to RTI, and to timely remit the VAT charged to RTI per the invoicing instructions included in Article 10. The invoice tendered to RTI for payment shall comply with the applicable local country’s VAT regulations.

**Article 13. Record Retention and Access**

Subcontractor shall maintain books, records, documents, program and individual service records and other evidence of its accounting and billing procedures with respect to this Agreement and the Scope of Work set forth herein. These records shall be subject at all reasonable times to monitoring, inspection, review or audit by authorized employees or agents of RTI, or by the United States government, as applicable. Subcontractor shall retain all such records concerning this contract for a period of three (3) years after the completion of the Subcontract. If any litigation, claim or audit is started before the expiration date of this three-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.

**Article 14. Confidential Information**

A. During the term of this Subcontract, Subcontractor and its employees may receive or have access to data and information that is confidential and proprietary to RTI or its Client. All such data and information (“Confidential Information”) made available to, disclosed to, or otherwise made known to Subcontractor as a result of services under this Subcontract shall be considered confidential and shall be considered the sole property of RTI and/or RTI’s Client. Confidential Information may be used by Subcontractor or its employees only for purposes of performing the obligations hereunder and such persons shall be advised of the obligations set forth in this Agreement and shall agree to be obligated in like manner. Subcontractor shall not reveal, publish or otherwise disclose Confidential Information to any third party without the prior written consent of the disclosing party and
shall use at least the same degree of care in safeguarding the Confidential Information as the party uses in safeguarding its own confidential information but in no event less than a reasonable standard of care.

B. Confidential and/or proprietary information includes trade secrets, the structure, sequence, and organization of the Products, marketing plans, blueprints, techniques, processes, procedures and formulae, price lists, specifications, prints, and Product plans. Intellectual Property may include, without limitation, information relating to research and development, formulations, inventions, discoveries, improvements, methods, and processes, techniques, methodologies, know-how, algorithms, compositions, works, concepts, designs, ideas, prototypes, models, samples, writings, notes, patent applications, and trade secrets. Business practices may include, without limitation, information relating to business plans, financial information, products, and services, manufacturing processes and methods, costs, sources of supply, strategic marketing plans, customer lists, sales profits, pricing methods, personnel, and business relationships (“Confidential Information”).

The foregoing obligations shall not apply to Confidential Information which:

- is or becomes generally available to the public other than as a result of a disclosure by Subcontractor;
- becomes available to Subcontractor on a non-confidential basis from a third party source which is not prohibited from disclosing such information by a legal, contractual or fiduciary agreement to a third party;
- Subcontractor develops independently without use of the disclosing party's Confidential Information, as demonstrated by written records and evidence;
- was in Subcontractor's possession or known to it prior to its receipt from the disclosing party; or
- is required by law to be disclosed, provided Subcontractor notifies the disclosing party promptly and gives the disclosing party an opportunity to seek an appropriate protective order.

C. These obligations of confidentiality and non-disclosure shall remain in effect for a period of five (5) years after the termination of this Subcontract and indefinitely for any Trade Secrets. Subcontractor shall return or destroy all copies of any Confidential Information it has received from RTI within thirty (30) business days after the effective date of the termination. At the request of RTI, an authorized officer of the Subcontractor will certify in writing that it has complied with its obligations hereunder.

D. The provisions of this Article apply in addition to the terms of any Non-Disclosure Agreement (NDA) between the parties related to this program. In the event of a conflict between this Article and the NDA, the terms of the NDA control, except that as to the duration of the obligations of confidentiality and non-disclosure, the longer duration applies.

Article 15. Right to Publish/Release of Information

A. Subcontractor agrees that it will not publish, have published or otherwise disseminate any information of whatever nature resulting from the work being performed under this Agreement except as may be approved by the Subcontract Administrator; provided, however, that Subcontractor may for internal use only and without the approval of RTI disseminate such information within its own organization on a “need-to-know” basis.

B. Subcontractor and RTI mutually agree not to use the other party's name or make reference to the other party or any of its employees in publications, news releases, advertising, speeches, technical papers, photographs, sales promotions, or publicity purposes of any form related to this work or data developed hereunder, unless such materials have received prior written approval of the other party. Approvals shall not be unreasonably withheld. Unless specifically restricted in the Subcontract, use of either party's name may be made in internal documents, annual reports, and data bases which are not available to the public and which identify the existence of the research project by title, principal investigator, sponsor, period of funding, amount of award and abstract of the project.

C. Subcontractor shall not use or duplicate any proprietary information including trade secrets belonging to or supplied by RTI, except as authorized by RTI in the performance of services or work under this Agreement.

D. Any program, document, data or information supplied by Subcontractor to Client through RTI may be used, copied or disclosed by Client as necessary in the normal course of its business, subject to any copyright of Subcontractor in such materials and any notices or legends appearing thereon, provided (1) Subcontractor is entitled to place such notices or legends and (2) no other provisions of this Subcontract (including, if applicable, any FAR Clauses
set forth in, or incorporated into, this agreement) prohibit or limit the effectiveness of such copyright or notice or legend.

**Article 16. Indemnification**

A. Subcontractor shall defend, indemnify, and hold harmless RTI from any loss, damage, liability, claims, demands, suits, or judgments (“Claims”) including any reasonable attorney’s fees, and costs, as a result of any damage or injury to RTI or its employees, directors, officers, or agents, or properties, or for any injury to third persons (including, but not limited to Claims by Subcontractor’s employees, directors, officers or agents) or their property which is directly or indirectly caused by the negligence, willful misconduct, breach of this Subcontract, or violation of statutory duties of Subcontractor, or its employees, officers, directors, or agents, arising out of or in connection with the performance of this Subcontract unless such Claim is caused by, or resulting from, a material breach of this Agreement by RTI.

B. RTI shall promptly notify Subcontractor of any claim which is covered by this provision. Subcontractor shall, in a diligent and timely manner, (i) brief RTI on all material information pertaining to a Claim and Subcontractor’s efforts to defend against the Claim; and (ii) respond to reasonable inquiries by RTI regarding such Claim or defense. Any cooperation which an Indemnitee provides Subcontractor at Subcontractor’s request with regard to defending against a Claim shall be at the sole expense of Subcontractor. RTI may, in its sole discretion, participate in any defense or settlement of a Claim and/or appoint adequate counsel, at Subcontractor’s sole expense, to defend an Indemnitee against a Claim. Subcontractor shall not enter into any settlement, consent or other like resolution of a Claim without RTI’s written approval, which RTI shall not unreasonably withhold. The issuance of such approval shall not waive or otherwise limit the indemnity rights of an Indemnitee under this Article.

**Article 17. Infringement Representation**

Subcontractor represents (a) that in preparing or presenting any deliverables under this Subcontract, Subcontractor will not knowingly infringe any intellectual property rights held by others; (b) that all deliverables developed by Subcontractor personnel under this Subcontract will be original works, and that Subcontractor will not incorporate any material not developed by Subcontractor personnel in preparing or presenting such works without clearly indicating such third party materials; and (c) that Subcontractor will notify RTI of any third party rights of which Subcontractor is aware that are necessary for RTI and RTI’s Client(s) to use any such deliverables in accordance with the Subcontract.

**Article 18. Governing Law**

This Subcontract shall be governed by and construed in accordance with the laws of the State of North Carolina, excluding its principles of choice of laws, except as to any provisions hereof which are governed by the laws of the United States of America, as to which provisions such laws of the United States shall govern. If this Subcontract involves the sale of goods, then this Subcontract excludes the application of the 1980 United Nations Convention on Contracts for the International Sale of Goods.

**Article 19. Disputes**

A. Any dispute arising under this Subcontract shall be settled by mutual agreement of the parties or pursuant to paragraph (b) below.

B. If the parties cannot resolve the dispute amongst themselves within a reasonable time, the parties may, by mutual agreement, settle such dispute by arbitration in accordance with the Rules of the American Arbitration Association in the City of Raleigh, North Carolina, and judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction.

C. Pending completion of the Subcontract or final resolution of a dispute which releases Subcontractor from performance hereunder, the Subcontractor shall, at all times, proceed diligently with the performance of the Subcontract.

**Article 20. Notice of Litigation and Labor Disputes**

A. Subcontractor shall provide written notice to RTI of any litigation that relates to the services directly or indirectly financed under this contract or that has the potential to impair the ability of the Subcontractor to fulfill the terms
and conditions of this Subcontract, including but not limited to financial, legal or any other situation which may prevent the Subcontractor from meeting its obligations on the Subcontract.

B. Whenever Subcontractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this Subcontract, Subcontractor shall immediately (within 5 calendar days) give notice thereof, including all relevant information, to RTI.

**Article 21. Insurance**

A. Upon execution of the Subcontract, Subcontractor certifies that it maintains and also that it shall require any lower-tier Subcontractor to maintain throughout this Subcontract the following insurance at, or in excess of, the limits detailed below.

B. Worker's compensation and employer's liability insurance as required by the state or province where the work is performed.
   - Comprehensive automobile and vehicle liability insurance covering claims for injuries to members of the public and/or damages to property of others arising from use of motor vehicles, including on-site and off-site operations, and owned, non-owned, or hired vehicles, with $1,000,000 combined single limits.
   - Commercial general liability insurance covering claims for injuries to members of the public or damage to property of others arising out of any negligent act or omission of the Subcontractor or of any of its employees, agents, or lower-tier subcontractors, with $1,000,000 combined single limits.
   - The required levels of insurance coverage for work performed outside of the United States by non-U.S. vendors shall be based on the customary insurance practices in the country of the vendor and the country where the work is being performed, as directed by the RTI Subcontract Administrator.

C. Subcontractor's insurance policy shall name as an additional insured:

   “RTI International and its subsidiaries, affiliates, officers, directors, and employees”

D. Subcontractor shall provide to RTI, upon Subcontract execution and upon each renewal or replacement thereof a certificate of insurance depicting the insurance requirements set forth in this Article. Subcontractor shall send the insurance certificate or renewal certificate(s) via mail or electronic mail (preferred). If the mail is used, please send certificates to the following address:

   RTI International
   Global Supply Chain
   3040 Cornwallis Road
   Research Triangle Park, NC 27709
   Attention: [INSERT SUBCONTRACT SPECIALIST NAME]
   Email: [INSERT]

**Article 22. Stop Work Order**

A. RTI may at any time, by written notice to Subcontractor, require Subcontractor to stop all or any part of the work called for by this Subcontract. Upon receipt of the notice, Subcontractor shall immediately cease all work in accordance with the written notice and shall take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the written notice during the period of work stoppage.

B. Once the Stop Work order is no longer necessary, RTI shall either terminate in accordance with the Termination/Cancellation Article of this Subcontract or cancel the stop work order by written notice to Subcontractor. Subcontractor shall resume work upon cancellation or expiration of any stop work order. In the event Subcontractor is given notice to continue performing work on the Subcontract, an equitable adjustment in accordance with the principles of the Changes and Modifications Article of this Subcontract shall be made to the Subcontract price, the delivery schedule, or both, if applicable, provided that the claim for equitable adjustment is made as soon as possible but no later than twenty-five (25) calendar days after date of notice to continue.

**Article 23. Termination/ Cancellation**

*Termination for Default*
A. If Subcontractor should persistently or repeatedly refuse or should fail, except in cases for which extension of time is provided, to supply enough properly skilled staff or proper materials, or if Subcontractor should fail to make prompt payment to subcontractors for material or labor, or otherwise is guilty of a violation on any provision of this Subcontract, including delivery delays beyond fifteen (15) calendar days after specified delivery date, or as otherwise specified in the Subcontract, then RTI, without prejudice to any of the other rights or remedies expressly provided by law, may cancel this Subcontract, or any part hereof, by written notice to Subcontractor and shall have the right thereafter to take possession of all materials, equipment and the like, the cost of which has been reimbursed by RTI to Subcontractor, in such cases of termination, RTI shall be relieved of all further obligations hereunder. In the event that RTI incurs any additional costs as a result of the default by Subcontractor, RTI shall have the right to hold Subcontractor accountable for any such additional costs or damages incurred by RTI.

Termination for Bankruptcy
B. If either party shall be adjudged bankrupt, or become insolvent or file for voluntary bankruptcy or be subjected to involuntary bankruptcy proceedings, or enter receivership proceedings, or make an assignment for the benefit of creditors, then the other party, without prejudice to any of the other rights or remedies expressly provided by law, may cancel this Subcontract, or any part hereof, by written notice to the bankrupt party and shall have the right there to retain possession of all materials, equipment and the like, the cost of which has not been reimbursed by the bankrupt party to the other party. In such cases of termination, the other party shall be relieved of all further obligations hereunder.

Termination for Convenience
C. RTI reserves the right, at any time, in its own best interest or at the direction of any client or government customer, and without liability may, upon written notice to Subcontractor, terminate this Subcontract in whole or in part, at any time, whether or not Subcontractor is in default of any of its obligations hereunder. Upon such cancellation, Subcontractor agrees to waive any claim for damages, including loss of anticipated profits on account hereof. However, RTI agrees that Subcontractor shall be paid an amount which when added to all installment payments previously paid will equal the sum of all costs properly incurred up to the date of cancellation, and any reasonable cost incurred as a result of such cancellation as agreed to between RTI and Subcontractor. In no event shall such payments be greater than the original Subcontract price or authorized funding, whichever is less. All earned profit shall bear the same relationship to such incurred costs as the profit increment of the purchase price bears to the cost increment of such purchase price.

D. Subcontractor shall provide RTI any supporting information necessary to document the reasonableness of Subcontractor's termination for convenience claim. RTI reserves the right to verify the amounts of any cost and profit increments claimed by Subcontractor, through an audit of Subcontractor's records.

Article 24. **Compliance with Laws**
Subcontractor, in the performance of this Subcontract, shall comply with all applicable local, state, and federal laws, orders, rules, regulations and ordinances of the United States and all countries where Subcontractor will be performing the Subcontract.

Article 25. **Standards of Ethics and Business Conduct**
A. RTI has established high ethical standards for its employees, subcontractors and vendors. RTI considers adherence to the RTI Code of Conduct as well as strict observance of all U.S. and non U.S. laws and regulations to be both a legal requirement and an ethical obligation for its employees. All RTI Subcontractors are required to maintain a Code of Business Ethics and Conduct in compliance with FAR 52.203-13.

B. If Subcontractor has a good faith reason to believe that any violation of its Code of Business Ethics and Conduct has been committed by an employee(s) of either RTI or Subcontractor or anyone affiliated with Subcontractor, Subcontractor shall report such violation to RTI by calling the RTI's Ethics Helpline toll-free at 1-877-212-7220 or sending an e-mail to Ethics@rti.org.

Article 26. **Executive Order on Terrorism Financing**
Subcontractor is reminded that U.S. Executive Orders and U.S. law prohibits transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. It is the legal responsibility of Subcontractor to ensure compliance with these Executive Orders and laws. This provision must be included in all subcontracts/subawards issued under this Subcontract.
Article 27. **Export Controls**

A. **Definition.** “Export-controlled items,” as used in this clause, means items subject to the Export Administration Regulations (EAR) (15 CFR Parts 730-774) or the International Traffic in Arms Regulations (ITAR) (22 CFR Parts 120-130). The term includes: (1) “Defense items,” defined in the Arms Export Control Act, 22 U.S.C. 2778(j)(4)(A), as defense articles, defense services, and related technical data, and further defined in the ITAR, 22 CFR Part 120; and (2) “Items,” defined in the EAR as “commodities”, “software”, and “technology,” terms that are also defined in the EAR, 15 CFR 772.1.

B. The Subcontractor shall comply with all applicable laws and regulations regarding export-controlled items, including, but not limited to, the requirement for contractors to register with the U.S. Department of State in accordance with the ITAR. The Subcontractor shall consult with the U.S. Department of State regarding any questions relating to compliance with the ITAR and shall consult with the U.S. Department of Commerce regarding any questions relating to compliance with the EAR.

C. The Subcontractor’s responsibility to comply with all applicable laws and regulations regarding export-controlled items exists independent of, and is not established or limited by, the information provided by this clause.

D. Nothing in the terms of this Agreement adds, changes, supersedes, or waives any of the requirements of applicable Federal laws, Executive orders, and regulations, including but not limited to—

1. The Export Administration Act of 1979, as amended (50 U.S.C. App. 2401, et seq.);
2. The Arms Export Control Act (22 U.S.C. 2751, et seq.);
4. The Export Administration Regulations (15 CFR Parts 730-774);
5. The International Traffic in Arms Regulations (22 CFR Parts 120-130); and
6. Executive Order 13222, as extended.

E. In the event this Agreement is likely to involve Export-controlled items, additional requirements and information will be included in this Agreement, including affirmatively stating whether the Export-controlled item are to be regulated by the U.S. Department of State or the U.S. Department of Commerce.

F. Subcontractor shall notify RTI if any deliverable under this Agreement is restricted by export control laws or regulations.

G. Subcontractor shall immediately notify the RTI Subcontract Administrator if Subcontractor is, or becomes listed in any Denied Parties List or if Subcontractor’s export privileges are otherwise denied, suspended or revoked in whole or in part by any U.S. Government entity or agency.

H. If Subcontractor is engaged in the business of either exporting or manufacturing (whether exporting or not) defense articles or furnishing defense services, Subcontractor represents that it is registered with the Office of Defense Trade Controls, as required by the ITAR, and it maintains an effective export/import compliance program in accordance with the ITAR.

I. Where Subcontractor is a signatory under a RTI export license or export agreement, Subcontractor shall provide prompt notification to the RTI Subcontract Administrator in the event of changed circumstances including but not limited to, ineligibility, a violation or potential violation of the ITAR, and the initiation or existence of a U.S. Government investigation, that could affect Subcontractor’s performance under this Agreement.

J. Subcontractor shall be responsible for all losses, costs, claims, causes of action, damages, liabilities, and expense, including attorney’s fees, all expense of litigation and/or settlement, and court costs, arising from any act or omission of Subcontractor, its officers, employees, agents, or subcontractors at any tier, in the performance of any of its obligations under this Article.

K. The Subcontractor shall include the substance of this clause in all lower-tier subcontracts.
Article 28. **Foreign Corrupt Practices Act**

Subcontractor represents and warrants that it shall comply fully with the anti-bribery provisions of the U.S. Foreign Corrupt Practices Act, as amended (“FCPA”), as well as the a) UN Convention against Corruption (UNICAC), b) OECD Convention on the Bribery of Foreign Public Officials (OECD Convention); and c) any other applicable local anti-corruption laws, rules, and regulations if any part of this subcontract will be performed outside of the United States of America. Specifically, Subcontractor understands and agrees that it shall be unlawful for the Subcontractor and/or any officer, director, employee or agent of the Subcontractor to make any kind of offer, payment, promise to pay, or authorization of the payment of any money, or offer, gift, promise to give, or authorization of the giving of anything of value to:

(a) any foreign official (or foreign political party) for purposes of either influencing any act or decision of such foreign official in his official capacity, or inducing such foreign official to do or omit to do any act in violation of the lawful duty of such official, or securing any improper advantage, or inducing such foreign official to use his influence with a foreign government, or instrumentality thereof, to affect or influence any act or decision of such government or instrumentality in order to assist such person in obtaining or retaining business for or with, or directing business to any person; or

(b) any person, while knowing that all or a portion of such money or thing of value will be offered, given, or promised, directly or indirectly, to any foreign official (or foreign political party), or to any candidate for foreign political office, for any of the prohibited purposes described above.

For purposes of this Article "foreign official" means any appointed, elected, or honorary official or employee of a) a foreign government (or if this Subcontract is to be performed outside the United States than of the Host Country) or political party, or b) of a public international organization, or any person acting in an official capacity for or on behalf of any such government or department, agency, or instrumentality, or for or on behalf of any such public international organization (e.g., the UN, DFID, or WHO, or the World Bank).

For purposes of this Article, the “government” includes any agency, department, embassy, or other governmental entity, and any company or other entity owned or controlled by the government.

Article 29. **Validity and Waiver**

The invalidity in whole or in part of any provision of this Agreement shall not affect the validity of other provisions. A waiver of a breach of any provision of this Agreement shall not constitute a waiver of any subsequent breach of that provision or a breach of any other provision of this Agreement. The failure of RTI to enforce at any time or from time to time any provision of this Agreement shall not be construed as a waiver thereof.

Article 30. **Electronic Contracting**

The parties agree that if this Subcontract is transmitted electronically neither party shall contest the validity of this Subcontract, or any Acknowledgement thereof, on the basis that this Subcontract or Acknowledgement contains an electronic signature.

Article 31. **Combating Trafficking in Persons**

RTI, as well as the United States Government, has adopted a zero tolerance policy prohibiting trafficking in persons, including any trafficking-related activities. Additional information regarding trafficking in persons may be found at the website for the U.S. Department of State's Office to Monitor and Combat Trafficking in Persons at http://www.state.gov/j/tip/.

Additionally, in the event this Subcontract is funded in whole or in part via Federal contract funds, the provisions set forth in FAR 52.222-50 (Combating Trafficking in Persons) shall also be applicable to this Subcontract, as well as FAR 52.222-56 (Certification Regarding Trafficking in Persons Compliance Plan), if and as applicable.

Article 32. **Conflicts of Interest**

A. Subcontractor warrants that, to the best of the Subcontractor's knowledge and belief, there are no relevant facts or circumstances which could give rise to a conflict of interest or that the Subcontractor has disclosed all such relevant information.

B. Subcontractor agrees that if an actual or potential conflict of interest is discovered after execution of this Subcontract, the Subcontractor will make a full disclosure in writing to the RTI Subcontract Administrator.
disclosure shall include a description of activities that the Subcontractor has taken or proposes to take, after consultation with the RTI Subcontract Administrator, to avoid, mitigate, or neutralize the actual or potential conflict.

[Insert the following paragraph if the prime is a PHS funded project]

C. Subcontractor has separately certified that it either has its own Financial Conflicts of Interest ("FCOI") policy compliant with 42 CFR § 50 Subpart F or 45 CFR § 94, or that it will comply with RTI’s FCOI policy. If following its own compliant policy, Subcontractor warrants that it has submitted any required FCOI management plans to RTI and will continue to submit FCOI management plans throughout the term of this Subcontract as required. If following RTI’s policy, individuals performing on behalf of Subcontractor that are responsible for the design, conduct, or reporting of research funded by the Public Health Service ("Investigators") shall complete RTI’s FCOI training and submit Significant Financial Interest disclosure forms prior to beginning work and either annually thereafter or as new reportable Significant Financial Interests are obtained, whichever occurs first.

D. The RTI Subcontract Administrator may terminate this Subcontract for convenience, in whole or in part, if it deems such termination necessary to avoid a conflict of interest. If the Subcontractor was aware of a potential conflict of interest prior to award, or discovered an actual or potential conflict after award and did not disclose or misrepresented relevant information to the RTI Subcontract Administrator, RTI may terminate the contract for default, and/or forward the relevant information to the Government Contracting Officer, who may debar the Subcontractor from Government contracting, and/or pursue such other remedies as may be permitted by law or this Subcontract.

Subcontractor further agrees to insert provisions which shall conform substantially to the language of this Section, including this paragraph (d), in any lower-tier subcontract or consultant agreement hereunder.

Article 33. Institutional Review Board [Insert if applicable. Applicable if Subcontract involves the use of human subjects]

Institutional Review Board approval must be obtained before any contact with human subjects. All research involving human subjects, or data from or about human subjects, must be conducted in accordance with applicable federal regulations (45 CFR 46 and 21 CFR 50 and 56) and the protocol approved by the IRB. Research activities include contacting Human Subjects, conducting the survey and the collecting and storing of any Human Subject data resulting from this survey. Upon notice of IRB approval, RTI will provide notice to the Subcontractor to commence work. Once this notice is provided to Subcontractor, the Subcontractor may commence with the research activities.

Article 34. Travel

To the extent travel is not restricted by the Subcontract, costs incurred for lodging, meals and incidental expenses shall be considered to be reasonable, allowable, and allocable under this Subcontract only to the extent that they do not exceed on a daily basis the maximum per diem rates in effect on the day of travel as set forth in the current version of the Federal Travel Regulations (FTR).

Article 35. Excusable Delays

A. Neither Party hereto shall be in default because of any failure to perform under the terms of this Subcontract if the failure arises from any incident or circumstance beyond the affected Party's control. A United States (U.S.) government shutdown and any interruption in the U.S. government's operations shall constitute an incident or circumstance beyond the affected Party's control if the Party affected informs the other Party immediately in accordance with the requirements of Paragraph (B) below.

B. If any such case occurs, the Party affected shall inform the other Party immediately indicating the presumable duration and extent of such contingency. Moreover, the Party affected shall promptly use all reasonable efforts to settle such contingencies so that the performance of its obligations under this Subcontract can be resumed as soon as possible.

Article 36. Debarment and Suspension

In accepting this Subcontract, the Subcontractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this type of transaction by any Federal department or agency. Any change in the debarred or suspended status of the Subcontractor during the life of this Subcontract must be reported immediately to RTI. The Subcontractor agrees to incorporate the Debarment and Suspension certification into any lower-tier subcontract that they may enter into as a part of this Subcontract.
Article 37. **Survivability**

A. If this Subcontract expires, is completed, or is terminated, Subcontractor shall not be relieved of those obligations contained in the following Articles:

- Independent Contractor
- Governing Law
- Indemnification
- Confidential Information
- Right to Publish/Release of Information
- Insurance
- Export Controls
- Electronic Contracting
- Indirect Rate Indemnity [Only Applicable to Cost-Type Subcontracts]

B. Those U.S. Government [Federal Acquisition Regulations (FAR) or Code of Federal Regulations (CFR)] and Agency Supplementary Regulation(s) that by their nature should survive.

Article 38. **Sustainability**

Subcontractor shall operate in a manner that complies with United States (U.S.), national, and local environmental laws, regulations and standards including, but not limited to, laws related to energy conservation, greenhouse gas emissions, air emissions, waste management, recycling, water discharge, toxic substances, and hazardous waste disposal. Subcontractor agrees to flow down this requirement in any lower-tier subcontract that it may enter into under this Subcontract.

Article 39. **Language Requirements**

The official text of this Subcontract is the English language text, whether or not counterparts hereof are written, executed, or translated into any other language. All notices, communications and submittals between the parties pursuant to the implementation of this Subcontract shall be in the English language, unless otherwise directed in writing by RTI. In the event that this Subcontract is translated into another language, the English version shall prevail.

Article 40. **HIPAA Business Associate Training Addendum**

In the event Subcontractor has been designated as a Business Associate, as defined by 45 CFR 160.103, via operation of another provision contained in this Subcontract, Subcontractor certifies that it has completed, or will complete, a training course as described in 45 CFR 164.530(b) for all employees associated with the work issued under this Subcontract and prior to such employees engaging in any work which involves Protected Health Information ("PHI"), as defined in 45 CFR 160.103.

Article 41. **Equal Opportunity Compliance**

During the performance of this Subcontract, Subcontractor agrees to comply with all Federal, state and local laws respecting discrimination in employment and non-segregation of facilities including, but not limited to, applicable provisions of Executive Order (herein “E.O.”) 11246, Rehabilitation Act of 1973, Vietnam Era Veterans’ Readjustment Assistance Act of 1974, E.O. 13496 and respective regulations including 41 CFR 60-1.4, 41 CFR 61-300.10, 29 CFR Part 471 Appendix A to Subpart A, 41 CFR 60-300.5 (Subcontractor and lower-tier subcontractors and vendors shall abide by the requirements of 41 CFR 60-300.5(a) if if/when this Subcontract exceeds $100,000. This regulation prohibits discrimination against qualified protected veterans, and requires affirmative action by covered prime contractors, subcontractors, lower-tier subcontractors and vendors to employ and advance in employment qualified protected veterans) and 41 CFR 60-741.5 (Subcontractor and lower-tier subcontractors and vendors shall abide by the requirements of 41 CFR 60-741.5(a) if/when this Subcontract exceeds $10,000. This regulation prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors, subcontractors, lower-tier subcontractors and vendors to employ and advance in employment qualified individuals with disabilities.).

The above-mentioned referenced regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations
require that covered prime contractors, subcontractors, lower-tier subcontractors and vendors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.

These equal opportunity clauses, and the employee notification clause, are hereby incorporated by reference.

Article 42. Representations and Certifications (Applicable to Task Orders funded via Federal Contracts)
As set forth below, and then renewed on an annual basis for the duration of this Subcontract, Subcontractor shall provide current, accurate and complete representations and certifications. It shall be Subcontractor’s responsibility to complete the RTI-provided Representations and Certifications form on annual basis as measured from the date the Representations and Certifications were initially made, and also to ensure the continued accuracy of Subcontractor’s Representations and Certifications. In the event the status of any item which Subcontractor represented or certified changes prior to Subcontractor’s required annual renewal, Subcontractor shall promptly notify RTI, which shall be no later than five (5) business days after said change in status.

Subcontractor shall be required to complete an RTI-provided Representations and Certifications form at the earlier of following events:

- During the initial proposal with RTI in response to a U.S. Government solicitation; or
- Prior to Agreement execution.

Article 43. Price Warranty (Applicable to Task Orders funded via Federal Contracts)
The price/budget amount contained in this Subcontract does not exceed that charged by Subcontractor to any other customers or clients, including the U.S. Government, for similar quantities of like items or services to be rendered.

Article 44. Anti-Kickback (Applicable to Task Orders funded via Federal Contracts)
Subcontractor warrants that neither it nor any of its employees, agents, or representatives have offered or given, or will offer or give, any gratuities to RTI’s employees, associates, agents or representatives for the purpose of securing this Subcontract or securing favorable treatment under this Subcontract. The Anti-Kickback Act of 1986, as referenced in FAR 52.203-7, is hereby incorporated into this Subcontract as a condition of acceptance. If you have reasonable grounds to believe that a violation, as described in paragraph (b) of FAR 52.203-7, may have occurred, you should report this suspected violation to Research Triangle Institute’s Ethics Hotline at 1-877-212-7220 or by sending an e-mail to Ethics@rti.org. Subcontractor may report a suspected violation anonymously.

As prescribed in FAR 52.203-7 (Anti-Kickback Procedures), and as later as amended, Subcontractor shall adhere to the following requirements and regulations for all Subcontracts exceeding $150,000 which are funded via Federal Contracts:

A. Definitions.
“Kickback,” as used in this clause, means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided to any prime Contractor, prime Contractor employee, subcontractor, subcontractor employee, vendor, vendor employee or consultant for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contract or in connection with a subcontract relating to a prime contract.
“Person,” as used in this clause, means a corporation, partnership, business association of any kind, trust, joint-stock company, or individual.
“Prime Contract,” as used in this clause, means a contract or contractual action entered into by the United States for the purpose of obtaining supplies, materials, equipment, or services of any kind.
“Prime Contractor” as used in this clause, means a person who has entered into a prime contract with the United States.
“Prime Contractor employee,” as used in this clause, means any officer, partner, employee, or agent of a prime Contractor.
“Subcontract,” as used in this clause, means a contract or contractual action, including purchase orders, task orders and consultant contracts, entered into by a Prime Contractor or subcontractor for the purpose of obtaining supplies, materials, equipment, or services of any kind under a prime contract.
“Subcontractor,” as used in this clause,
(1) means any person, other than the prime Contractor, who offers to furnish or furnishes any supplies, materials, equipment, or services of any kind under a prime contract or a subcontract entered into in connection with such prime contract, and
(2) includes any person, vendor or consultant who offers to furnish or furnishes general supplies to the prime Contractor or a higher tier subcontractor.

“Subcontractor employee,” as used in this clause, means any officer, partner, employee, or agent of a subcontractor, vendor or consultant.

B. The 41 U.S.C. chapter 87, Kickbacks, prohibits any person from --
(1) Providing or attempting to provide or offering to provide any kickback;
(2) Soliciting, accepting, or attempting to accept any kickback; or
(3) Including, directly or indirectly, the amount of any kickback in the contract price charged by a prime Contractor to the United States or in the contract price charged by a subcontractor to a prime Contractor or higher tier subcontractor.

C. Administrative Procedures.
(1) The Subcontractor shall have in place and follow reasonable procedures designed to prevent and detect possible violations described in Paragraph B of this clause in its own operations and direct business relationships.
(2) When the Subcontractor has reasonable grounds to believe that a violation described in Paragraph B of this clause may have occurred, the Subcontractor shall promptly report in writing the possible violation to RTI.
(3) The Subcontractor shall cooperate fully with RTI and any Federal agency investigating a possible violation described in Paragraph B of this clause.
(4) RTI may
   (i) offset the amount of the kickback against any monies owed by the United States under the Subcontract and/or
   (ii) direct that the Subcontractor withhold from sums owed a lower-tier subcontractor under the Subcontract the amount of the kickback. RTI may order that monies withheld under subdivision (C)(4)(ii) of this clause be paid over to the Government unless the Government has already offset those monies under subdivision (C)(4)(i) of this clause. In either case, the Subcontractor, via RTI, shall notify the Contracting Officer when the monies are withheld.
(5) The Subcontractor agrees to incorporate the substance of this clause, including subparagraph (C)(5) in all subcontracts under this Subcontract which exceed $150,000.

Article 45. Employment Eligibility Verification (Applicable to Task Orders funded via Federal Contracts)

As prescribed in FAR 52.222-54 (Employment Eligibility Verification), and as later as amended, Subcontractor shall adhere to the following requirements and regulations for all Subcontracts exceeding $3,000 which are funded via Federal Contracts:

A. Definitions. As used in this clause—
“Commercially available off-the-shelf (COTS) item”—
(1) Means any item of supply that is—
   (i) A commercial item (as defined in paragraph (1) of the definition at 2.101);
   (ii) Sold in substantial quantities in the commercial marketplace; and
   (iii) Offered to the Government, without modification, in the same form in which it is sold in the commercial marketplace; and
(2) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4) such as agricultural products and petroleum products. Per 46 CFR 525.1(c)(2), “bulk cargo” means cargo that is loaded and carried in bulk onboard ship without mark or count, in a loose unpackaged form, having homogenous characteristics. Bulk cargo loaded into intermodal equipment, except LASH or Seabee barges, is subject to mark and count and, therefore, ceases to be bulk cargo.

“Employee assigned to the Subcontract” means an employee who was hired after November 6, 1986 (after November 27, 2009, in the Commonwealth of the Northern Mariana Islands), who is directly performing work, in the United States, under a Subcontract that is required to include the clause prescribed at 22.1803. An employee is not considered to be directly performing work under a Subcontract if the employee—
(1) Normally performs support work, such as indirect or overhead functions; and
(2) Does not perform any substantial duties applicable to the Subcontract.
“Subcontract” means any contract, as defined in 2.101, entered into by a subcontractor to furnish supplies or services for performance of a subcontract. It includes but is not limited to purchase orders, task orders, consultant contracts and changes to purchase orders, task orders, and consultant contracts.

“Subcontractor” means any supplier, distributor, vendor, consultant, or firm that furnishes supplies or services to or for a prime contractor or another subcontractor.

“United States,” as defined in 8 U.S.C. 1101(a)(38), means the 50 States, the District of Columbia, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands.

B. Enrollment and verification requirements.
   (1) If the Subcontractor is not enrolled as a Federal Contractor in E-Verify at time of Subcontract award, the Subcontractor shall—
      (i) Enroll. Enroll as a Federal Contractor in the E-Verify program within 30 calendar days of Subcontract award;
      (ii) Verify all new employees. Within 90 calendar days of enrollment in the E-Verify program, begin to use E-Verify to initiate verification of employment eligibility of all new hires of the Subcontractor, who are working in the United States, whether or not assigned to the Subcontract, within 3 business days after the date of hire (but see paragraph B (3) of this section); and
      (iii) Verify employees assigned to the Subcontract. For each employee assigned to the Subcontract, initiate verification within 90 calendar days after date of enrollment or within 30 calendar days of the employee's assignment to the Subcontract, whichever date is later (but see paragraph B (4) of this section).
   (2) If the Subcontractor is enrolled as a Federal Contractor in E-Verify at time of Subcontract award, the Subcontractor shall use E-Verify to initiate verification of employment eligibility of—
      (i) All new employees.
         (A) Enrolled 90 calendar days or more. The Subcontractor shall initiate verification of all new hires of the Subcontractor, who are working in the United States, whether or not assigned to the Subcontract within 3 business days after the date of hire (but see paragraph B (3) of this section); or
         (B) Enrolled less than 90 calendar days. Within 90 calendar days after enrollment as a Federal Contractor in E-Verify, the Subcontractor shall initiate verification of all new hires of the Subcontractor, who are working in the United States, whether or not assigned to the Subcontract, within 3 business days after the date of hire (but see paragraph B (3) of this section); or
      (ii) Employees assigned to the Subcontract. For each employee assigned to the Subcontract, the Subcontractor shall initiate verification within 90 calendar days after date of enrollment or within 30 days after assignment to the Subcontract, whichever date is later (but see paragraph B (4) of this section).
   (3) If the Subcontractor is an institution of higher education (as defined at 20 U.S.C. 1001(a)); a State or local government or the government of a Federally recognized Indian tribe; or a surety performing under a takeover agreement entered into with a Federal agency pursuant to a performance bond, the Subcontractor may choose to verify only employees assigned to the Subcontract, whether existing employees or new hires. The Subcontractor shall follow the applicable verification requirements at B (1) or B (2), respectively, except that any requirement for verification of new employees applies only to new employees assigned to the Subcontract.
   (4) Option to verify employment eligibility of all employees. The Subcontractor may elect to verify all existing employees hired after November 6, 1986 (after November 27, 2009, in the Commonwealth of the Northern Mariana Islands), rather than just those employees assigned to the Subcontract. The Subcontractor shall initiate verification for each existing employee working in the United States who was hired after November 6, 1986 (after November 27, 2009, in the Commonwealth of the Northern Mariana Islands), within 180 calendar days of—
      (i) Enrollment in the E-Verify program; or
      (ii) Notification to E-Verify Operations of the Subcontractor's decision to exercise this option, using the contact information provided in the E-Verify program Memorandum of Understanding (MOU).
   (5) The Subcontractor shall comply, for the period of performance of this Subcontract, with the requirement of the E-Verify program MOU.
      (i) The Department of Homeland Security (DHS) or the Social Security Administration (SSA) may terminate the Subcontractor's MOU and deny access to the E-Verify system in accordance with the terms of the MOU. In such case, the Subcontractor will be referred to a suspension or debarment official.
(ii) During the period between termination of the MOU and a decision by the suspension or debarment official whether to suspend or debar, the Subcontractor is excused from its obligations under paragraph B of this clause. If the suspension or debarment official determines not to suspend or debar the Subcontractor, then the Subcontractor must reenroll in E-Verify.


D. Individuals previously verified. The Subcontractor is not required by this clause to perform additional employment verification using E-Verify for any employee—

(1) Whose employment eligibility was previously verified by the Subcontractor through the E-Verify program;
(2) Who has been granted and holds an active U.S. Government security clearance for access to confidential, secret, or top secret information in accordance with the National Industrial Security Program Operating Manual; or
(3) Who has undergone a completed background investigation and been issued credentials pursuant to Homeland Security Presidential Directive (HSPD) -12, Policy for a Common Identification Standard for Federal Employees and Contractors.

E. Subcontracts. The Subcontractor shall include the requirements of this clause, including this paragraph E (appropriately modified for identification of the parties), in each subcontract that—

(1) Is for—

(i) Commercial or noncommercial services (except for commercial services that are part of the purchase of a COTS item (or an item that would be a COTS item, but for minor modifications), performed by the COTS provider, and are normally provided for that COTS item); or
(ii) Construction;
(2) Has a value of more than $3,000; and
(3) Includes work performed in the United States.

Article 46. Order of Precedence

In the event of any inconsistency between or among the provisions, articles, attachments, or requirements which constitute this Subcontract, the following order of precedence shall apply:

1. all Special Contract Requirements (SCRs) as set forth in Appendix A, including any attachments referenced or incorporated by those SCRs
2. the General Provisions contained in these Standard Subcontract Terms, Appendix B
3. incorporated FAR [or CFR] and Agency Supplementary clauses, Appendix C
4. the Statement of Work, Appendix D; and
5. all other attachments incorporated herein by reference.

Article 47. Entire Agreement

Both parties acknowledge that they have read this Subcontract, understand it, and agree to be bound by its terms and further agree that it is the entire agreement between the parties hereto which supersedes all prior agreements, written or oral, relating to the subject matter hereof. No modification or waiver of any provision shall be binding unless in writing signed by an Authorized Representative of the Party against whom such modification or waiver is sought to be enforced.