

**FLUOR IDAHO, LLC IDAHO CLEANUP PROJECT
TERMS AND CONDITIONS OF PURCHASE**

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- 1. ARBITRATION:** In the event that the Company is required to arbitrate a dispute with a third party, which dispute arises out of this Purchase Order or is in any way connected with Vendor, Vendor agrees to join in such arbitration proceeding as the Company may direct and shall submit to such jurisdiction and be finally bound by the judgment rendered in accordance with the arbitration rules as may be established therein.
- 2. ASSIGNMENT:** Neither this Purchase Order nor any portion hereof shall be assigned or delegated without Company's prior written consent and any such assignment or delegations shall be void. Company reserves the right to assign this Purchase Order to the U.S. Department of Energy or U.S. Department of Energy's successors or assigns or to Company's affiliates and Vendor hereby consents to any such assignment.
- 3. BACKCHARGES:** Material/equipment deficiencies which create an expenditure of labor hours to correct may be accumulated and back charged to the Vendor prior to closeout of this Purchase Order. Copies of Company's inspection report, Nonconformance Report, or Overage, Shortage, and Damaged Report will be used as documentation. Prior to expenditure of funds to remedy the deficiency, the Company will normally notify the Vendor of the deficiency and request any recommendations for solution. If critical schedules are impacted, Company may proceed with repair without prior notification to Vendor.
- 4. BUSINESS CONDUCT AND ETHICS EXPECTATIONS:** Company's "Code of Business Conduct and Ethics" publication is available at <http://www.fluor.com/SiteCollectionDocuments/BRHQ056009-Supplier-Expectations.pdf>. Contractor confirms that it has received or accessed and reviewed Company's requirements for business conduct and ethics and agrees that it and its suppliers and contractors, and the employees, agents and representatives of each shall at all times comply with Company's Expectations, and where more stringent, applicable laws and Vendor's own business conduct guidelines and policies. Violation of this Article may be deemed by Company to be a material breach of this Order and in such event, Company may, without prejudice to any other rights or remedies Company may have, cancel further performance by Vendor under this Purchase Order, in whole or in part, pursuant to Article 12, Cancellation for Default. Company's Expectations may be modified at any time by publication at the website address above and general mailing to its suppliers and contractors at the address contained in Company's supplier and contractor database. The most current publication of Company's Expectations shall apply to this Article.
- 5. CHANGES:** No substitutions shall be made in this Purchase Order without the prior written consent of the Company. The Company shall have the right by written direction to make changes in the specification and drawings for goods or services covered by this Purchase Order. If Vendor believes that such change affects the price or delivery date for such goods or services, Vendor shall so notify Company in writing (with adequate supporting documentation) within five (5) working days after receipt of said written direction. Vendor shall suspend performance of the change unless thereafter released in writing by Company to perform said change, and Company and Vendor shall mutually agree in writing upon an equitable adjustment in the price and/or delivery date to reflect the effect of such change.

Vendor's request for any adjustments shall be deemed waived unless submitted in writing within such five (5) working days after Vendor receives direction to make such changes. Vendor shall not suspend performance of the unaffected portion of this Purchase Order while Company and Vendor are in the process of making such changes and any related adjustments or at any time thereafter unless so instructed in writing by Company. If released in writing by Company, Vendor shall comply with and perform such change in accordance with the terms of this Purchase Order during the time Vendor and Company require to mutually agree upon an equitable adjustment. No agreement or understanding modifying the conditions of terms of this Purchase Order shall be binding upon Company nor will extra compensation be paid by Company unless the agreement or understanding is made in writing.

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6. **COMPLETE AGREEMENT:** This Purchase Order shall become a binding agreement of Vendor and Company upon Vendor signing and returning an acceptance copy of this Purchase Order, or upon Vendor otherwise acknowledging acceptance of this Purchase Order or commencing performance of this Purchase Order, whichever occurs first. This Purchase Order, together with the specifications, drawings and documents referred to herein and the other documents referred to therein, which by this reference are all made a part hereof, constitute the entire agreement between the parties, and all prior negotiations, proposals, and writing pertaining to this Purchase Order, or the subject matter hereof, are superseded hereby. Any reference to Vendor's quotation, bid, or proposal does not imply acceptance of any terms, conditions, or instruction contained in such document.

Any invoice, acknowledgment or other communication issued by Vendor in connection with this Purchase Order shall be construed to be for record and accounting purposes only. Any terms and conditions stated in such communication shall not be applicable to this Purchase Order and shall not be considered to be Vendor's exceptions to the provisions of this Purchase Order. Trade custom and/or trade usage is superseded by this Purchase Order and shall not be applicable in the interpretation of this Purchase Order.

Anything that may be called for in the specifications and not shown on the drawings, or shown on the drawings and not called for in the specifications, shall be of like effect as if called for and shown in both. In the event of any ambiguities, express conflicts or discrepancies in the specifications, drawings or other documents which are a part of this Purchase Order, Vendor shall immediately submit the matter to Company for its determination and shall comply with the determination of Company in such matter.

7. **CONFIDENTIAL INFORMATION:** The documents and all other information designated as confidential or proprietary and contents thereof are referred to as "Information". Vendor agrees to retain the Information in confidence and not to disclose it to any third party or use such Information for any other purpose, except as authorized by Company for the performance of this Purchase Order. Vendor shall not publicize the existence or scope of this Purchase Order without Company's written consent. Vendor shall require these same agreements on the part of any supplier of Vendor's to whom the Information is disclosed. Vendor shall return all Information and copies thereof to Company upon written request.
8. **DELAYS:** Vendor shall promptly notify Company of any actual or anticipated delay in delivery and take all reasonable steps to avoid or end delays without additional cost to Company. Where the delay is caused by acts of God, acts of civil or military authority, epidemics, war, riot, or other similar causes beyond Vendor's control and which Vendor could not have reasonably foreseen or provided against, Company shall have the right to either: (i) terminate by written notice to Vendor all or part of this Purchase Order in accordance with its terms or (ii) extend the date of delivery or performance for a period equal to the durations of the delay, but Vendor shall not be entitled to any extra compensation for such delay. Vendor shall not be excused from performance hereunder where alternate sources of supply of materials, goods or services are available.
9. **DISPUTES:** The parties agree that the appropriate forum for resolution of any dispute pertaining to this Subcontract shall be a court of competent jurisdiction as follows:

(1) Subject to paragraph (a)(2) of this Article, any such litigation shall be brought and prosecuted exclusively in Federal District Court; with venue in the United States District Court for the District of Idaho in Pocatello, Idaho.

(2) Provided, however, that in the event that the requirements for jurisdiction in the Federal District Court for the District of Idaho, in Pocatello, Idaho are not present, such litigation shall be brought exclusively in the District Court of the Seventh Judicial District of the State of Idaho, in and for the County of Bonneville, with venue in Idaho Falls, Idaho.

- (a) Any substantive issue of law in dispute shall be determined in accordance with federal U.S. procurement law; provided, however, if there is no applicable federal U.S. procurement law, then Idaho law shall govern.
- (b) There shall be no interruption in the prosecution of the Work, and the Subcontractor shall proceed diligently with the performance of this Order pending final resolution of any dispute, claim, or litigation, arising under, or related to, this Order, between the parties hereto or between the Subcontractor and Lower-tier Subcontractors or suppliers.
- (c) The Contract Disputes Act of 1978 (41 U.S.C. Sections 601 613) shall not apply to this Order; provided, however, nothing in this Article shall prohibit Fluor Idaho, LLC, at its sole discretion, from sponsoring a claim of the Subcontractor for resolution under the provisions of its prime contract with DOE. In the event that Fluor Idaho, LLC sponsors a claim at the request of the Subcontractor, the Subcontractor shall be bound by the decision of the cognizant DOE Contracting Officer to the same extent and in the same manner as Fluor Idaho, LLC.

10. **EXPORT AUTHORIZATIONS:** Vendor agrees to comply with all applicable export and re-export control laws and regulations, including but not limited to United States Export Administration Regulations (EAR) administered by the Bureau of Industry and Security, U.S. Department of Commerce, trade and economic sanctions regulations administered by the Office of Foreign Assets Control (OFAC), U.S. Department of Treasury, the International Traffic in Arms Regulations (ITAR), Arms Control Export Act, and United States Munitions List (USML) administered by Directorate of Defense Trade Controls, Bureau of Political-Military Affairs of the U. S. Department of State, and any other export authorities identified in Supplement 3 to Part 730 of the EAR.

Vendor shall accurately identify in writing to Company, within thirty (30) days after issuance of this purchase order, those goods, services and technologies for which an export license or other regulatory approval is required and shall provide accurate export classification and licensing information necessary for supporting export documents, including but not limited to (as applicable) the appropriate Export Control Classification Numbers (ECCN), an indication of the applicability or availability of license exceptions or exemptions, and all pertinent technical data, drawings, brochures, technical expertise, or other relevant information as deemed necessary by Company. Vendor acknowledges that Company shall undertake to obtain any required license or other regulatory approval required, and shall rely upon the information provided by Vendor. Accordingly, Vendor agrees to indemnify Company for any fines, penalties, claims, losses, damages, costs (including legal costs), expenses and liabilities that may arise as a result of Vendor's breach of this provision.

Company agrees that no good or technology received from the Vendor is intended to be shipped, either directly or indirectly, to any country, company or Person or for any end-use that is prohibited under applicable laws and regulations, such as the EAR, OFAC regulations or ITAR.

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- 11. FOREIGN NATIONALS:** In accordance with DOE Order 142.3A, Contractor Requirements Document (CRD) the terms of which are incorporated by reference, and are flowed to the Vendor and its subcontractors at any tier, the Contractor has the responsibility to identify to the Company any personnel who are Foreign Nationals who may be involved, working with Company personnel, or have access to Department of Energy information during the performance of this Purchase Order.

Such personnel (whether off or on site) who will be involved, working with, or visiting Company personnel (including making deliveries), or be assigned to work at the site must obtain approval of the Company before such involvement can take place. This approval requirement includes access to any Department of Energy information used in performance of this contract. A foreign national is defined as a person who is a stateless person or is not a United States National (i.e., an immigrant alien is considered a foreign national). A stateless person is one who is currently without nationality by either the action of a state withdrawing the protection of nationality; by his/her own action in effectively renouncing the nationality previously held or because he/she has never held nationality due to the circumstances of birth.

Each individual must complete applications allowing six to eight weeks for processing after submitting the required information. The Contractor should contact the Company to obtain the necessary information and forms.

- 12. HAZARDOUS MATERIALS:** Vendor shall notify Company in writing if goods furnished are subject to laws or regulations relating to hazardous or toxic substances, or when disposed of, to regulations governing hazardous wastes, or to any other health, safety and/or environmental regulations. Vendor shall furnish: all appropriate shipping certification; labeling in compliance with the Workplace Hazardous Materials Information System; Material Safety Data Sheets in compliance with the Workplace Hazardous Materials Information System; and instructions for shipping, safety, handling, exposure and disposal in a form sufficiently clear for use by Company's non-technical personnel and sufficiently specific to identify all action which the user must take concerning the material. The following certification must be made on the bill of lading: "This is to certify that the above named articles are properly classified, described, packaged, marked and labeled and are in proper condition for transportation according to any applicable transportation regulations."

The Company shall have the right to use, duplicate and disclose any data to which this clause is applicable. The purpose of this right is to: apprise personnel of the hazards to which they may be exposed; obtain medical treatment for those affected by the material; and, other uses in connection with these same purposes.

- 13. INDEMNITY:** Vendor agrees to defend, indemnify and hold harmless Company and U.S. Department of Energy, the affiliated companies of each, and their members, managers, directors, officers, employees, agents and representatives, from and against all claims, demands, causes of action, liability, loss or expense arising from or relating to any actual or asserted failure by Vendor to comply with any law, ordinance, regulation, rule or order, or with this Purchase Order. This Section includes, but is not limited to, fines or penalties by government authorities and claims arising from Vendor's actual or asserted failure to pay taxes.

Violation or infringement of rights in any patent, copyright, proprietary information, trade secret or other property right caused or alleged to be caused by the use or sale of goods, materials, equipment, methods, processes, designs or information furnished by Vendor or its suppliers. Should any goods or services provided by Vendor become, or appear likely to become, the subject of a claim of infringement of a patent, copyright or other property right, Vendor shall, at Company's option, either procure for Company and U.S. Department of Energy the right to continue using such goods or services, replace same with equivalent, non-infringing goods or services, or modify the goods or services so that the use thereof becomes non-infringing, provided that any such modification or replacement is of equal quality and provides equal performance to the infringing goods or services.

The preceding paragraph shall not apply to any goods, or any part thereof, manufactured to designs furnished and required by Company, nor shall it apply to claims that the sale or use of a process or use of a combination of the goods supplied by Vendor hereunder with other goods infringes a patent, if such process or other goods were not supplied by Vendor and Vendor's supplying of the goods hereunder does not constitute contributory patent infringement.

Injury to or death of persons (including employees of Company, U.S. Department of Energy, Vendor and Vendor's suppliers) or from damage to or loss of property (including the property of Company or U.S. Department of Energy) arising directly or indirectly out of this Purchase Order or out of any acts or omissions of Vendor or its suppliers. Vendor's defense and indemnity obligations hereunder include claims and damages arising from non-delegable duties of Company or U.S. Department of Energy or arising from use by Vendor of construction equipment, tools, scaffolding or facilities furnished to Vendor by Company or U.S. Department of Energy, contamination, pollution, or public or private nuisance, arising directly or indirectly out of this Purchase Order or out of any acts or omissions by Vendor, its suppliers or sub suppliers.

Vendor's defense and indemnity obligations shall apply regardless of whether the party to be indemnified was concurrently negligent, whether actively or passively, excepting only where the injury, loss or damage was caused solely by the negligence or willful misconduct of, or by defects in design furnished by, the party to be indemnified. Vendor's defense and indemnity obligations shall include the duty to reimburse any attorneys' fees and expenses incurred by Company or U.S. Department of Energy for legal action to enforce Vendor's indemnity obligations.

In the event that any indemnity provisions in this Purchase Order are contrary to the law governing this Purchase Order, then the indemnity obligations applicable hereunder shall be construed to apply to the fullest extent allowed by applicable law.

With respect to claims by employees of Vendor or its suppliers, the indemnity obligations under this Purchase Order shall not be limited by the fact of, amount, or type of benefits or compensation payable by or for Vendor, its suppliers or sub suppliers under any workers' compensation, disability benefits, or other employee benefits acts or regulations, and Vendor waives any limitations of liability arising from workers' compensation or such other acts or regulations.

Vendor acknowledges specific payment of \$10.00 incorporated into the Purchase Order Price as legal consideration for Vendor's indemnities as may be provided in this Purchase Order.

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14. INDEPENDENT CONTRACTOR: Vendor shall act as an independent contractor and not as an agent or employee of Company or U.S. Department of Energy and shall not subcontract any portion of the work without the written consent of Company.

15. INVOICING

Any of the following conditions will be considered just cause for withholding payment and/or returning invoices to Vendor without loss of discount privileges:

1. The invoice, packing list and/or Purchase Order do not agree in all respects.
2. Errors or omissions have been made in the Vendor's invoice; including Purchase Order Line Item Reference Number on Packing List and Invoices

Invoices must include the following information:

1. Complete Purchase Order number
2. Purchase Order Line Item Number(s) for each item on the invoice.
3. Quantity for each item.
4. Material description.
5. Material tag number (if applicable).
6. Net price per item.
7. Extended total value for the quantity invoiced.
8. Payment terms.

INVOICES AND ALL SUPPORTING DOCUMENTATION SHALL BE TRANSMITTED TO:

Fluor Idaho, LLC
1580 Sawtelle St, Idaho Falls, ID 83402
Attn: Accounts Payable
Email address: FluorAP@icp.doe.gov

Combining two or more Purchase Orders on one invoice is not acceptable!

The final invoice against this Purchase Order shall be marked "Order Complete." Company may require Vendor to execute a lien release and certification of full payment satisfactory in form and content to Company as a condition to making payment to Vendor.

Payment will be made only to Vendor shown on the face of this Purchase Order.

Unauthorized billing for component parts of an item will not be accepted. Partial quantities of complete units are acceptable; e.g., 10 of a total of 50 units. Payment of Vendor invoices will be withheld pending receipt of all information and/or vendor data requested on this order.

Company reserves the right to refuse payment, without loss of cash discount, on invoices for charges not previously authorized in writing by Company.

For electronic funds transfer, Supplier must provide all necessary banking information with each invoice. Information shall include: Bank Name
Bank address Swift code

Intermediary bank (if available)

16. LAWS AND REGULATIONS: Vendor warrants that all goods and services supplied pursuant to this Purchase Order will comply with all applicable laws, ordinances and regulations, and further Vendor shall provide all permits, certificates and licenses which may be required for the performance of the Purchase Order. This Purchase Order shall be subject to the law and jurisdiction of the Commonwealth of Idaho unless expressly designated otherwise in the Purchase Order.

The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Purchase Order and shall be disclaimed and excluded from any contracts placed by Vendor with its suppliers.

Vendor further warrants that all goods furnished by Vendor in performance of this Purchase Order will comply fully with the Occupational Safety and Health Act of 1970 (84 U.S. Stat 1590), as amended and the State plans approved under such Act, and the regulations there under, to the extent applicable to such equipment, and in addition to any other rights or remedies which Company may have, Vendor shall indemnify, defend and hold harmless Company and its U.S. Department of Energy from and against any and all claims, loss, or liability arising from failure of such goods to comply therewith.

Vendor certifies that it has an affirmative action policy ensuring equal employment opportunity without regard to race, color, national origin, sex, age, religion or handicap, that it maintains no employee facilities segregated on the basis of race, color, religion or national origin and that it is not debarred or suspended from being awarded Federal or Federally assisted contracts.

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Vendor hereby certifies that the goods and services provided hereunder shall be produced in compliance with all applicable requirements of Sections 6, 7, and 12 of the Fair Labor Standards Act of 1938, as amended, and the regulations and orders of the U.S. Department of Labor issued under Section 14 thereof, and that each invoice submitted hereunder shall be correct and authentic and the only one issued for the goods and services mentioned.

Vendor certifies that it is in compliance, and shall at all times remain in compliance, with all applicable anti-corruption and anti-bribery laws, including but not limited to the U.S. Foreign Corrupt Practices Act of 1977, as amended.

COMPLIANCE WITH LAWS UNIQUE TO GOVERNMENT CONTRACTS AND SUBCONTRACTS: The Contractor acknowledges that work performed under this contract is done as work subcontracted by the Company under contract to the U.S. Department of Energy. The Contractor agrees to comply with:

REGULATORY CLAUSES INCORPORATED BY REFERENCE

i.	FAR 52.204-9	Personal Identity Verification of Contractor Personnel (Jan 2011)
ii.	FAR 52.204-14	Service Contract Reporting Requirements (Jan 2014)
iii.	FAR 52.209-6	Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (Aug 2013)
iv.	FAR 52.222-50	Combatting Trafficking in persons (Feb 2009)
v.	FAR 52.222-99	Establishing a Minimum Wage for Contractors (Oct 2014) (Deviation)
vi.	FAR 52.223-3	Hazardous Material Identification and Material Safety Data (Jan 1997) – Alternate I (Jul 1995)
vii.	FAR 52.223-11	Ozone-Depleting Substances (May 2001)
viii.	FAR 52.223.18	Encouraging Contractor Polices to Ban Text Messaging While Driving (Aug 2011)
ix.	FAR 52.224-2	Privacy act (Apr 1984)
x.	FAR 52.225-1	Buy American – Supplies (May 2014)
xi.	FAR 52.225-13	Restrictions on Certain Foreign Purchases (Jun 2008)
xii.	FAR 52.244-6	Subcontracts For Commercial Items (Jul 2014)
xiii.	FAR 52.245-1	Government Property (Apr. 2012)
xiv.	DEAR 952.203-70	Whistleblower Protection for Contractor Employees (Dec 2000)
xv.	DEAR 952.204-2	Security Requirements (Mar 2011)
xvi.	DEAR 952.204-70	Classification/Declassification (Sep 1997)
xvii.	DEAR 952.204-77	Computer Security (Aug 2006)
xviii.	DEAR 952.208-70	Printing (Apr 1984)
xix.	DEAR 952.209-72	Organizational Conflicts of Interest (Aug 2009)
xx.	DEAR 952.217-70	Acquisition of Real Property (Mar 2011)
xxi.	DEAR 952.223-72	Radiation protection and nuclear criticality (Apr 1984)
xxii.	DEAR 952.223-78	Sustainable Acquisition Program (Oct 2010)
xxiii.	DEAR 952.227-82	Rights to Proposal Data (Apr 1984)
xxiv.	DEAR 952.250-70	Nuclear Hazards Indemnity Agreement (Jun 1996)
xxv.	DEAR 970.5223-1	Integration of Environment, Safety and Health Into work Planning and Execution (Dec 2000)
xxvi.	DEAR970.5223-4	Workplace Substance Abuse Programs at DOE Sites (Dec 2010)
xxvii.	DEAR 970.5227-1	Rights in Data-Facilities (Dec 2000)
xxviii.	FAR 52.222-21	Prohibition of Segregated Facilities (FEB 1999)
xxix.	FAR 52.222-26	Equal Opportunity (MAR 2007)
xxx.	FAR 52.222-40	Notification of Employee Rights Under The National Labor Relations Act (DEC 2010)
xxxi.	FAR 52.222-35	Equal Opportunity for Veterans (JUL 2014)
xxxii.	FAR 52.222-37	Employment Reports on Veterans (JUL 2014)
xxxiii.	DEAR 970.5227-4	Authorization and Consent (AUG 2002)
xxxiv.	DEAR 970.5227-5	Notice and Assistance Regarding Patent and Copyright Infringement (AUG 2002)
xxxv.	FAR 52.203-6	Restrictions on Subcontractor Sales to the Government (SEP 2006)
xxxvi.	FAR 52.203-7	Anti-Kickback Procedures (May 2014)
xxxvii.	FAR 52.203-12	Limitation on Payments to Influence Certain Federal Transactions (OCT 2010)
xxxviii.	FAR52.203-17	Contractor Employee Whistle Blower Rights and Requirements to Inform Employees of Whistle Blower Rights (APR 2014)

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xxxix.	FAR 52.215-2	Audit & Records – Negotiation (OCT 2010)
xl.	FAR 52.215-14	Integrity of Unit Prices (OCT 2010)
xli.	FAR 52.215-23	Limitations on Pass-Through Charges (Oct 2009)
xlii.	FAR 52.222-4	Contract Work Hours and Safety Standards Act Overtime Compensation (MAY 2014)
xliii.	DEAR 952.226-74	Displaced Employee Hiring Preference (JUN 1997)
xliv.	FAR 52.225-11	Buy American – Construction Materials Under Trade Agreements (MAY 2014)
xlv.	DEAR 970.5204-3	Access To and Ownership of Records (OCT 2014)
xlvi.	DEAR 970.5226-2	Workforce Restructuring Under Section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (DEC 2000)
xlvii.	FAR 52.215-19	Notification of Ownership Changes (OCT 1997)
xlviii.	FAR 52.215-15	Pension Adjustments and Asset Reversions (OCT 2010)
xlix.	FAR 52.203-13	Contractor Code of Business Ethics and Conduct (APR 2010)
i.	FAR 52-203-15	Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (Jun 2010)
ii.	FAR 52.219-8	Utilization of Small Business Concerns (May 2014)
iii.	FAR 52.219-9	Small Business Contracting Plan (Oct 2014)
liii.	FAR 52.222-36	Equal Opportunity for Workers with Disabilities (Jul 2014)
liv.	FAR 52.225-26	Contractors Performing Private Security Functions Outside the United States (Jul 2013)
lv.	FAR 52.232-40	Providing Accelerated Payments to Small Business Subcontractors (Dec 2013)
lvi.	FAR 52.247-64	Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006)
lvii.	FAR 52.203-13	Contractor Code of Business Ethics and Conduct (Apr 2010)
lviii.	FAR 52.203-14	Display of Hotline Posters (Dec 2007)
lix.	FAR 52.222-27	Affirmative Action Compliance Requirements for Construction (FEB 1999)

Full text available upon request or at <http://farsite.hill.af.mil/>

SPECIAL CONTRACT REQUIREMENTS

H.1 IMPLEMENTING THE PRICE-ANDERSON AMENDMENTS ACT OF 2005

NUCLEAR HAZARDS INDEMNITY AGREEMENT

- (a) Authority. This clause is incorporated into this Contract pursuant to the authority contained in subsection 170d. of the Atomic Energy Act of 1954, as amended (hereinafter called the Act.)
- (b) Definitions. The definitions set out in the Act shall apply to this clause.
- (c) Financial protection. Except as hereafter permitted or required in writing by DOE, the Contractor will not be required to provide or maintain, and will not provide or maintain at Government expense, any form of financial protection to cover public liability, as described in paragraph (d)(2) below. DOE may, however, at any time require in writing that the Contractor provide and maintain financial protection of such a type and in such amount as DOE shall determine to be appropriate to cover such public liability, provided that the costs of such financial protection are reimbursed to the Contractor by DOE.
- (d)
 - (1) Indemnification. To the extent that the Contractor and other persons indemnified are not compensated by any financial protection permitted or required by DOE, DOE will indemnify the Contractor and other persons indemnified against (i) claims for public liability as described in subparagraph (d)(2) of this clause; and (ii) such legal costs of the Contractor and other persons indemnified as are approved by DOE, provided that DOE's liability, including such legal costs, shall not exceed the amount set forth in section 170d. of the Act, as that amount may be increased in accordance with section 170t., in the aggregate for each nuclear incident or precautionary evacuation occurring within the United States or \$500 million in the aggregate for each nuclear incident occurring outside the United States, irrespective of the number of persons indemnified in connection with this Contract.
 - (2) The public liability referred to in subparagraph (d)(1) of this clause is public liability as defined in the Act which (i) arises out of or in connection with the activities under this contract, including transportation; and (ii) arises out of or results from a nuclear incident or precautionary evacuation, as those terms are defined in the Act.
- (e)
 - (1) Waiver of Defenses. In the event of a nuclear incident, as defined in the Act, arising out of nuclear waste activities, as defined in the Act, the Contractor, on behalf of itself and other persons indemnified, agrees to waive any issue or defense as to charitable or governmental immunity.

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- (2) In the event of an extraordinary nuclear occurrence which:
- a. Arises out of, results from, or occurs in the course of the construction, possession, or operation of a production or utilization facility; or
 - b. Arises out of, results from, or occurs in the course of transportation of source material, by-product material, or special nuclear material to or from a production or utilization facility; or
 - c. Arises out of or results from the possession, operation, or use by the Contractor or a subcontractor of a device utilizing special nuclear material or by-product material, during the course of the Contract activity; or
 - d. Arises out of, results from, or occurs in the course of nuclear waste activities, the Contractor, on behalf of itself and other persons indemnified, agrees to waive:
 - (A) Any issue or defense as to the conduct of the claimant (including the conduct of persons through whom the claimant derives its cause of action) or fault of persons indemnified, including, but not limited to:
 1. Negligence;
 2. Contributory negligence;
 3. Assumption of risk; or
 4. Unforeseeable intervening causes, whether involving the conduct of a third person or an act of God;
 - (B) Any issue or defense as to charitable or governmental immunity; and
 - (C) Any issue or defense based on any statute of limitations, if suit is instituted within 3 years from the date on which the claimant first knew, or reasonably could have known, of his injury or change and the cause thereof. The waiver of any such issue or defense shall be effective regardless of whether such issue or defense may otherwise be deemed jurisdictional or relating to an element in the cause of action. The waiver shall be judicially enforceable in accordance with its terms by the claimant against the person indemnified.
 - v. The term extraordinary nuclear occurrence means an event which DOE has determined to be an extraordinary nuclear occurrence as defined in the Act. A determination of whether or not there has been an extraordinary nuclear occurrence will be made in accordance with the procedures in 10 CFR Part 840.
 - vi. For the purposes of that determination, "offsite" as that term is used in 10 CFR part 840 means away from "the contract location" which phrase means any DOE facility, installation, or site at which contractual activity under this Contract is being carried on, and any contractor- owned or controlled facility, installation, or site at which the contractor is engaged in the performance of contractual activity under this Contract.
- (3) The waivers set forth above:
- i. Shall be effective regardless of whether such issue or defense may otherwise be deemed jurisdictional or relating to an element in the cause of action;
 - ii. Shall be judicially enforceable in accordance with its terms by the claimant against the person indemnified;
 - iii. Shall not preclude a defense based upon a failure to take reasonable steps to mitigate damages;
 - iv. Shall not apply to injury or damage to a claimant or to a claimant's property which is intentionally sustained by the claimant or which results from a nuclear incident intentionally and wrongfully caused by the claimant;
 - v. Shall not apply to injury to a claimant who is employed at the site of and in connection with the activity where the extraordinary nuclear occurrence takes place, if benefits therefor are either payable or required to be provided under any workmen's compensation or occupational disease law;
 - vi. Shall not apply to any claim resulting from a nuclear incident occurring outside the United States;
 - vii. Shall be effective only with respect to those obligations set forth in this clause and in insurance policies, contracts or other proof of financial protection; and
 - viii. Shall not apply to, or prejudice the prosecution or defense of, any claim or portion of claim which is not within the protection afforded under (A) the limit of liability provisions under subsection 170e. of the Act, and (B) the terms of this agreement and the terms of insurance policies, contracts, or other proof of financial protection.
- (f) Notification and litigation of claims. The Contractor shall give immediate written notice to DOE through its Contracting Officer of any known action or claim filed or made against the Contractor or other person indemnified for public liability as defined in paragraph (d)(2). Except as otherwise directed by DOE, the Contractor shall furnish promptly to DOE, copies of all pertinent papers received by the contractor or filed with respect to such actions or claims. DOE shall have the right to, and may collaborate with, the Contractor and any other person indemnified in the settlement or defense of any action or claim and shall have the right to (1) require the prior approval of DOE for the payment of any claim that DOE may be required to indemnify hereunder; and (2) appear through the Attorney General on behalf of the Contractor or other person indemnified in any action brought upon any claim that DOE may be required to indemnify hereunder, take charge of such action, and settle or defend any such action. If the settlement or defense of any such action or claim is undertaken by DOE, the Contractor or other person indemnified shall furnish all reasonable assistance in effecting a settlement or asserting a defense.
- (g) Continuity of DOE obligations. The obligations of DOE under this clause shall not be affected by any failure on the part of the Contractor to fulfill its obligation under this Contract and shall be unaffected by the death, disability, or termination of existence of the Contractor, or by the completion, termination or expiration of this Contract
- (h) Effect of other clauses. The provisions of this clause shall not be limited in any way by, and shall be interpreted without reference to, any other clause of this Contract, including the clause entitled Contract Disputes, provided, however, that this clause shall be subject to the clauses entitled Covenant Against Contingent Fees, and Accounts, records, and inspection, and any provisions that are later added to this Contract as required by applicable Federal law, including statutes, executive orders and regulations, to be included in Nuclear Hazards Indemnity Agreements.
- (i) Civil penalties. The Contractor and its subcontractors and suppliers who are indemnified under the provisions of this clause are subject to civil penalties, pursuant to section 234A of the Act, for violations of applicable DOE nuclear-safety related rules, regulations, or orders. If the Contractor is a not-for-profit contractor, as defined by section 234Ad.(2), the total amount of civil penalties paid shall not exceed the total amount of fees paid within any 1-year period (as determined by the Secretary) under this Contract.

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- (j) Criminal penalties. Any individual director, officer, or employee of the Contractor or of its subcontractors and suppliers who are indemnified under the provisions of this clause are subject to criminal penalties, pursuant to section 223(c) of the Act, for knowing and willful violation of the Atomic Energy Act of 1954, as amended, and applicable DOE nuclear safety-related rules, regulations or orders which violation results in, or, if undetected, would have resulted in a nuclear incident.
- (k) Inclusion in subcontracts. The Contractor shall insert this clause in any subcontract which may involve the risk of public liability, as that term is defined in the Act and further described in paragraph (d)(2) above. However, this clause shall not be included in subcontracts in which the subcontractor is subject to Nuclear Regulatory Commission (NRC) financial protection requirements under section 170b. of the Act or NRC agreements of indemnification under section 170c. or k. of the Act for the activities under the subcontract.

H.2 PROTECTION OF GOVERNMENT PROPERTY - MANAGEMENT OF HIGH-RISK PROPERTY AND CLASSIFIED MATERIALS

The Contractor shall take all reasonable precautions, and such other actions as may be directed by the Contracting Officer, or in the absence of such direction, in accordance with voluntary consensus standards and/or industry leading practices, to safeguard and protect government property in the Contractor's possession or custody. In addition, the Contractor shall ensure that adequate safeguards are in place, and adhered to, for the handling, control and disposition of high-risk property and classified materials throughout the life cycle of the property and materials consistent with the policies, practices and procedures for property management contained in the Federal Property Management Regulations (41 CFR chapter 101), the Department of Energy Property Management Regulations (41 CFR chapter 109), and other applicable regulations.

High-risk property is property, which the loss, destruction, damage to, or the unintended or premature transfer of high-risk property items could pose risks to the public, the environment, national security or nuclear non-proliferation objectives of the United States. High-risk property includes proliferation sensitive, nuclear related dual use, export controlled, and chemically or radioactively contaminated, hazardous, and specially designed or prepared property, including property on the militarily critical technologies list

High risk personal property is property that, because of its potential impact on public health and safety, the environment, national security interests, or proliferation concerns, must be controlled, and disposed of in other than the routine manner. The categories of high risk property are automatic data processing equipment, especially designed or prepared property, export controlled information, export controlled property, hazardous property, nuclear weapon components or weapon-like components, proliferation sensitive property, radioactive property, special nuclear material, and unclassified controlled nuclear information.

(End of Clause)

H.3 NOTICE OF CIVIL PENALTIES FOR VIOLATION OF SECURITY OF DOE CLASSIFIED OR SENSITIVE INFORMATION OR DATA

The contractor shall comply with 42 U.S.C. 2282b relating to the safeguarding and security of restricted data. Any person who has entered into a contract or agreement with DOE, or a subcontract or sub-agreement thereto, and who violates (or whose employee violates) any applicable rule, regulation, or order prescribed or otherwise issued by the Secretary pursuant to this chapter relating to the safeguarding or security of Restricted Data or other classified or sensitive information shall be subject to a civil penalty of not to exceed \$100,000 for each such violation.

(End of Clause)

H.4 DOE-H-2021 WORK STOPPAGE AND SHUTDOWN AUTHORIZATION (OCT 2014)

- (a) Imminent Health and Safety Hazard is a given condition or situation which, if not immediately corrected, could result in a serious injury or death, including exposure to radiation and toxic/hazardous chemicals. Imminent Danger in relation to the facility safety envelope is a condition, situation, or proposed activity which, if not terminated, could cause, prevent mitigation of, or seriously increase the risk of (1) nuclear criticality, (2) radiation exposure, (3) fire/explosion, and/or (4) toxic hazardous chemical exposure.
- (b) Work Stoppage. In the event of an Imminent Health and Safety Hazard, identified by facility line management or operators or facility health and safety personnel overseeing facility operations, or other individuals, the individual or group identifying the imminent hazard situation shall immediately take actions to eliminate or mitigate the hazard (i.e., by directing the operator/implementer of the activity or process causing the imminent hazard to stop work, or by initiating emergency response actions or other actions) to protect the health and safety of the workers and the public, and to protect U.S. Department of Energy (DOE) facilities and the environment. In the event an imminent health and safety hazard is identified, the individual or group identifying the hazard should coordinate with an appropriate Contractor official, who will direct the shutdown or other actions, as required. Such mitigating action should subsequently be coordinated with the DOE and Contractor management. The suspension or stop-work order should be promptly confirmed in writing by the Contracting Officer.
- (c) Shutdown. In the event of an imminent danger in relation to the facility safety envelope or a non-Imminent Health and Safety Hazard identified by facility line managers, facility operators, health and safety personnel overseeing facility operations, or other individuals, the individual or group identifying the potential health and safety hazard may recommend facility shutdown in addition to any immediate actions needed to mitigate the situation. However, the recommendation must be coordinated with Contractor management, and the DOE Site Manager. Any written direction to suspend operations shall be issued by the Contracting Officer, pursuant to the Clause entitled, "FAR 52.242-15, Stop-Work Order."
- (d) Facility Representatives. DOE personnel designated as Facility Representatives provide the technical/safety oversight of operations. The Facility Representative has the authority to "stop work," which applies to the shutdown of an entire plant, activity, or job. This stop-work authority will be used for an operation of a facility which is performing work the Facility Representative believes:
 - (1) Poses an imminent danger to health and safety of workers or the public if allowed to continue;
 - (2) Could adversely affect the safe operation of, or could cause serious damage to the facility if allowed to continue; or

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- (3) Could result in the release of radiological or chemical hazards to the environment in excess of regulatory limits.
- (e) This clause flows down to all subcontractors at all tiers

(End of Clause)

H.5 DOE-H-2038 NUCLEAR FACILITIES OPERATIONS (OCT 2014)

- (a) The work under this contract includes the operation of nuclear facilities. The Contractor recognizes that such operations involve the risk of a nuclear incident which, while the chances are remote, could adversely affect the public's health and safety and the environment. Therefore, the Contractor shall exercise a degree of care commensurate with the risks involved.
- (b) As used in this clause, the term "nuclear materials" is a collective term which includes source material, special nuclear material, and those other materials to which, by direction of DOE, the provisions of DOE's Orders or Directives regarding the control of nuclear materials, which have been or may be furnished to the Contractor by DOE, apply. The Contractor shall accept existing procedures and, in a manner satisfactory to the Contracting Officer, propose revised, as appropriate, accounting and measurement procedures, maintain current records and institute appropriate control measures for nuclear materials in its possession commensurate with the national security and DOE policy. The Contractor shall make such reports and permits subject to inspection as DOE may require with reference to nuclear materials. The Contractor shall take all reasonable steps and precautions to protect such materials against theft and misappropriations and to minimize all losses of such materials.
- (c) Transfers of nuclear materials shall only be made with the prior written approval of the Contracting Officer, or authorized designee. Nuclear materials in the Contractor's possession, custody, or control shall be used only for furtherance of the work under this contract. The Contractor shall be responsible for the control of such nuclear materials in accordance with applicable DOE Orders and Directives regarding the control of nuclear materials, which have been or may be issued to the Contractor by DOE. The Contractor shall make a part of each purchase order, subcontract, and other commitment under this contract involving the use of nuclear materials for which the Contractor has accountability, appropriate terms and conditions for the use of nuclear materials and the responsibilities of the subcontractor or vendor regarding control of nuclear materials.

In the case of fixed-price purchase orders, subcontracts, or other commitments involving the use of nuclear materials for which the Contractor has accountability, the terms and conditions with respect to nuclear materials shall also identify who has the financial responsibilities, if any, regarding such items as losses, scrap recovery, product recovery, and disposal.

(End of Clause)

H.6 DOE-H-2071 DEPARTMENT OF ENERGY DIRECTIVES (OCT 2014)

- (a) In performing work under this contract, the Contractor shall comply with the requirements of those Department of Energy (DOE) directives, or parts thereof listed in Section J, Attachment J-1 or identified elsewhere in the contract.
- (b) The Contracting Officer may, at any time, unilaterally amend this clause, or other clauses which incorporate DOE directives, in order to add, modify or delete specific requirements. Prior to revising the listing of directives, the Contracting Officer shall notify the Contractor in writing of the Department's intent to revise the list, and the Contractor shall be provided with the opportunity to assess the effect of the Contractor's compliance with the revised list on contract cost and funding, technical performance, and schedule, and identify any potential inconsistencies between the revised list and the other terms and conditions of the contract. Within 30 days after receipt of the Contracting Officer's notice, the Contractor shall advise the Contracting Officer in writing of the potential impact of the Contractor's compliance with the revised list. Based on the information provided by the Contractor and any other information available, the Contracting Officer shall decide whether to revise the listing of directives and so advise the Contractor not later than 30 days prior to the effective date of the revision
- (c) Notwithstanding the process described in paragraph (b), the Contracting Officer may direct the Contractor to immediately begin compliance with the requirements of any directive.
- (d) The Contractor and the Contracting Officer shall identify and, if appropriate, agree to any changes to other contract terms and conditions, including cost and schedule, associated with the revision pursuant to the clause of this contract at FAR 52.243-2 Changes – Cost Reimbursement (Aug 1987) – Alt II and III (Apr 1984).
- (e) Regardless of the performer of the work, the Contractor is responsible for compliance with the requirements of this clause. The Contractor shall include this clause in all subcontracts to the extent necessary to ensure the Contractor's compliance with these requirements.

(End of Clause)

H.7 DEPARTMENT OF LABOR WAGE DETERMINATIONS

In the performance of this Contract the Contractor and/or subcontractors shall comply with the requirements of the U.S. Department of Labor Wage Determination(s) located in Section J if the contract or subcontracts are covered by the Service Contract Labor Standards (formerly known as the Service Contract Act) consistent with Section 4(c), if applicable, of the Service Contract Labor Standards, and the Wage Rate Requirements (Construction) (formerly known as the Davis-Bacon Act) Wage Determination located in Section J if the contract or subcontracts are covered by the Wage Rate Requirements (Construction). Each contractor and subcontractor employee performing work covered by the Wage Rate Requirements (Construction) must be paid at least the pay and benefits set forth in the SSA (or other negotiated agreement between the Contractor and the Idaho Building and Construction Trades Council) required in Section H.7(f) or under the applicable Wage Rate Requirements (Construction) wage determination, whichever is higher. Revised wage determinations shall be required from the Department of Labor and incorporated into this contract at least once every two (2) years, but not more often than yearly. The contractor and/or subcontractors shall comply with the revised wage determinations for Service Contract Labor Standards

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covered employees.

(End of Clause)

- 17. LIENS:** Vendor agrees to indemnify, hold harmless and defend Company and U.S. Department of Energy from and against all laborers', material men, mechanics, or other liens arising from the performance of Vendor's obligations under this Purchase Order and shall keep the premises of Company and U.S. Department of Energy free from all such claims, liens, and encumbrances. To the full extent permitted by applicable law, Vendor, for itself and all of its suppliers of any tier, waives all rights of lien against the property and premises of Company and U.S. Department of Energy for labor performed or for goods furnished for the Work.
- 18. LOWEST PRICE WARRANTY:** Vendor warrants that the prices set forth in this Purchase Order do not exceed those charged by Vendor to any other customers purchasing the same item in like or comparable quantities. The Company or authorized representative shall have the right to examine the records of the Vendor as necessary to assure that the prices charged for the items under this Purchase Order do not exceed those charged by the Vendor to any other customer purchasing the same items in like or comparable quantities.
- 19. ORDER OF PRECEDENCE:** All Purchase Order documents and subsequently issued Change Orders are essential parts of this Purchase Order. In resolving conflicts, errors, or omissions, the following order of precedence shall be used:
1. The Purchase Order form including signature page
 2. Terms and Conditions of Purchase or Rental
 3. Special Provisions – Vendor On-Site Services
 4. Attachments
- 20. PACKAGING AND DELIVERY:** All packages will have a copy of the Packing List inside the package and a separate copy on the outside. The Packing List must include the following: Purchase Order number and the contents listed by line number and nomenclature matching the Company's Purchase Order. Packages/shipments that cannot be properly identified against a Company Purchase Order are subject to rejection and return at Vendor expense.

Unless specifically directed by the Company's Company or designated Contract Technical Representative, deliveries shall be at the following location and times:

Fluor Idaho, LLC
1745 N. Yellowstone Highway
Idaho Falls, ID 83401

Receiving Hours: Monday through Thursday (except holidays) 7:00 am to 3:00 pm, Mountain Time

Holidays: The following holidays are observed by the Company for all employees: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day. Any other day designated by Federal statute, Executive order, or the President's proclamation.

- 21. RESERVATION OF RIGHTS:** The making or failure to make any inspection of, or payment for, the goods or services covered by this Purchase Order shall in no way impair Company's right to reject nonconforming or defective goods or services, nor be deemed to constitute acceptance by Company of the goods or services, nor affect in any way Vendor's obligations under this Purchase Order notwithstanding Company's opportunity to inspect the goods or services, Company's knowledge of the non-conformity or defect, its substantiality or the ease of its discovery, nor Company's earlier failure to reject the goods or services.
- 22. RIGHT TO OFFSET:** Company, without waiver or limitation of any rights or remedies of Company or U.S. Department of Energy, shall be entitled from time to time to deduct from any amounts due or owing by Company to Vendor in connection with this Purchase Order, any and all amounts owed by Vendor to Company or U.S. Department of Energy.
- 23. SECURITY:** If Company makes any advance or progress payment to Vendor under the Purchase Order, upon Company's request, Vendor agrees to execute a Security Agreement and Financing Statement (both in form satisfactory to Company) granting a Security interest to Company effective in all states of fabrication or manufacture in the proceeds, raw materials and goods which are purchased, manufactured, or otherwise obtained pursuant to the Purchase Order.
- 24. SHIPMENT:** Partial shipments must be accompanied by identifying documents, but such shipments shall not be construed as making the obligations of Vendor severable. No charge will be allowed for packing, shipment or handling unless stated in this Purchase Order. Vendor shall pay for damaged goods resulting from improper packing or marking. Itemized packing lists must accompany each shipment. Company's count will be accepted as final and conclusive on shipments not accompanied by Vendor's itemized packing list. If applicable, shipments shall be palletized to the maximum extent of palletization. Costs for palletizing are included in the purchase price. All goods received in excess of Purchase Order requirements will be subject to return for credit at Vendor's expense.

All headings and numbering in this Purchase Order are for convenience of reference only and shall in no way be used in interpretation of any of the provision in this Purchase Order.

- 25. SUPPLIER QUALITY SURVEILLANCE (SQS) INSPECTION AND EXPEDITING:** Vendor shall be responsible for the performance of all activities affecting quality and schedule including those of its suppliers. Company shall have the right to reject any and all goods which fail to conform to the specifications under which they were purchased or to proper standards of workmanship. Company reserves the right to review Vendor's Quality Assurance and Quality Control Procedures. Vendor's Quality Plan submittal requirements, if applicable, are defined in the "Supplier Drawing and Data Commitment Form" section of this Purchase Order.

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The goods provided by Vendor under this Purchase Order are subject to SQS inspection, expediting, audit of Quality Plan implementation and witnessing of Vendor testing by the Company's representative and/or the U.S. Department of Energy, who shall be granted access to all parts of the Vendor's plant(s) or Vendor's supplier's plant(s) engaged in the manufacturing or processing of this Purchase Order. The representative's inspection and witnessing of testing, or lack of inspection, witnessing of testing or response, shall in no way release the Vendor from any obligations related to this Purchase Order. Vendor shall further ensure that these terms and conditions become a part of its purchase orders to its suppliers for all goods or services which are used in the products purchased under this Purchase Order. Vendor is further responsible for obtaining and submitting Quality Plans as required from its suppliers.

Vendor and/or Vendor's suppliers will notify Company at least five (5) calendar days in advance of the date inspection or test can be made. If for any reason the date should be set back, Vendor shall telephone, wire or facsimile Company immediately. NOTE: THE VENDOR SHALL NOT SHIP THE GOODS ON THIS PURCHASE ORDER WITHOUT EITHER COMPANY'S FINAL INSPECTION OR A WRITTEN WAIVER OF INSPECTION FROM COMPANY. VIOLATION OF THIS REQUIREMENT SHALL CONSTITUTE A REJECTION OF THE GOODS, WITH SUBSEQUENT RETURN OR OTHER ACTION AT VENDOR'S COST.

Complete and accurate information is required to maintain the overall schedule. Unless otherwise stated, Vendor shall at a minimum furnish every fourteen (14) days, status of engineering, material procurement, production and shipping information.

26. **SURVIVAL:** The provisions of this Purchase Order which by their nature are intended to survive the termination, cancellation, completion or expiration of this Purchase Order shall continue as valid and enforceable obligations of the parties notwithstanding any such termination, cancellation, completion or expiration.
27. **SUSPECT/COUNTERFEIT ITEMS (S/CI):** Notwithstanding any other provisions of this agreement, the Vendor warrants that all items provided to the Company shall be genuine, new and unused unless otherwise specified in writing by the Company. Vendor further warrants that all items used by the Vendor during the performance of work under this purchase order, include all genuine, original, and new components, or are otherwise suitable for the intended purpose. Furthermore, the Vendor shall indemnify the Company, its agents, and third parties for any financial loss, injury, or property damage resulting directly or indirectly from material, components, or parts that are not genuine, original, and unused, or not otherwise suitable for the intended purpose. This includes, but is not limited to, materials that are defective, suspect, or counterfeit; materials that have been provided under false pretenses; and materials or items that are materially altered, damaged, deteriorated, degraded, or result in product failure as indicated in the S/CI Awareness Training Manual(PDF) <http://homer.ornl.gov/sesa/corporatesafety/sci/trainingmanual.html>.

If it is determined that a suspect/counterfeit part has been supplied, Company will impound the items pending a decision on disposition. The Vendor may be required to replace such items with items acceptable under the terms of the Purchase Order and shall be liable for all costs relating to the impoundment, removal, and replacement. Company may also notify the cognizant Department of Energy Contracting Officer and Office of Inspector.

General and reserves the right to withhold payment for the items pending results of the investigation.

Electrical material, components, and material shall have a mark indicating acceptance by a UL or other Nationally Recognized Testing Laboratory (NRTL) as recognized by OSHA.

28. **SUSPENSION OF PERFORMANCE:** Company may at any time, and from time to time, by written notice to Vendor, suspend further performance of all or any portion of this Purchase Order by Vendor. Such suspensions shall not exceed more than one hundred eighty (180) consecutive calendar days each nor aggregate more than two hundred seventy (270) calendar days. Upon receiving any such notice of suspension, Vendor shall promptly suspend further performance of the Purchase Order to the extent specified, and during the period of such suspension shall properly care for and protect all work in progress and materials, supplies, and equipment Vendor has on hand for performance of the Purchase Order. Vendor shall use its best efforts to utilize its material, labor and equipment in such a manner as to mitigate costs associated with suspension. Company may at any time withdraw the suspension as to all or part of the suspended performance by written notice to Vendor specifying the effective date and scope of withdrawal and Vendor shall, on the specified date of withdrawal, resume diligent performance of the work for which the suspension is withdrawn.

If Vendor believes that any such suspension or withdrawal of suspension justifies modification of the Purchase Order price or time for performance, Vendor shall comply with the provisions set forth in Article 5, entitled CHANGES. In no event shall Vendor be entitled to any loss of prospective profits, contributions to overhead or any incidental, consequential or other damages because of such suspensions or withdrawals of suspension.

29. **FEDERAL, STATE AND LOCAL TAXES:** Except as may be otherwise provided in this Order, the Order prices include all applicable federal, state, and local taxes and duties. Fluor Idaho, LLC. is exempt under Idaho law from the payment of certain Idaho sales or use taxes and is authorized by agreement with the state of Idaho State Tax Commission to pay directly to the state of Idaho any sales and use taxes owing on purchases of tangible personal property. Therefore, the Order price shall not include Idaho sales or use tax for any tangible personal property purchased hereunder.

30. TECHNICAL DIRECTION

- (a) Performance of the work under this contract may be subject to the technical direction of the cognizant Company's Subcontract Technical Representative (STR), if identified in the purchase order or otherwise in writing by the Company. The term "technical direction" is defined to include, without limitation:
- (1) Directions to the Vendor that redirect the contract effort, shift work emphasis between work areas or tasks, require pursuit of certain lines of inquiry, fill in details or otherwise serve to accomplish the Statement of Work (SOW).
 - (2) Provision of written information to the Vendor, which assists in the interpretations of drawings, specifications, or technical portions of the work description.
 - (3) Review and, where required by the contract, approval of technical reports, drawings, specifications and technical information to be delivered by the Vendor to the Company under this contract.

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- (b) Technical direction must be within the scope of the SOW stated in this contract. The cognizant STR does not have the authority to, and shall not, issue any technical directions which:
- (1) Constitute an assignment of additional work outside the scope of the SOW of this contract;
 - (2) Constitute a change as defined in the Article entitled "**Changes**";
 - (3) In any manner causes an increase or decrease in the total estimated contract price or the time required for the contract and/or performance;
 - (4) Changes any of the expressed terms, conditions or specifications of this contract;
 - (5) Interferes with the Vendor's right to perform the terms and conditions of this contract.
- (c) All technical direction shall be issued in writing by the cognizant STR.
- (d) The Vendor shall proceed promptly with the performance of technical directions duly issued by the STR in the manner prescribed by this article and within the STR's authority under the provisions of this Article. If, in the opinion of the Vendor, any instruction or direction by the STR falls within one of the categories defined in (b)(1) through (b)(5) above, the Vendor shall not proceed but shall notify the cognizant Company in writing within five (5) working days of any such instruction or direction and shall request the Company to modify the contract. Upon receiving the written

Notification from the Vendor, the Company shall:

- (1) Advise the Vendor in writing within seven (7) working days after receipt of the Vendor's letter that the technical direction is within the scope of this purchase order and does not constitute a change under the article entitled "**Changes**" of this purchase order;
 - (2) Advise the Vendor in writing within seven (7) working days after receipt of the Vendor's letter not to perform under the direction and to cancel the direction; or
 - (3) Advise the Vendor in writing within a reasonable time that Company will issue a written change order.
- (e) Failure of the Vendor and the Company to agree that the technical direction is within the scope of the contract, or failure to agree upon the contract action to be taken with respect thereto shall be subject to the General Provision entitled "**Disputes**."

- 31. TERMINATION FOR CONVENIENCE:** Company shall have the right to terminate for its convenience further performance of all or any separable part of this Purchase Order at any time by written notice to Vendor. On the date of such termination stated in the notice, Vendor shall discontinue all work pertaining to this Purchase Order, shall place no additional orders, and shall preserve and protect materials on hand purchased for or committed to this Purchase Order, work in progress, and completed work both in Vendor's and in its supplier's plants pending Company's instructions, and shall dispose of same in accordance with Company's instructions. Termination payment to Vendor or refund to Company, if any, shall be promptly and mutually agreed to by Company and Vendor, based on that portion of the work satisfactorily performed to the date of cancellation, including reimbursement for actual costs, reasonable overhead and profit on such work, plus reasonable and necessary expenses resulting from the termination, disposition of work and material on hand, and amounts previously paid by Company, all as substantiated by documentation satisfactory to and verified by Company. Vendor shall not be entitled to any loss of prospective profits, contribution to overhead or incidental, consequential or other damages because of such termination.

Vendor shall deliver or assign all goods with all applicable warranties or dispose of goods as directed by Company prior to final payment.

- 32. TERMINATION FOR DEFAULT:** In the event Vendor shall be adjudged bankrupt, make a general assignment for the benefit of its creditors, or if a receiver shall be appointed on account of Vendor's insolvency, or in the event Vendor is in default of any material provisions or requirement of this Purchase Order, Company may, by written notice to Vendor, without prejudice to any other rights or remedies which Company may have, cancel further performance by Vendor under this Purchase Order, in whole or in part. In the event of such cancellation, Company may complete the performance of the terminated portions of this Purchase Order by such means as Company selects, and Vendor shall be responsible for any additional costs incurred by Company in so doing.

Vendor shall deliver or assign to Company any work in progress as Company may request. Any amounts due Vendor for goods and services completed by Vendor in full compliance with the terms of this Purchase Order prior to such cancellation, as verified by Company, shall be subject to set off of Company's additional costs of completing the Purchase Order and other damages incurred by Company as a result of Vendor's default.

Waiver by Company of any default of Vendor shall not be considered to be a waiver by Company of any provision of this Purchase Order or of any subsequent default by Vendor. If Vendor's contract is terminated by virtue of default, and it is later determined by the final judgment or order of a court of competent jurisdiction, arbitration entity or administrative proceeding of any type whatsoever that the Vendor was not in default, the parties agree that the termination shall then be considered a termination for convenience.

- 33. TITLE** Unless specified elsewhere in this contract, title to items furnished under this Purchase Order shall pass to the United States Department of Energy upon acceptance, regardless of when or where the Company takes physical possession.
- 34. VALIDITY OF PROVISIONS:** In the event any Provision, or any part or portion of any Provision of this Purchase Order shall be held to be invalid, void or otherwise unenforceable, such holding shall not affect the remaining part or portions of that Provision, or any other Provision hereof.
- 35. WAIVER:** Company's failure to insist on performance of any term, condition, or instruction, or failure to exercise any right or privilege, or its waiver of any breach, shall not thereafter waive any such term, condition, instruction, right or privilege.

Company's acceptance of any goods shall not operate as a waiver of rights hereunder or otherwise relieve Vendor from its responsibility for supplying and delivering goods in accordance with the requirements of this Purchase Order or any other obligation of Vendor under this Purchase Order.

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- 36. WARRANTY:** Vendor warrants to Company and U.S. Department of Energy that all goods and services covered by this Purchase Order will conform with the specifications, drawings, and other descriptions supplied or adopted by Company and will be new, of good quality, fit and sufficient for the purposes for which they are intended as evidenced in this Purchase Order and in the drawings and specifications referred to herein, of good materials, design and workmanship, free from defects, and will fulfill satisfactorily the operating conditions specified herein.

These warranties shall extend to Company, U.S. Department of Energy, their successors and assigns.

Vendor, at its expense, (including without limitation costs of removal, packing, transportation and reinstallation) shall promptly either repair or replace any goods and services furnished to Company which within twelve (12) months after operational start-up or within eighteen (18) months after shipment, whichever occurs first, shall fail to conform to the requirements of this Purchase Order. Goods or services that are repaired or replaced by Vendor pursuant to this Warranty shall be warranted, according to the terms hereof, for an additional twelve (12) months from the date of such repair or replacement. Vendor will at any time be chargeable for repairs made by Company to correct such a failure to meet the warranty herein when Vendor has been given notice of such failure and thereafter has failed to take prompt and effective action to correct the failure in accordance with the foregoing.

The above warranties are in addition to all other warranties as may be express or implied at law or equity

- 37. REPORTING FRAUD, WASTE AND ABUSE TO THE OFFICE OF INSPECTOR GENERAL:** Vendors must ensure that its employees who have information about actual or suspected violations of laws, regulations, or policies including fraud, waste, abuse, misuse, corruption, criminal acts, or mismanagement relating to DOE programs, operations, facilities, contracts, subcontracts or information technology systems notify an appropriate authority.

Vendor is required to:

- a. Notify employees annually of their duty to report allegations of fraud, waste, abuse, misuse, corruption, criminal acts, or mismanagement relating to DOE programs, operations, facilities, contracts, or information technology systems to an appropriate authority (e.g. OIG, other law enforcement, supervisor, employee concerns office, security officials.) Examples of violations to be reported include, but are not limited to, allegations of false statements; false claims; bribery; kickbacks, fraud; DOE environment, safety, and health violations; theft; computer crimes; Company or Vendor mischarging; conflicts of interest, and conspiracy to commit any of these acts. Vendors must also ensure that its employees are aware that they may always report incidents or information directly to the OIG.
- b. Display the OIG hotline telephone number in buildings and common areas such as cafeterias, public telephone areas, official bulletin boards, reception rooms, and building lobbies.
- c. Publish the OIG hotline telephone number in telephone books and newsletters under the Vendor's cognizance.
- d. Ensure that its employees report to the OIG within a reasonable period of time, but not later than 24 hours after discovery, all alleged violations of law, regulations, or policy, including incidents of fraud, waste, abuse, misuse.
- e. Ensure that its employees report to the OIG any allegations of reprisals taken against employees who have reported to the OIG fraud, waste, abuse, misuse, corruption, criminal acts, or mismanagement.
- f. Ensure that its managers do not retaliate against Vendor employees who report fraud, waste, abuse, misuse, corruption, criminal acts, or mismanagement.
- g. Comply with requests for interviews and briefings and must provide affidavits or sworn statements, if so requested by an employee of the Office of Inspector General (OIG) so designated to take affidavits or sworn statements.
- h. Not impede or hinder another employee's cooperation with the OIG.
- i. Ensure that reprisals are not taken against Vendor employees who cooperate with or disclose information to the OIG or other lawful appropriate authority.
- j. Ensure that all their employees understand that they must:
 - Comply with requests for interviews and briefings and must provide affidavits or sworn statements, if so requested by an employee of the Office of Inspector General (OIG) so designated to take affidavits or sworn statements.
 - Not impede or hinder another employee's cooperation with the OIG.
 - Ensure that reprisals are not taken against Vendor employees who cooperate with or disclose information to the OIG or other lawful appropriate authority.

- WORK SITE TERMS -

WHEN THIS ORDER COVERS THE SUPPLYING OF SERVICES OR SERVICES AND MATERIALS ON THE PREMISES OF COMPANY OR U.S. DEPARTMENT OF ENERGY, IT IS SUBJECT TO ADDITIONAL TERMS AND CONDITIONS FOUND IN SPECIAL PROVISIONS

- VENDOR ON SITE SERVICES

THIS PAGE ENDS TERMS AND CONDITIONS OF PURCHASE