

**ATTACHMENT 1
SAMPLE SUBCONTRACT FOR THE TLCC07 PROCUREMENT**

SUBCONTRACT NO. B563016	 University of California Lawrence Livermore National Laboratory Procurement Department P. O. Box 5012 Livermore, CA 94551
Subcontractor: TBD	University Procurement Representative: Gary M. Ward Phone #: (925) 423-5952 Fax #: (925) 423-8019 E-Mail: ward31@llnl.gov

Introduction

This is a Fixed Price Subcontract for the delivery and installation of Scalable Units (SUs) at Tri-Laboratory sites, integration of those SUs into fully functional clusters, training, and hardware and software maintenance service, as further described herein.

The parties to this Subcontract are The Regents of the University of California (hereinafter called "University") and the party identified above as the "Subcontractor."

This is a Subcontract under Prime Contract No. W-7405-ENG-48 between the University and the United States Government (hereinafter called "Government"), represented by the Department of Energy National Nuclear Security Administration (hereinafter called "DOE/NNSA"), for the management and operation of the Lawrence Livermore National Laboratory (hereinafter called "LLNL") and the performance of certain research and development work.

Agreement

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

TBD

**THE REGENTS OF
THE UNIVERSITY OF CALIFORNIA**

BY: _____

BY: _____
TBD

TITLE: _____

TITLE: TBD
LLNL Procurement Department

DATE: _____

DATE: _____

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**SCHEDULE OF ARTICLES
FOR
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ARTICLE 1 – INCORPORATED DOCUMENTS

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

* The documents and forms marked with an asterisk are available on-line at the following website: <http://www.llnl.gov/procurement/> (under Supplier Information, select either General Provisions & Forms, or Special Provisions).

Documents

GENERAL PROVISIONS FOR COMMERCIAL SUPPLIES AND SERVICES (GPs # 600B; 10/16/06) *
STATEMENT OF WORK (Date TBD)
SITE SERVICES REQUIREMENTS (SSR ES&H LEVEL 0; 05/15/06) *
SECURITY AND SITE ACCESS PROVISIONS (S&SAP; 05/15/06) *
SMALL BUSINESS SUBCONTRACTING PLAN (Date TBD)

ARTICLE 2 – SCOPE OF WORK

- A. The Subcontractor shall deliver and install SUs at the Los Alamos National Laboratory (hereinafter called “LANL”), at the Sandia National Laboratories (hereinafter called “SNL”), and at the LLNL. The Subcontractor shall integrate those SUs into fully functional clusters and provide training and hardware and software maintenance service. The work is more specifically described in the Statement of Work.
- B. The Subcontractor shall furnish all personnel, supervision, materials, supplies, equipment, tools, facilities, transportation, testing, and other incidental items and services necessary for performance of the work, except for Government Property specified herein to be furnished by the University. The Subcontractor shall deliver the materials, products, supplies, reports and residuals, as specified.
- C. The work shall be performed by the Subcontractor at the Subcontractor's facility located at TBD, at the LANL, at the SNL, at the LLNL, and at other locations approved by the University. LANL, SNL, and LLNL are collectively referred to as “Tri-Laboratories,” “Tri-Labs,” or “Tri-Laboratory” within this Subcontract.
- D. The University may, at its option for itself or the other Tri-Laboratories, by written unilateral modification to this Subcontract require additional SUs and related service as described in Article 6 – FIXED PRICE OPTIONS.

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ARTICLE 3 – SAFETY-RELATED REQUIREMENTS

- A. General. The Subcontractor shall comply with all ES&H requirements, training, and associated safety documents referenced, attached, or incorporated to this Subcontract, including any incorporated safety related documents submitted by the Subcontractor and reviewed and accepted by the University. The Subcontractor shall also comply with, and assist the University and the DOE/NNSA in complying with, the safety and health requirements identified in, or applicable to, this Subcontract.
- B. Safety Standards and Testing. Materials, supplies, and equipment furnished or used by the Subcontractor under this Subcontract shall meet nationally recognized safety standards or be tested by the Subcontractor in a manner demonstrating they are safe for use. All electrical equipment, components, conductors, and other electrical material shall be of a type that is listed, labeled, or tested by a Nationally Recognized Testing Laboratory (NRTL) in accordance with Title 29, Part 1910, *Occupational Safety and Health Standards*, of the Code of Federal Regulations (29 CFR 1910). The Subcontractor shall notify the University Procurement Representative and the University Technical Representative, in writing, of any materials, supplies, or equipment to be furnished or used under this Subcontract that does not meet these requirements.
- C. Notice to Proceed. The Subcontractor may not commence any work performed at a location other than a Subcontractor or lower-tier subcontractor facility until the University Procurement Representative issues a written Notice to Proceed. The Subcontractor may proceed with all other work authorized or required by the Subcontract in preparation for performing the work at Tri-Laboratory sites. The University Procurement Representative will not issue the Notice to Proceed until the Subcontractor has submitted, and the University has accepted, the following document.
- 1.) Insurance Certificates, as required by this Subcontract.
- D. LANL and SNL On-Site Requirements. This Subcontract requires Subcontractor personnel (including lower-tier subcontractor personnel) to perform work at LANL and SNL. The Subcontractor (including lower-tier subcontractor personnel) shall comply with security and site access requirements, ES&H requirements, vehicle operation requirements, insurance requirements, and other related on-site work requirements of LANL and SNL, respectively.
- E. LANL and SNL Work Locations. Upon arrival at the work location, the Subcontractor must report its presence to the work location Point of Contact (POC) indicated below. The Subcontractor shall comply with all safety directions as required by the work location POC.

<u>Work Location(s)</u>	<u>POC</u>	<u>Telephone Number</u>
LANL	Dr. Josip Loncaric	(505) 667-8873
SNL (NM)	Dr. James Ang	(505) 844-0068
SNL (CA)	Jerrold Friesen	(925) 294-3144

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ARTICLE 4 – PERIOD OF PERFORMANCE

A. Baseline Award

The work described in ARTICLE 2 - SCOPE OF WORK, Paragraph A., shall be completed in accordance with the milestone payment schedules of this Subcontract. Hardware and software maintenance and training service shall commence upon SU acceptance by the University. The expiration date of this Subcontract shall be three years after the date the University accepts the final cluster at each Tri-Laboratory site.

B. Options

The period of performance shall automatically be extended by the exercising of any or all of options of this Subcontract, as described in ARTICLE 2 – SCOPE OF WORK and ARTICLE 6 – FIXED PRICE OPTIONS. Option exercise shall be at the sole discretion of the University. Such modification shall be subject to all provisions of this Subcontract.

ARTICLE 5 – PRICE AND PAYMENT

A. Fixed Price

The total fixed price of this Subcontract is \$TBD.

The fixed price stated above does not include and the University shall not be charged for any CA State Sales & Use Tax. The University holds California State Resale Permit No. SR-CHA 21-135323.

The Subcontractor shall pay New Mexico Gross Receipts Tax (NMGRT) as required by the State of New Mexico.

B. Allocated Funding Limit

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

Milestones Authorized for Performance

TBD

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

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C. Limitation of the University’s Liability

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

D. Work Authorization

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

E. Invoices – Milestone Payments

1. Once it is determined by the University Technical Representative that the requirements set forth in the Statement of Work for a particular milestone have been met, the Subcontractor may submit an invoice for the milestone payment. Payment terms are Net 30 Days. Payment amounts shall be less any applicable adjustments, credits, offsets, or tax withholds. The Subcontractor shall submit invoices electronically to the University Procurement Representative at the following address.

ward31@llnl.gov

2. The milestone payment schedules of this Subcontract follow.

A. The milestone payment schedule for deliverables follows.

Milestone No.	Milestone Description	Due Date	Payment Amount
6.3.1	Detailed Project Plan	7 days after Subcontract award	\$ TBD
6.3.2	Tri-Laboratory BASS Final Checkout	09/15/07	\$ TBD
6.3.3	Phase 1 SU Build	10/07	\$ TBD
6.3.4	Phase 1 SU Delivery and Acceptance	10/07	\$ TBD
6.3.5	Phase 1 Cluster Integration	11/07	\$ TBD
6.3.9	Phase 2 SU Build	01/08	\$ TBD
6.3.10	Phase 2 SU Delivery and Acceptance	01/08	\$ TBD
6.3.11	Phase 2 Cluster Integration	02/08	\$ TBD
6.3.12	Phase 3 SU Build	04/08	\$ TBD
6.3.13	Phase 3 SU Delivery and Acceptance	04/08	\$ TBD

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Milestone No.	Milestone Description	Due Date	Payment Amount
6.3.14	Phase 3 Cluster Integration	05/08	\$ TBD
6.3.18	Phase 4 SU Build	07/08	\$ TBD
6.3.19	Phase 4 SU Delivery and Acceptance	07/08	\$ TBD
6.3.20	Phase 4 Cluster Integration	08/08	\$ TBD
	TOTAL		\$ TBD

B. The milestone payment schedule for service (i.e., hardware and software maintenance and training) follows. The Subcontractor shall commence service upon SU acceptance by the University.

Milestone No.	Milestone Description	Completion Date	Payment Amount
1	Acceptance of service for Phase 1 SUs	The date the University accepts Milestone 6.3.5	\$ TBD
2	Acceptance of first service period for Phase 1 clusters	180 days after the date the University accepts Milestone 1	\$ TBD
3	Acceptance of second service period for Phase 1 clusters	185 days after the date the University accepts Milestone 2	\$ TBD
4	Acceptance of third service period for Phase 1 clusters	180 days after the date the University accepts Milestone 3	\$ TBD
5	Acceptance of fourth service period for Phase 1 clusters	185 days after the date the University accepts Milestone 4	\$ TBD
6	Acceptance of fifth service period for Phase 1 clusters	180 days after the date the University accepts Milestone 5	\$ TBD
7	Acceptance of final service period for Phase 1 clusters	185 days after the date the University accepts Milestone 6	\$ TBD
8	Acceptance of service for Phase 2 SUs	The date the University accepts Milestone 6.3.11	\$ TBD
9	Acceptance of first service period for Phase 2 clusters	180 days after the date the University accepts Milestone 8	\$ TBD
10	Acceptance of second service period for Phase 2 clusters	185 days after the date the University accepts Milestone 9	\$ TBD

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Milestone No.	Milestone Description	Completion Date	Payment Amount
11	Acceptance of third service period for Phase 2 clusters	180 days after the date the University accepts Milestone 10	\$ TBD
12	Acceptance of fourth service period for Phase 2 clusters	185 days after the date the University accepts Milestone 11	\$ TBD
13	Acceptance of fifth service period for Phase 2 clusters	180 days after the date the University accepts Milestone 12	\$ TBD
14	Acceptance of final service period for Phase 2 clusters	185 days after the date the University accepts Milestone 13	\$ TBD
15	Acceptance of service for Phase 3 SUs	The date the University accepts Milestone 6.3.14	\$ TBD
16	Acceptance of first service period for Phase 3 clusters	180 days after the date the University accepts Milestone 15	\$ TBD
17	Acceptance of second service period for Phase 3 clusters	185 days after the date the University accepts Milestone 16	\$ TBD
18	Acceptance of third service period for Phase 3 clusters	180 days after the date the University accepts Milestone 17	\$ TBD
19	Acceptance of fourth service period for Phase 3 clusters	185 days after the date the University accepts Milestone 18	\$ TBD
20	Acceptance of fifth service period for Phase 3 clusters	180 days after the date the University accepts Milestone 19	\$ TBD
21	Acceptance of final service period for Phase 3 clusters	185 days after the date the University accepts Milestone 20	\$ TBD
22	Acceptance of service for Phase 4 SUs	The date the University accepts Milestone 6.3.20	\$ TBD
23	Acceptance of first service period for Phase 4 clusters	180 days after the date the University accepts Milestone 22	\$ TBD

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Milestone No.	Milestone Description	Completion Date	Payment Amount
24	Acceptance of second service period for Phase 4 clusters	185 days after the date the University accepts Milestone 23	\$ TBD
25	Acceptance of third service period for Phase 4 clusters	180 days after the date the University accepts Milestone 24	\$ TBD
26	Acceptance of fourth service period for Phase 4 clusters	185 days after the date the University accepts Milestone 25	\$ TBD
27	Acceptance of fifth service period for Phase 4 clusters	180 days after the date the University accepts Milestone 26	\$ TBD
28	Acceptance of final service period for Phase 4 clusters	185 days after the date the University accepts Milestone 27	\$ TBD
TOTAL			\$ TBD

ARTICLE 6 – FIXED PRICE OPTIONS

A. The University and the Subcontractor agree to fixed price options in this Subcontract for the delivery, installation, and integration of additional SUs into clusters and related service.

Option No.	Milestone	Option Milestone Description	Due Date	Payment Amount
1	6.3.6	Phase 1 Option SU Build	TBD	\$ TBD
	6.3.7	Phase 1 Option SU Delivery and Acceptance	TBD	\$ TBD
	6.3.8	Phase 1 Option Cluster Integration	11/07	\$ TBD
2	6.3.15	Phase 3 Option SU Build	04/08	\$ TBD
	6.3.16	Phase 3 Option SU Delivery and Acceptance	04/08	\$ TBD
	6.3.17	Phase 3 Option Cluster Integration	05/08	\$ TBD
3	29	Acceptance of service for Phase 1 option SUs	The date the University accepts Milestone 6.3.8	\$ TBD
	30	Acceptance of first service period for Phase 1 option clusters	180 days after the date the University accepts Milestone 29	\$ TBD

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Option No.	Milestone	Option Milestone Description	Due Date	Payment Amount
	31	Acceptance of second service period for Phase 1 option clusters	185 days after the date the University accepts Milestone 30	\$ TBD
	32	Acceptance of third service period for Phase 1 option clusters	180 days after the date the University accepts Milestone 31	\$ TBD
	33	Acceptance of fourth service period for Phase 1 option clusters	185 days after the date the University accepts Milestone 32	\$ TBD
	34	Acceptance of fifth service period for Phase 1 option clusters	180 days after the date the University accepts Milestone 33	\$ TBD
	35	Acceptance of final service period for Phase 1 option clusters	185 days after the date the University accepts Milestone 34	\$ TBD
	4	36	Acceptance of service for Phase 3 option SUs	The date the University accepts Milestone 6.3.17
37		Acceptance of first service period for Phase 3 option clusters	180 days after the date the University accepts Milestone 36	\$ TBD

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Option No.	Milestone	Option Milestone Description	Due Date	Payment Amount
	38	Acceptance of second service period for Phase 3 option clusters	185 days after the date the University accepts Milestone 37	\$ TBD
	39	Acceptance of third service period for Phase 3 option clusters	180 days after the date the University accepts Milestone 38	\$ TBD
	40	Acceptance of fourth service period for Phase 3 option clusters	185 days after the date the University accepts Milestone 39	\$ TBD
	41	Acceptance of fifth service period for Phase 3 option clusters	180 days after the date the University accepts Milestone 40	\$ TBD
	42	Acceptance of final service period for Phase 3 option clusters	185 days after the date the University accepts Milestone 41	\$ TBD
		TOTAL OPTION PRICES		\$ TBD

The total price of this Subcontract with options is \$TBD.

B. The University may exercise options on or before the following dates.

Option Nos.	Option Expiration Date
1	TBD
2	03/31/08
3	TBD
4	03/31/08

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ARTICLE 7 – SHIPPING INSTRUCTIONS

A. Shipping Addresses. The University will notify the Subcontractor of SU quantities to be delivered to each Tri-Laboratory site at least 15 days prior to shipment. Shipping addresses for this Subcontract follow.

1. Shipments to LLNL.

University of California
Lawrence Livermore National Laboratory
For the DOE/NNSA
LLNL Subcontract No. B563016
7000 East Avenue
Livermore, CA 94550

2. Shipments to LANL.

Los Alamos National Laboratory for US DOE
LLNL Subcontract No. B563016
Building SM30 Bikini Atoll Road
Los Alamos, NM 87545
Attn: High Performance Computing (HPC-DO)

3. Shipments to SNL in Albuquerque, NM.

Sandia National Laboratories
U.S. NNSA
Attn: Dr. James Ang
LLNL Subcontract No. B563016
C/O SANDIA NATIONAL LABS
1515 EUBANK SE BLDG 957
ALBUQUERQUE, NM 87123

4. Shipments to SNL in Livermore, CA.

Sandia National Laboratories
U.S. NNSA
Attn: Jerrold Friesen
LLNL Subcontract No. B563016
C/O Sandia National Labs
7011 East Ave. Bldg 928
Livermore, CA 94551-0969
Attn: Scientific Computing

B. F.O.B. Point. All shipments shall be shipped F.O.B. Destination.

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- C. Shipping Instructions. All shipments to the Tri-Laboratories shall be shipped by Subcontractor's vehicles or licensed common carriers selected by the Subcontractor.
- D. Shipping Charges. Shipping charges shall be for the account of the Subcontractor.

ARTICLE 8 – COORDINATION AND ADMINISTRATION

- A. The University Procurement Representative for this Subcontract is Gary Ward. All matters relating to the administration, performance and non-technical interpretation of this Subcontract shall be referred to the University Procurement Representative. The Subcontractor shall direct all notices and requests for approval to the University Procurement Representative. The University Procurement Representative will issue any notices or non-technical approvals to the Subcontractor.
- B. The University Technical Representative for this Subcontract is Dr. Mark Seager. The University Technical Representative will provide technical direction in connection with the work to be performed under this Subcontract. The term "technical direction" is defined to include: (1) direction to the Subcontractor which assist in the interpretation of drawings, specifications, or technical portions of the work description; and (2) the review and approval of technical reports, drawings, specifications, and information to be delivered by the Subcontractor under the Subcontract, where required. The University Technical Representative will issue all technical direction in writing.
- C. The University Technical Representative is not authorized to issue any technical direction which would: (1) constitute an assignment of work outside the general scope of the work covered by this Subcontract; (2) change the description of the work to be performed or any applicable drawings, designs, and specifications; (3) change the time or place of performance; the method of shipment or packaging, or the place of inspection, delivery or acceptance; (4) increase the estimated cost for performance of the work or the time required for performance of the work; (5) change any expressed term or condition of the Subcontract; or (6) unreasonably interfere with the Subcontractor's ability to perform and complete the work. Any such change must first be authorized by a written modification to this Subcontract issued by the University Procurement Representative.
- D. The SNL Technical Representative for this Subcontract is Dr. James Ang. The LANL Technical Representative for this Subcontract is Dr. Josip Loncaric. The SNL and LANL Technical Representatives are responsible for determining acceptance of deliverables and services at their respective sites. The SNL and LANL Technical Representatives are subject to the limitations described in Paragraph C. above.

ARTICLE 9 – REPORTS AND SOFTWARE UPDATES

- A. Reports and Software Updates

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

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B. Distribution of Reports and Software Updates

The Subcontractor shall submit reports and software updates electronically to the following email addresses.

josip@lanl.gov
jaang@sandia.gov
leininger2@llnl.gov
seager1@llnl.gov
ward31@llnl.gov
jafries@sandia.gov

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

C. Interim Reports

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

ARTICLE 10 – PROPERTY

- A. The Subcontractor shall acquire, and/or the University will furnish to the Subcontractor, the materials, equipment, supplies, and/or tangible personal property items identified below, for use under this Subcontract:

Subcontractor Acquired Property

NONE

University Furnished Government Property

NONE

- B. All property acquired by the Subcontractor and/or furnished by the University shall be identified, utilized, accounted for, and dispositioned in accordance with the clause of the GENERAL PROVISIONS entitled *GOVERNMENT PROPERTY (FIXED-PRICE CONTRACTS)*. Disposition directions and authorization will be provided by the University's Property Management Department.

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ARTICLE 11 – APPROVAL OF TECHNICAL DATA

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

If the data includes any variations from the Subcontract requirements, the Subcontractor shall describe such variations in writing at the time of submission of the data. If the University approves any such variation(s), a change order to the Subcontract shall be issued by the University and, if appropriate, a bilateral modification to the Subcontract shall be negotiated.

ARTICLE 12 – ACCESS TO LLNL COMPUTER RESOURCES

- A. The performance of this Subcontract may require Subcontractor personnel (including lower-tier subcontractor personnel) to use or connect with LLNL computer resources (i.e., computers or computer networks). Any such access and use shall be in accordance with and subject to LLNL Cyber Security Program (LLNL CSP) requirements, including the following:
1. Approval to access specific LLNL computer resources shall be obtained from the appropriate LLNL Information Systems Security Officer (ISSO), through the University Technical Representative.
 2. Access to LLNL computer resources by Subcontractor personnel is only permitted as required to perform the work authorized under this Subcontract. Classified computer resources or information shall not be accessed or attempted to be accessed without specific written authorization from the LLNL CSP. Personal and non-work-related use of LLNL computer resources by Subcontractor personnel is prohibited.
 3. Only Subcontractor personnel who are U.S. citizens may access or use LLNL computer resources, unless specific written authorization is granted for each non-U.S. citizen by the LLNL CSP.
 4. Only the approved Open Terminal Server (OTS) modem pool method shall be used to access unclassified LLNL resources via modems. All unclassified computer systems with modems other than facsimile machines must be configured with auto-answer turned off. Modems are prohibited on classified systems.
 5. All software used by Subcontractor personnel on LLNL computer resources must be appropriately acquired and used according to the applicable licensing agreements.
 6. All information or data furnished by the University or obtained from or developed on

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a LLNL computer resource by Subcontractor personnel shall be treated as confidential and protected by the Subcontractor to prevent disclosure to any persons other than those authorized by the University.

7. Computer passwords used by Subcontractor personnel for LLNL computer resources shall comply with the applicable rules and be protected to prevent disclosure to other persons. If a computer password is disclosed, or disclosure is suspected, the Subcontractor shall immediately notify the University Technical Representative and arrange for replacement of the password.
 8. The use at the LLNL of any non-LLNL computing or video conferencing equipment with electronic data transfer capabilities (e.g., personal computers, including portables, laptops, electronic notebooks, personal digital assistants, and handhelds) may not be connected to or used to communicate with any LLNL computer resources without the written approval of the University Technical Representative and the LLNL CSP.
- B. These requirements shall be applicable whether such access is at the LLNL, at the Subcontractor's facility, or elsewhere; and shall be applicable to lower-tier subcontractors and their personnel whose work requires access to LLNL computer resources. The Subcontractor shall report any suspected or actual computer security incident as soon as possible to the appropriate ISSO or, if the ISSO is not available, then directly to the LLNL CSP.
- C. The University may monitor the use of LLNL computer resources by network operating software, reviewing the contents of all LLNL computer resources and any computers used to access LLNL computer resources, and other appropriate means.
- D. If the Subcontractor does not comply with the provisions of this article, the University may withdraw the Subcontractor's access to LLNL computer resources. Misuse of LLNL computer resources may be a violation of law and could result in appropriate action, including termination for default and/or criminal prosecution.

ARTICLE 13 – ACCESS TO LANL AND SNL COMPUTER RESOURCES

The performance of this Subcontract may require Subcontractor personnel (including lower-tier subcontractor personnel) to use or connect with LANL and SNL computer resources (i.e., computers or computer networks). Any such access and use shall be subject to the particular cyber security requirements of LANL and SNL, respectively. Subcontractor personnel (including lower-tier subcontractor personnel) shall complete COM100 Integrated Computer and Information Security Training (to be completed every 12 months) before using SNL computer resources.

ARTICLE 14- DEBARMENT ELIGIBILITY CERTIFICATION

By acceptance of this Subcontract, the Subcontractor certifies that, to the best of its knowledge and belief, it and its principals are not presently debarred, suspended, proposed for debarment, or

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declared ineligible for the award of contracts (including subcontracts) by any agency of the Federal Government.

ARTICLE 15 - OBSERVATION AT THE SUBCONTRACTOR'S FACILITIES

The University reserves the right to observe and witness all phases of the manufacturing of the Ordered Items, including design, fabrication, assembly, testing, and inspection, conducted at the Subcontractor's facility or at any of its lower-tier subcontractors' facilities.

ARTICLE 16 – OPEN SOURCE SOFTWARE LICENSE

The University and the Subcontractor agree that any modification to, or derivative of, open source software first produced in the performance of this Subcontract shall be subject to the same license terms of the open source software upon which the modification or derivative is based.

ARTICLE 17 – ON SITE PARTS CACHE

- A. The Subcontractor shall provide and replenish spare parts caches at LLNL, LANL, and SNL, as described in the Statement of Work.
- B. The Subcontractor's obligation to replenish the spare parts caches shall expire three years after the date of final cluster acceptance, which includes any option(s) the University may exercise under this Subcontract.
- C. Title to the spare parts shall vest in the Government upon delivery at the Tri-Laboratories. Title to failed parts returned (for replacements received) by the Tri-Laboratories shall vest in the Subcontractor upon shipment from the Tri-Laboratories. The Subcontractor agrees that the Tri-Laboratories shall not return failed hard disks nor FRUs with non-volatile memory used to store classified information.

ARTICLE 18 - INFORMATION TECHNOLOGY USING INTERNET PROTOCOL TECHNOLOGY

- A. If this Subcontract involves the acquisition of Information Technology (IT), as defined in Federal Acquisition Regulation 2.101, that uses Internet Protocol (IP) technology, the Subcontractor agrees that: (1) all deliverables that involve IT that uses IP (products, services, software, etc.) will comply with IPv6 standards and interoperate with both IPv6 and IPv4 systems and products; and (2) the Subcontractor has IPv6 technical support for development and implementation and fielded product management available. If the Subcontractor plans to offer a deliverable that involves IT that is not initially compliant, the Subcontractor agrees to: (1) obtain the University Procurement Representative's approval before starting work on the deliverable; (2) provide a migration path and firm commitment to upgrade to IPv6 for all application and product features by June 2008; and (3) have IPv6 technical support for development and implementation and fielded product management available.

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- B. Should the Subcontractor find that the Statement of Work or specifications of this Subcontract do not conform to the IPv6 standard, the Subcontractor must notify the University Procurement Representative of such nonconformance and act in accordance with her/his instructions.

ARTICLE 19 – INSURANCE AND INDEMNIFICATION

A. Indemnification

The Subcontractor shall defend, indemnify and hold harmless the University and U.S. Government, Sandia Corporation, Los Alamos National Security, LLC., and its members, Bechtel National, Inc., Washington Group International, Inc., and BWX Technologies, their officers, employees and agents from and against all losses and expenses (including costs of attorney's fees), damages and liabilities of any kind resulting from or arising out of this Subcontract and/or the Subcontractor's performance hereunder (including but not limited to injury or death of any person or damage or loss of any property), provided such losses, expenses, damages and liabilities are due or claimed to be due to the negligent or willful acts or omissions of the Subcontractor, its officers, employees, agents, lower-tier subcontractors, or anyone directly or indirectly employed by them, or any person or persons under the Subcontractor's direction and control.

B. Insurance

1. Types of Coverage

The Subcontractor shall maintain insurance for its protection and for the protection of the University, Sandia Corporation, Los Alamos National Security, LLC and the U.S. Government from public liability and workers' compensation claims at all times during performance of this Subcontract.

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

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

The automobile liability insurance shall cover liability to third parties related to the Subcontractor's use of owned, scheduled, non-owned, or hired vehicles.

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

	<u>Minimum Limit</u>
• Coverage B – Employer's Liability, Per Accident	\$ 1,000,000
• Bodily Injury by Disease, Per Employee	\$ 1,000,000
• Bodily Injury by Disease, Aggregate	\$ 1,000,000

2. Certificates of Insurance and Other Conditions

The general liability insurance shall include a “**waiver of subrogation**” provision and name The Regents of the University of California, Sandia Corporation, Los Alamos National Security, LLC and the U.S. Government as “**additional insureds**”, protecting them against losses, expenses, damages and liabilities arising out of the Subcontract activities, whether performed by the Subcontractor or its lower-tier subcontractors.

Any such insurance shall be primary to any insurance carried by The Regents of the University of California, Sandia Corporation, Los Alamos National Security, LLC or the U.S. Government

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

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

University of California
Lawrence Livermore National Laboratory
7000 East Avenue / P.O. Box 5012
Livermore, CA 94550 / 94551

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

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The insurance shall not be written on a claims made form or subject to a Self-Insured Retention (SIR) or deductible of \$100,000 or more without the written approval of the University Procurement Representative.

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

3. Lower-Tier Subcontractor Insurance

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

ARTICLE 20 – GENERAL PROVISIONS

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

- B. This Subcontract shall not involve access to or the generation of classified information or access to “limited” or “exclusion” security areas. Accordingly, the clauses listed in the GENERAL PROVISIONS related to such work shall not apply.

(END OF SCHEDULE OF ARTICLES)