

TENNESSEE VALLEY AUTHORITY -- ON-SITE SERVICES TERMS - <\$300K

1. WORK SCOPE/DELIVERABLES

Contractor agrees to provide the Work detailed in the work scope(s) attached to this Contract or to any purchase orders (POs) that reference this Contract. "Work" means the total, or any portion, of all deliverables, actions, products, management, services, materials, documentation, electronic programs, reports, testing, transport, administration, software, tools, equipment, items and responsibilities to be furnished or performed by Contractor under this Contract, together with all other, or any portion of, the additional necessities that are not specifically recited in this Contract, but can be reasonably inferred as necessary to complete all obligations and fully satisfy the intent of this Contract. "Site" means any property on or to which TVA has any property interest (including, without limitation, ownership or lease, license, or easement rights).

2. TERMINATION

A. TVA may terminate this Contract or any related PO, in whole or in part: (a) upon Contractor's default in performance of this Contract or any such PO, and Contractor's failure to cure the default within such time period (if any) required by the Contracting Officer; or (b) for TVA's convenience. TVA will deliver to Contractor a written notice of termination ("Notice of Termination") specifying whether termination is for the default of Contractor or for the convenience of TVA, whether the termination is in whole or in part, and the date upon which such termination is effective. After receipt of a Notice of Termination, and except as otherwise directed by the Contracting Officer, Contractor shall follow the reasonable direction of the Contracting Officer with respect to such matters as transferring property, designs, and Work in progress; terminating subcontracts and orders; and completing performance.

B. Regardless of the reason for termination, TVA: (1) is not liable to Contractor for amounts in excess of the payments due for Work completed to TVA's satisfaction before the effective date of termination, and (2) will not accept nor pay Contractor's invoices if submitted later than 45 days after the effective date of the termination.

C. Upon a termination for default, TVA has and may exercise any and all rights and remedies against Contractor available to TVA at law or in equity.

3. COMPENSATION AND INVOICING

Fixed Price-If the relevant PO or attachment hereto specifies a firm, fixed, or "lump sum" price for the Work (a "Fixed Price"), TVA will pay Contractor such Fixed Price upon the satisfactory completion of the Work. The Fixed Price(s) include all costs that Contractor and its subcontractors, and their agents and employees, incur in the performance and completion of the Work. The Fixed Price(s) will not be changed except pursuant to a fully executed written amendment to this Contract.

Time and Materials-If the relevant PO or attachment hereto specifies that Work will be performed on a time and materials basis, based on rate(s) set forth therein, then TVA will pay Contractor in accordance with such rate(s) for time spent performing Work and for the provision of materials necessary to complete the Work. This excludes all travel expenses unless authorized in advance and in writing by the TVA Contract Technical Steward (CTS).

Each PO will specify on what basis (Fixed Price or Time and Materials) TVA will pay Contractor for Proper Invoices timely submitted. Any TVA authorized transportation and subsistence expenses incurred in connection with this Contract are subject to,

and will be computed and paid in accordance with, Contractor's standard policy or TVA's Travel Regulations (available from TVA's Procurement Internet Site at <http://supplier.tva.gov> or from the Contracting Officer upon request), whichever policy results in the lesser cost to TVA. Credit card purchases do not require submission of an invoice.

4. PAYMENT

All payments due to either party under this Contract will bear interest at the rate or rates identified in the Prompt Payment Act, 31 U.S.C. §3901-3907. TVA will make payments to Contractor in accordance with the payment schedule set forth in the PO, after the later of: (1) TVA's receipt of Proper Invoices at the office it designates for receipt of invoices, or (2) Contractor's completion of the Work to TVA's satisfaction. For purposes of this Contract, "Proper Invoice" means a numbered and dated invoice, containing TVA's Contract and PO number(s) (if applicable) and the Work for which Contractor is invoicing TVA, together with any additional documentation that the Contract or PO requires.

5. TAXES

By entering into this Contract, Contractor certifies that no state sales or use taxes have been included in its offer or the Contract. Contractor is responsible for payment of any other taxes it incurs in performance of this Contract, including sales or use taxes on products installed or consumed by Contractor rather than sold directly to TVA, and for taking all measures to identify and claim any available exemptions or reductions to such taxes (such as exemptions for electrical generating equipment under Tennessee Code Ann. § 67-6-209(e)). Applicable taxes (including excise taxes or duties) must be included in Contractor's Fixed Price(s), rates, or other costs invoiced to TVA.

6. AUDIT RIGHTS

Contractor shall keep accurate records and books of accounts in machine readable form supporting the items and costs billed under this Contract. TVA, or its agents, shall have the right to audit without restrictions and at no additional cost to TVA, at any time during normal working hours, all costs incurred by Contractor and billed to TVA and may examine Contractor's records specifically relating thereto. Any payments to Contractor which are not in accordance with Contract terms or are not supported by valid evidence shall be refunded to TVA. If TVA makes an overpayment to Contractor as a result of Contractor overbillings, Contractor shall be liable to TVA for interest on the amount of such overpayment, to be computed (1) for the period beginning on the date the overpayment was made to Contractor and ending on the date Contractor repays the amount of such overpayment to TVA, and (2) at the rate or rates identified in the Prompt Payment Act. Contractor shall preserve and make available its records, both manual and those which are in machine readable form, for a period of 3 years from the date of final payment by TVA.

7. TVA REPRESENTATIVES

TVA's Contracting Officer (Contract Manager/ Procurement Agent) is TVA's duly authorized representative for all Contract purposes until

otherwise stated. No changes shall be made without written consent of TVA's Contracting Officer. Contractor shall furnish all correspondence regarding this Contract to TVA's Contracting Officer unless he or she directs otherwise. TVA's Contracting Officer may designate a CTS, who will act for TVA in regard to all technical matters under the Contract but has no authority to modify the Contract or to issue direction contrary to the Contract. Contractor must direct technical communications (for example, technical documents, samples, drawings, or specifications) to the CTS.

8. LICENSES AND PERMITS

Contractor, by entering into this Contract, certifies that it or its subcontractor(s), if applicable, have obtained all applicable Federal, State, and local licenses and permits required by Applicable Laws, and that such licenses and permits are current and in full force and effect. Contractor shall maintain such permits and licenses for the term this Contract. "Applicable Laws" means those federal, state, and/or local laws, regulations, ordinances, judicial or administrative decisions or injunctions, or any other legal pronouncements having the force or effect of law, which are applicable to the performance of the Work, TVA, or the locations at which the Work will be performed.

9. NOTIFICATION OF WORK IMPACT

Contractor promptly, in writing, and in compliance with subsection A, below, shall notify TVA of any circumstances that prevent completion of Work or necessitate modifications to this Contract's or applicable PO(s)' scope of Work, such as technical requirements, circumstances resulting from the actions or inactions of TVA or third parties, any Force Majeure Event or changes in Applicable Laws. A "Force Majeure Event" means an act of God or other event outside the control of a party including, but not limited to: act of civil or military authority (including but not limited to courts or administrative agencies); war; terrorist attacks; riot; insurrection; inability of TVA to obtain any required permits, or licenses; blockades; embargoes; sabotage; epidemics; fires; hurricanes, tornados, floods; or strikes.

TVA makes no representations regarding subsurface conditions at its Site(s). Contractor will not claim, and TVA will not reimburse or otherwise equitably adjust Work schedule(s) or payments to Contractor due to differing site conditions. Contractor may, upon written request to TVA's Contracting Officer, visit the Site Work area(s), in order to acquaint itself with the existing Site conditions before submitting performing Work.

- A. Contractor's written notice of work impact must state, on the basis of the most accurate information available to Contractor:
1. the date, nature, and circumstances of the action, inaction, or event;
 2. the name, function, and activity of each individual involved in or knowledgeable about such action or event;
 3. the identification of any documents and the substance of any oral communication involved in such action or event;
 4. the particular elements of performance (i.e., cost, schedule, technical requirements) for which Contractor is seeking an adjustment and detailed justification for such requested adjustments; and
 5. Contractor's estimate of the time by which TVA must respond to Contractor's notice to minimize cost, delay, or disruption of performance.

- B. Following submission of the notice of work impact, Contractor shall diligently continue performance of Work to the maximum extent possible, unless TVA directs otherwise. TVA shall respond to Contractor's written notice and will:
1. confirm that the action or event of which Contractor gave notice constitutes or justifies a change to the Contract and redirect Contractor's performance accordingly;
 2. notify Contractor that the action or event of which Contractor gave notice does not constitute or justify a contract change or any modification of contract scope, cost, or schedule, and when necessary, direct the mode of further performance; or
 3. in the event Contractor's notice information is inadequate to make a decision under subsections 1 or 2 above, instruct Contractor what additional information is required and establish the date by which it should be furnished and the date thereafter by which TVA will respond.
- C. Consistent with the resolution of Contractor's notice of work impact, TVA will revise the affected PO(s) or initiate a Contract change, in accordance with the **Changes** section of this Contract.
- D. Failure of Contractor to notify TVA within thirty (30) days of the arising of such event shall be deemed a waiver by Contractor of its right to any compensation or other relief on account thereof.

10. SITE WORK

Contractor shall ensure that all Work performed on-Site complies with applicable Site control procedures. Upon arrival at the Site, Contractor shall notify the Contracting Officer and report directly to the CTS. Upon final departure from the Site, Contractor shall notify the Contracting Officer and coordinate processing out with the CTS in accordance with Site procedures. Contractor shall confine its operations to the Site areas assigned by TVA. The use of any off-Site areas shall be at Contractor's sole expense. Contractor shall coordinate its Work with the operations of TVA and other contractors so as to avoid confusion and delay. TVA reserves the right to require Contractor to schedule the order of performance of its Work in such a manner as will minimize interference with the work of any of the parties involved. Contractor shall promptly notify TVA of any work impact due to collateral work by others, in compliance with the **Notification of Work Impact** section of this Contract.

Contractor shall perform all Work pursuant to the technical requirements stated herein, referenced in the PO(s), or as provided by the CTS, and in accordance with all Applicable Laws. If Contractor discovers any discrepancy or inconsistency between this Contract and any Applicable Laws, Contractor shall report the same immediately, in writing, to the CTS.

TVA may require that Contractor furnish an inventory list of all equipment brought to the Site, to enable the CTS to check equipment onto and off of the Site.

The possession, transportation, gift, sale, or use of controlled substances, alcohol, explosives, firearms (that are not on site as part of Contractor's performance), or incendiary devices is prohibited at the TVA job-site. In addition to any other remedies TVA may have at law or under this Contract, TVA may require Contractor to prohibit any person violating this provision from further work for TVA.

11. FACILITIES TO BE PROVIDED BY TVA

To the extent available and to the extent Contractor's usage does not interfere with TVA's or any other contractor's activities, TVA may, at TVA's discretion and cost, furnish the following facilities to Contractor:

1. water from TVA's water system at existing outlets;
2. electricity at existing outlets;
3. compressed air at existing outlets;
4. temporary parking facilities; and
5. limited use of elevators for routine personnel use only, as coordinated with the TVA onsite representative, and excluding any use for transport of equipment, materials, or supplies.

TVA makes no guarantees or warranties with regard to facilities it may provide, including any guarantee of an uninterrupted supply of water, electricity, or air, or that electrical outlets will be functional. TVA is not liable for failure to supply, or for inadequate supply, of such items. Contractor is solely responsible for obtaining utility services, equipment, and materials necessary to perform the Work in the event these are not provided by TVA.

12. FOREIGN MATERIAL

If this Contract or any associated PO value is at or above \$250,000, Contractor will provide Work compliant with the Trade Agreements Act of 1979, 19 U.S.C. §§ 2501-2581 (TAA), to the extent the TAA is applicable. Contractor will provide materials compliant with the Buy American Act, 41 U.S.C. §§ 8301-8305 (BAA), to the extent the BAA is applicable. TVA may reject any Work that does not comply with the BAA or TAA.

13. LABOR PROVISIONS

If Work herein involves craft labor, Contractor and its subcontractors shall comply with TVA's current year labor provisions, if and as applicable: **Form TVA 1851 (with Exhibit A)**, and the **Project Maintenance and Modifications Agreement (PMMA)**. The labor documents are available from TVA's Procurement Internet Site at <http://supplier.tva.gov> or from the Contracting Officer upon request. Contractor is responsible for ensuring that subcontractors fully comply with these requirements, as appropriate, depending on the nature of the Work. Contractor questions regarding the labor provisions should be directed to the Contracting Officer or TVA's Manager, Labor Relations.

14. PREVAILING WAGE AND BENEFIT REQUIREMENTS FOR SERVICES CONTRACT EMPLOYEES

If Applicable Laws require Contractor to use employees governed by the Service Contract Act of 1965 (SCA) to perform the Work, Contractor shall comply with the minimum compensation and related requirements of the SCA, as amended, and the implementing regulations of the United States Department of Labor.

15. QUALIFICATIONS OF CONTRACTOR'S PERSONNEL

Contractor shall ensure that all Contractor Employees who perform Work under this Contract are qualified to perform their assigned work. Contractor shall not employ any person undergoing sentence of imprisonment at hard work, except those exceptions covered by Executive Order 11755. If it is determined that a Contractor Employee fails to meet TVA's qualifications, performance requirements, or for any other reason fails to meet the standards established in this Contract, TVA may: (a) direct Contractor to prohibit such person from performing Work, and remove them

from the Site, and (b) require Contractor, at its cost, to review any work provided by such unqualified person. If TVA determines that such work does not comply with the standards established in this Contract, Contractor shall be responsible for re-performing such work at no additional cost to TVA. Notice to Contractor may be given either in writing or orally; if given orally, TVA shall confirm the oral notice in writing within five (5) working days. "Contractor Employee" means any person performing Work through Contractor or a subcontractor of Contractor, and regardless of whether such person has an employment, staff augmentation, or independent contractor relationship with Contractor or the subcontractor.

Contractor shall comply with TVA's Site security system requirements, and ensure that its and its subcontractor(s)' employees comply with such requirements. TVA may subject each Contractor Employee at a Site to a medical examination and security investigation. Any such employees who cannot work within any applicable medical restriction imposed, or who do not meet TVA's security requirements, or whose access to the Site is denied or revoked, shall not be permitted to perform Work. Additional information on the security system is available from TVA's Procurement Internet Site at <http://supplier.tva.gov> or from the Contracting Officer upon request.

Contractor will bear the costs and expenses, or reimburse or credit to TVA any costs or expenses that TVA incurs, resulting from the failure of Contractor Employees to: (1) satisfy the specified security clearance requirements, (2) pass their medical examinations, or (3) otherwise meet specific requirements of this Contract or any related PO.

16. DRUG TESTING

Pre-access testing is required when Contractor Employees are expected to perform work for more than 20 consecutive work days or 90 cumulative work days in any 180 calendar day period on property owned, leased, or otherwise controlled by TVA (for all purposes of this section of the Contract, "TVA property"). In the event Contractor Employees are not expected to perform work for more than 20 consecutive work days or 90 cumulative work days, as the case may be, but actually do perform work for such period of time, then drug testing must be conducted within 14 calendar days from when the employee exceeded such 20 work day or 90 cumulative work day period.

Contractor Employees working on TVA property less than the above-specified amounts of time but who will be performing in safety sensitive positions or safety-sensitive functions must be tested prior to TVA site access. Safety-sensitive positions are those positions in which an individual has the potential to cause immediate serious physical injury or harm to persons or property. Safety-sensitive functions include but are not limited to: carrying fire arms; working with explosives; working on or around energized equipment; working on or around powered equipment; working at unprotected elevations; working in or around water; performing safety inspections; piloting, co-piloting, or maintaining aircraft; performing plant maintenance, modifications, or operations; and performing construction work. Notwithstanding the foregoing, TVA may determine, in its discretion, which positions and functions are safety-sensitive.

Contractor and its subcontractors shall perform random testing of at least 25 percent of their employees on a calendar-year basis who have been working on TVA property for at least six months and are performing safety-sensitive positions or safety-sensitive functions.

Contractor Employees performing Work on TVA property are subject to TVA conducting reasonable suspicion testing at TVA's discretion.

Except as provided below for emergencies, Contractor Employees subject to the above testing requirements may only begin working on TVA property if one of the following conditions is satisfied:

1. A negative result has been reported for the employee for a drug test administered within 30 calendar days prior to or on the initial work date, and the testing program has been determined to be in compliance with TVA testing requirements.
2. The employee has been subject to a random drug testing program within the past 30 days and the drug testing program has been determined to be in compliance with TVA testing requirements.

In case of emergency the CTS or Contracting Officer may approve drug testing to be performed after an employee's initial work date.

Contractor is responsible for its own drug screening program which must meet the following drug testing standards:

1. Collections and specimen transport for all drug screens must be conducted by certified collectors and follow proper chain-of-custody documentation, pursuant to the requirements in the Mandatory Guidelines for Federal Workplace Drug Testing and/or DOT regulations.
2. Point-of-collection testing (POCT) urine drug screens must be conducted with FDA-approved testing devices.
3. Non-negative results on initial screens (either POCT devices or laboratory immunoassays) must be confirmed by Gas Chromatography/Mass Spectrometry (GC/MS) testing at a Substance Abuse and Mental Health Service Administration (SAMHSA) certified laboratory.
4. Non-negatives confirmed by GC/MS must be reviewed by an AAMRO- or MROCC-certified Medical Review Officer (MRO).
5. Laboratory-based urine drug testing must be conducted by laboratories certified by SAMHSA to perform urine drug testing.
6. All drug screens must undergo specimen validity testing that includes, at a minimum, pH, creatinine and/or specific gravity, and one or more oxidant adulterants. POCT, as well as any laboratory-based urine drug testing, must meet these specimen validity testing requirements.
7. All drug screens must, at a minimum, test for the following substances identified in the Mandatory Guidelines for Federal Workplace Drug Testing at or below the cutoff levels listed below. For POCT, the screening device is not required to detect 6-AM or PCP.

Drug	Screening Limit (ng/ml)	Confirmation Limit (ng/ml)
Amphetamines ^{1,2}		
Amphetamine	500	250
Methamphetamine	500	250

MDMA ³	500	250
Cocaine	150	100
Marijuana	50	15
Opiates ⁴		
Morphine	2000	2000
Codeine	2000	2000
6-Acetylmorphine ⁵	10	10
PCP ⁵	25	25

¹Amphetamines screening must detect both amphetamine and methamphetamine independently at the specified cutoff.

²Methamphetamine is the target analyte for amphetamine/methamphetamine testing.

³Methylenedioxyamphetamine (MDMA) including Methylenedioxyamphetamine (MDA) and Methylenedioxyethylamphetamine (MDEA)

⁴Morphine is the target analyte for codeine/morphine testing

⁵POCT devices are not required to include 6-AM or PCP; however, any non-negative on a POCT opiates screen must undergo confirmation testing for morphine, codeine and 6-AM using the confirmation cut-off levels above

Pre-access alcohol testing is not required, but in the event that breath alcohol testing is performed in connection with this Contract, it must be conducted in accordance with 49 C.F.R. part 40, which outlines specific requirements for testing devices, collection protocols, confirmation testing, and documentation requirements.

Contractor shall maintain, at a minimum, the following data during the term of this Contract and for at least three years thereafter:

1. Number of employees tested for drugs and/or alcohol
2. Number of drug tests deemed positive by the MRO
3. Number of individuals refused to be tested
4. Number of individuals tampering or attempting to tamper with a specimen
5. Specific drugs that were positive
6. Evidence of individual testing documenting compliance with the drug testing requirements contained herein

Such data shall be provided to TVA upon request.

These standards do not exempt Contractor from complying with applicable Department of Transportation or any other federal or state drug and/or alcohol testing programs covering its employees.

Any Contractor Employee who tests positive under a drug screening program established by the Contractor shall be immediately removed from TVA property and will not be assigned again to perform work or provide service under contract with TVA for a period of three years for a first positive drug test result and permanently for a second positive drug test result. A refusal to be tested, adulteration, substitution, tampering, attempting to tamper with, failure to cooperate in a timely manner, or otherwise attempting to subvert the testing process will result in an employee being permanently barred from access to TVA sites. An individual providing a urine specimen that is negative and diluted may be required to provide another specimen under direct observation. A positive test result that is diluted will be considered a confirmed positive test

Contractor is responsible for informing Contractor Employees of these requirements and to specify the consequences associated with substituting, adulterating, and/or otherwise tampering, or attempting to tamper with a specimen and/or positive test results.

Contractor is also responsible for informing TVA Security of Contractor Employees who have violated the drug testing requirements. This must be done immediately upon testing confirmation utilizing TVA's Web Contractor Security System (WCSS).

The cost of preparing and administering (including recordkeeping) a drug screening program and the cost of employees' and subcontractor employees' time to have test performed, laboratory expenses, and expenses of test review results by an MRO shall be the Contractor's responsibility. TVA shall have the right to audit all documentation and records describing and supporting Contractor's drug screening program.

17. HEALTH AND SAFETY

A. Purpose: TVA believes that Safety and Health is its most important value and all injuries and most illnesses, both on and off the job, are preventable. TVA is a zero injury culture company and expects its contractors and their sub-contractors to be committed to a zero injury work culture environment. In other words, occupational accidents or other incidents in which human health or safety is jeopardized are never acceptable.

B. Standards. Contractor will be proactive in taking necessary measures to avoid accidents or incidents which human health or safety is jeopardized. While performing Work at a Site, Contractor will not permit Contractor Employees, or its representatives or agents, to work in surroundings or under working conditions which are unnecessarily dangerous to human safety or health. In order to provide the necessary controls for protection of employees and prevention of damage to property and for avoidance of work interruption in the performance of this Contract, Contractor shall comply with:

1. The provisions of Section 107 of the Contract Work Hours and Safety Standards Act (CWHSSA) (this contractual reference to CWHSSA does not apply to contracts for commercial items as defined at 41 U.S.C. 403(12), although provisions of CWHSSA itself may still apply); and
2. The Occupational Safety and Health Act of 1970 (OSHA), its implementing regulations, and applicable state-lead occupational safety and health laws and program regulations; and
3. The TVA Safety Manual (which is available through TVA's Supplier Portal Internet Site at <http://supplier.tva.gov> or by request to TVA's Contracting Officer).
4. Prior to the commencement of Work, and depending on the nature and location of the Work, TVA's CTS may notify Contractor that certain additional TVA site-specific safety and health requirements apply to Contractor's performance of Work. In the event of conflict between any laws or regulations and TVA policies pertaining to human health, safety, or occupational standards or requirements, the more stringent requirements, i.e., the more protective of occupational health and safety, will apply.

Contractor and its subcontractor(s) shall initiate and maintain such programs as may be necessary to comply with the foregoing requirements; provide for frequent and regular inspection of the job sites, materials, and equipment; identify and prohibit work in an unsafe or unhealthful work place, including the use of unsafe machinery, tools, materials, or

equipment; and permit only those employees qualified by training or experience to operate equipment and machinery.

- C. Compliance by Subcontractors. Contractor shall be responsible for securing compliance by its subcontractors with the provisions of this Section, and all safety and health laws, regulations and policies contained or referenced herein.
- D. Safety and Health Plan & Evaluation. Contractor, after evaluating potential hazards to human health and safety associated with the work to be performed under the contract, shall submit a site specific safety and health plan in writing to the CTS at least 30 days prior to the start of work under this Contract. At minimum, Contractor's Safety and Health Plan must address the steps Contractor will take to promote health and safety in the work environment. If Contractor's, or any of its subcontractor(s)', scope(s) of Work includes construction work at a new or existing TVA owned or controlled site directly related to: (i) the construction of new generating capacity or transmission construction, or (ii) offices, other buildings, or facilities, and the aggregate value of the Work is greater than \$25,000 but less than (a) for TVA Fossil, Nuclear, or Hydro business units, \$250,000, or (b) for all other TVA business units, \$350,000, then Contractor's Safety and Health Plan also must incorporate OSHA Outreach training, or its TVA-approved equivalent, for (at least) Contractor's Safety Representative (see subsection g., below) or Contractor's or the relevant subcontractor(s)' designated on-site supervisor(s). Such training may occur online, or, at TVA's option, through TVA-sponsored or TVA-designated training classes. Contractor will submit records showing completion of such training to TVA's CTS as addenda to the Safety and Health Plan. Contractor also may fulfill the requirements of this subsection by providing written evidence to the CTS that its Safety and Health Plan mandates certified or equivalent OSHA Outreach training for its on-site safety and supervisory personnel.
- E. Records.
 1. Contractor and its subcontractor will maintain an accurate record of all accidents and occupational diseases in accordance with OSHA regulations (29 C.F.R. Part 1904), and analogous regulations of state or local agencies. In addition, Contractor shall maintain records of the costs for repairing or replacing property, materials, supplies, and equipment damaged in accidents occurring while performing work under this Contract.
 2. If the Contract value exceeds \$100,000 and involves Hazardous Work, as defined herein, Contractor must maintain (at its sole cost, during the Contract term) an active membership and subscription with ISNetworld (www.ISNetworld.com), and records of any information requested by or furnished by Contractor to ISNetworld in connection with ISNetworld's evaluation of the Contractor. If Contractor is subject to the requirements of this subsection E.2, and Contractor's ISNetworld rating falls below "B" during the Contract term, Contractor shall restore its rating to a "B", within thirty (30) days of its receipt of notice from ISNetworld of the rating below "B." TVA may issue a stop order, or may terminate this Contract for default, if Contractor fails to comply with this subsection E.2.
 3. For purposes of this Section 17, "Hazardous Work" means any of the following, whether performed or expected to be

performed under this Contract by Contractor or any subcontractor(s):

- a. Handling, management, transportation, or disposal of hazardous materials or hazardous waste (as defined by Applicable Laws);
- b. Handling, management, transportation or disposal of radioactive material, radioactive waste, or work within a TVA nuclear plant's Radiologically Controlled Area;
- c. Work involving disturbance or remediation of lead, asbestos-containing materials, potentially asbestos-containing materials, PCBs, or silica;
- d. Work requiring fall protection;
- e. Confined space work;
- f. Cutting, welding, grinding or similar "hot work";
- g. Erection or use of scaffolding;
- h. Crane use or rigging requiring a "high hazard lift plan";
- i. Fire protection or fire emergency planning;
- j. Excavation or trenching;
- k. Use of explosives or blasting operations;
- l. Electrical work with Lockout/Tagout or Clearance requirements, or Arc Flash; or
- m. Electrical transmission system work on or around lines rated at 13 kV or greater.

- F. Contractor Safety Representative. Unless otherwise authorized in writing by the CTS, Contractor shall retain a representative onsite at all times while work is in progress who shall be responsible for Contractor's safety and health program and who shall have authority to correct hazardous conditions.

Contractor's representative shall respond promptly to the CTS in order to reduce or eliminate conditions which in the opinion of the CTS constitute a threat to or appear to threaten life, health or property at the work location.

- G. Temporary Access and Public Safeguards. Contractor shall build and maintain such temporary bridges, roads, and other means of passage as are necessary and not otherwise provided by TVA; shall provide for convenient access to the various parts of the work and to adjacent private property which may be affected by the work; and shall provide such temporary fences or guards as may be necessary to keep livestock on adjoining property from entering the lands occupied by the work. Contractor shall also provide such barricades, warning signs and lights, watchmen, etc., as are necessary to protect the public and the work. Should conditions arise on the work, which require that immediate and unusual provisions be made to protect the public from danger or loss of damage due directly or indirectly to the prosecution of the work, Contractor shall make the necessary provisions. Contractor shall be responsible for the sufficiency and safety of all such temporary works and provisions and shall be responsible for all damage resulting from their insufficiency. Contractor shall not disturb, close, or obstruct any existing highways or other communications systems until permission therefore has been obtained from the CTS.
- H. Cleaning Up. Contractor shall, at all times, keep the work area, including storage areas used by it, reasonably free from hazardous and unsanitary accumulations of waste materials or rubbish, and prior to completion of the Work, shall remove any rubbish from the premises and all tools, scaffolding equipment, and material not the property of TVA. Upon completion of the Work, Contractor shall leave the work and premises in a clean, neat, and workmanlike condition satisfactory to the CTS.

- I. Breach of Safety and Health Provisions. Contractor is solely responsible for its and its subcontractor(s)' compliance with this Section. The CTS has the right (but not the duty) to inspect Contractor's operations as he or she deems appropriate to assure that Contractor and its subcontractor(s) comply with the requirements of health and safety laws, regulations, TVA policies, and this Section. TVA's CTS promptly will notify Contractor upon becoming aware of any noncompliance with the foregoing requirements. Upon receipt of such notice, Contractor shall immediately take such action as may be required to determine the existence of and to correct such noncompliance. If Contractor fails or refuses to correct an unhealthful or unsafe condition, the CTS shall have the authority to issue an order stopping all or part of the Work until satisfactory corrective action has been taken. No part of the time lost as the result of any stop order shall be the subject of a claim for extension of time or for excess costs or damages by Contractor. Any stop order issued by the CTS shall apply to Work performed by Contractor or any of its subcontractors. The CTS has the authority to, and may, at his or her discretion, require removal of any person from a TVA work location (regardless of the status of such person as an employee of Contractor or any subcontractor) if, in the opinion of the CTS, the presence of such person endangers the safety or health of others.
- J. Investigation of Accidents. TVA shall have the option to examine the site of any accident immediately following its occurrence to determine (1) the cause or causes of such accident; (2) the degree of personal injuries; (3) the damage to TVA-owned property; (4) the effect of such accident upon completion of the work provided for under the Contract; and (5) other pertinent information. In order to accomplish this, TVA shall have the authority to question any persons having knowledge relative to or present when such accident occurred, including employees and agents of Contractor and all subcontractor(s).
- K. Respiratory Protective Equipment. Any Contractor Employee who performs Work at a plant or jobsite owned or controlled by TVA must wear respiratory protective equipment when required by the TVA project or plant procedures for safety or health considerations and, therefore, shall be required to be clean shaven in the area between the sealing surface of the device and the face. Any person requiring the use of corrective eyewear shall also be required to have special respirator glasses (not provided or reimbursed by TVA unless specifically noted elsewhere in contract) when reporting to work in order to be mask-fitted promptly. Any Contractor Employee refusing to comply with this requirement shall be denied access to plant facilities. No part of the time lost as the result of any denied access to plant facilities shall be the subject of a claim for extension of time or for excess costs or damages by Contractor or any subcontractor.

18. SAFETY REPORTING

Contractor must provide safety performance data, as requested by TVA, and provide written updates to its safety metrics to TVA's CTS, within ten (10) days of the PO(s)' first effective date, and upon submission of each Proper Invoice to TVA, but not less frequently than quarterly during the term of the Contract.

19. INSURANCE

Unless otherwise specified in this Contract, Contractor shall secure and maintain in effect, at all times during the performance of Work, insurance coverages with limits not less than those set forth below with insurers and under forms of policies satisfactory to TVA. Contractor shall deliver to TVA no later than ten (10) days after execution of the Contract, and in any event prior to commencement of work on a TVA site, a completed Certificate of Insurance, in the form attached hereto. Contractor shall also furnish certified copies of the policies to the Contracting Officer promptly upon TVA's request.

The insurance to be provided hereunder shall be written by one or more nationally reputable insurance companies authorized to do business in Alabama, Kentucky, Tennessee, Georgia, Mississippi, Virginia, North Carolina, as appropriate, which shall be rated "A" or better by A.M. Best Company.

	Coverage	Minimum Amounts and Limits
1.	Workers Compensation Part A.	Statutory
	Part B. Employer's Liability	\$1,000,000 each
2.	Commercial General Liability Combined Single Limits	\$1,000,000 each
3.	Automobile Liability (owned, hired, and non-owned) Combined Single Limits	\$1,000,000 each

Note: Deductibles or retention amounts under the policies described above shall not exceed 5 percent of the per occurrence coverage limits, without the express written consent of the Contracting Officer.

- A. TVA is not maintaining any insurance on behalf of Contractor covering against loss or damage to the work or to any other property of Contractor unless otherwise specifically stated herein and as may be described by appendix hereto. In the event Contractor maintains insurance against physical loss or damage to Contractor's construction equipment and tools, such insurance shall include an insurer's waiver of rights of subrogation in favor of TVA, the United States, and their employees and agents.
- B. The policy of insurance which affords General Liability shall contain a provision or endorsement stating that such insurance (1)) applies to the indemnity liability assumed by Contractor under this Contract, subject to all of the terms and conditions of such insurance; and (2) provides coverage for premises/operations, at least 2-year products/completed operations, and other coverages or endorsements required by the Contracting Officer.
- C. The General Liability, Automobile Liability, and Excess Liability policies provided under this Contract shall provide for items 1 through 3. The Employers Liability policy shall provide for item 2.

- 1. TVA, the U.S., their officers, agents, employees, and volunteers are added as additional insureds on a primary noncontributory basis to Contractor's (liability) insurance policies shown above and with respect to any liability of additional insureds arising out of or resulting from Contractor's operations performed for the additional insureds, including, but not limited to, liability of the additional insureds for the general supervision of such operations.
 - 2. It includes an insurer's waiver of rights of subrogation in favor of TVA, the United States, and their employees and agents.
 - 3. It states that it is primary, noncontributory insurance and contains a severability of interest clause.
- D. The requirements contained herein as to types and limits, as well as TVA's approval of insurance coverage to be maintained by Contractor, are not intended to and shall not in any manner limit or qualify the liabilities and obligations of Contractor under the Contract.
 - E. Contractor shall provide at least thirty (30) days written notice of cancellation, expirations, terminations, and material alterations of the insurance policies.
 - F. Failure by Contractor or its subcontractors to provide and maintain current, valid certificates of insurance throughout the Contract performance period shall be a material breach of Contract for which TVA may exercise any rights or remedies it may have under this Contract or at law, including the right to withhold moneys due and owing Contractor hereunder. In the alternative, TVA may, at its sole option, accept Contractor's written certification that it or its subcontractors self-insure in accordance with applicable workers' compensation laws for all duties, liabilities, and obligations it has or may have under such laws; provided, however, that Contractor must provide to TVA satisfactory written evidence showing that its or its subcontractors' self-insurance plan(s) have been authorized by the appropriate State regulatory entity.
 - G. Contractor shall require each of its subcontractors to maintain Workers' Compensation insurance at least in accordance with statutory requirements. In the event Contractor requires any of its subcontractors to provide any additional insurance, Contractor shall require that TVA, the United States, their officers, agents, employees and volunteers be named as additional insureds with respect to such insurance, and that such insurance shall provide for the insured's waiver of subrogation rights in favor of TVA, the United States, and their employees and agents.
 - H. Should any of the Work:
 - 1. Be upon or contiguous to navigable bodies of water, Contractor shall also carry insurance covering its employees for benefits available under the U.S. Longshoremen's and Harbor Workers' Compensation Act or Jones Act to the extent required by law;
 - 2. Involve watercraft (27 Ft. or longer) owned or operated by Contractor, liability arising out of such watercraft shall be insured by Protection and Indemnity insurance with a combined single limit not less than \$5,000,000 each occurrence. Watercraft less than 27 ft. shall be insured

under the Commercial General Liability policy. If the hull is insured, such insurance shall provide for an insurer's waiver of subrogation rights in favor of TVA, the United States, and their employees and agents;

3. Involve aircraft (fixed wing or helicopter) owned or operated by Contractor, liability arising out of such aircraft shall be insured for a combined single limit not less than \$10,000,000 each occurrence and such limit shall apply to Bodily Injury (including passengers) and Property Damage Liability. If the aircraft is insured, such insurance shall provide for an insurer's waiver of subrogation rights in favor of TVA, the United States, and their employees and agents.
4. Involve design, engineering, or professional services, a minimum of \$5,000,000 of Professional liability (errors & omissions) insurance must be provided. If the Professional Liability policy is written on a "claims made" policy form, Contractor shall arrange for at least two (2) years extended discovery period (tail period) to be incorporated into the policy prior to its termination.

20. INDEMNITY

Contractor, by agreeing to perform the Work, acknowledges awareness of the location, nature and hazards of such Work. As such, Contractor releases TVA, its agents and employees, and shall indemnify and defend them against all liabilities (including claims and actions for damages, and payment of all judgments that may be rendered in such claims or actions) for personal injuries, property damage, or loss of life or property resulting from or in any way connected with this Contract or the performance of Work. However, the foregoing indemnification shall not apply to injuries or damages to persons or property for which the proximate cause is the sole negligence of TVA, its agents or employees.

Contractor shall indemnify, defend and save harmless TVA from all claims for material furnished or work done and shall promptly discharge the same and not suffer any mechanics or other liens to remain outstanding against any of the property used in connection with the Work. Furthermore, Contractor shall, on request, furnish satisfactory evidence that all persons who have done Work have been fully paid. Contractor shall pay TVA the cost, including overhead, of any services or materials provided by TVA to any persons, including subcontractors, engaged in carrying out any of Contractor's obligations in connection with this Contract. TVA reserves the right to withhold from any sums due Contractor sufficient sums to satisfy all such claims. If after written notice from TVA, Contractor fails to satisfy such claims, TVA may adjust and pay the same upon a fair and reasonable basis out of any withheld funds.

Contractor shall comply with Applicable Laws that affect performance of Contractor's obligations under this Contract, and will indemnify and defend TVA and the United States and their officers, employees and agents, from all liability resulting from its or its employees', agents', or subcontractors' violation of such Applicable Laws. If this Contract is for nuclear-related Work and contains a **Nuclear Incidents** section, nothing in this Section (**Indemnity**) will be construed as reducing Contractor's rights under the **Nuclear Incidents** section.

21. WARRANTIES

Contractor unconditionally warrants to TVA that all Work will:

- A. Be performed in a safe, professional and workmanlike manner.
- B. Be free from defects in design, material, and workmanship.
- C. Be fit for the intended use(s) and purpose(s) including, but not limited to, those uses and purposes specified or referred to in this Contract.
- D. Comply with this Contract's requirements and specifications.
- E. Be merchantable, new and of first-class quality, and neither fraudulent nor counterfeit.
- F. Comply with all applicable standards and rules established by Applicable Laws, or promulgated or adopted by standards boards or industry associations.

Contractor warrants the Work for a period of not less than two years from the earlier of delivery, performance, or beginning of normal use by TVA. If the Work fails to comply with the foregoing warranties, TVA may, at Contractor's expense: return the Work for correction or replacement, require Contractor to re-perform the non-compliant Work, or take corrective action itself. If Contractor performs corrective action, it must, at its sole expense, repair, adjust, or replace the defective Work to the complete satisfaction of TVA. Contractor shall pay all costs of removal, transportation, reinstallation, repair, and all other costs incurred in connection with correcting such defects in the Work, or ensuring compliance with Applicable Laws, standards and rules. Contractor shall correct any defects only at times designated by TVA. Any portion of the Work that Contractor (or any of its subcontractor(s) or other suppliers(s)) has repaired or replaced due to a failure to comply with the warranties in this Section will be warranted as provided in subsections A through F, above.

If Contractor's corrective action fails to render the Work compliant with the warranties stated in this **Warranties** section, or Contractor fails to take the appropriate corrective action within a reasonable time after receiving notice of the relevant defect(s) or noncompliance, then TVA may terminate this Contract or the relevant PO(s) (in whole or in part) for default in accordance with the **Termination** section of this Contract.

In addition to the remedies stated herein, TVA may repair or replace any defective equipment or Work at Contractor's expense when TVA determines that: (i) operational conditions require such action, (ii) Contractor fails to correct the defect within a reasonable time of receiving written notification of the defect from TVA, (iii) Contractor is unable to respond in an emergency situation, or (iv) necessary to prevent TVA from substantial financial loss. If and to the extent TVA makes repairs or replaces defective Work, TVA will issue Contractor a written accounting and invoice of all such Work to correct defects.

If Work includes items covered under a manufacturer's or subcontractor's warranty, Contractor hereby assigns to TVA the right to enforce any such warranty. Such warranties do not in any way limit the warranties provided by the Contractor to TVA under this Contract.

Operation or use by TVA of Work, or any portion thereof, shall not constitute a waiver of TVA's rights under this Contract.

The foregoing warranties and remedies are in addition to any specific warranties, guarantees, or remedies contained in this Contract or available at law.

22. DELAYS, REMEDIES, AND WAIVERS

- A. If Contractor does not meet Contract or PO performance schedules, or maintain adequate progress within the time specified regardless of reason, TVA's Contracting Officer may terminate this Contract or the relevant PO(s) for default, in accordance with the **Termination** section of this Contract.
- B. However, TVA will not terminate this Contract or affected PO(s) for default if: (1) Contractor has notified TVA's Contracting Officer, in writing, that its delays or failure to meet applicable schedule(s) are due to a Force Majeure Event, within seven days of the start of the Force Majeure Event; and (2) TVA's Contracting Officer determines, in his or her sole judgment, that Contractor's delays or failure to meet applicable schedule(s) is due to a Force Majeure Event and, subject to the provisions of subsection C, below, is therefore excused.
- C. No failure or delay in either party's performance of its obligations under this Contract will result in a default under this Contract, to the extent that such failure or delay is due to a Force Majeure Event, and: (a) the non-performing party is without fault in causing such default or delay; (b) such default or delay could not have been prevented by reasonable precautions; and (c) such default or delay could not have been reasonably circumvented by the non-performing party through the use of alternate sources, work-around plans or other means. In the event of any delay resulting from a Force Majeure Event, the time for performance of each party (including the payment of Proper Invoices submitted by Contractor, if such event actually prevents payment) will be extended for a period of time reasonably necessary to offset the effect of such delay or failure, subject to this Section's specific requirements, and except as provided for elsewhere in this Contract. Contractor's sole remedy against TVA for delays caused by a Force Majeure Event will be a claim for extension of the affected time(s) of performance.
- D. Contractor's delays due to delays of its subcontractors or suppliers will not be excusable unless (1) delay was also due to a Force Majeure Event, and (2) Contractor demonstrates to TVA that it could not have obtained replacement or substitute Work in compliance with Contract requirements from other third party suppliers.
- E. TVA's allowance or requirement that Contractor complete work after the completion time specified in this Contract or any affected PO does not constitute a waiver of any right, remedy or damages TVA may have or seek due to Contractor's delay. No extension of time shall release Contractor's sureties from their obligations. No waiver of any breach of this Contract shall waive any other or subsequent breach. No time limits in this Contract shall be waived by TVA's Contracting Officer's consideration of any untimely notice or information by Contractor.

23. CHANGES

- A. TVA's Contracting Officer may at any time issue a written change notice, making changes within the general Work scope of this Contract, including, without limitation, the following changes: drawings, designs or specifications; method or manner of performance of work; TVA's furnished facilities, equipment, materials, services or Site; or acceleration or deceleration in the performance of Work.

- B. A change notice will become an effective Contract obligation: (1) when both parties execute the change notice and associated documents (for example, but without limitation, a revised specification, milestone payment schedule, or PO); or (2) if Contractor does not assert any claims against TVA, based on the issued change notice, within ten (10) days of the issue date of the change notice; or (3) immediately, if the Contracting Officer determines that it is impractical for both parties to execute the change order and associated documents in advance of the change. The parties also may agree to amend this Contract or any PO(s) affected by the issued change notice, in lieu of or in addition to executing the change notice.
- C. TVA is not liable to Contractor or any of its subcontractors or suppliers for increased costs in connection with any change notice or related claims, whether in tort or in Contract, except as specifically provided herein.
- D. Upon issuance of a change notice under subsection B.1 or B.2, above, Contractor shall proceed with the Work as so changed, unless it either files a claim under subsection B.2, above, or the executed change notice or resulting Contract or PO amendment modifies the obligations stated in the original change notice. Upon the issuance of a change notice under subsection B.3, above, Contractor shall proceed with the Work as so changed and shall have ten (10) days after the issuance of such change notice to file any claim Contractor may have with regard thereto. TVA's Contracting Officer may, but is not obliged to, accept or consider any Contractor or its subcontractor(s)' claims arising from a change notice after the ten (10) day periods established under this Section. TVA will not accept or consider any such claim after it has made final payment to Contractor under this Contract.
- E. Any Contractor request or claim under this **Changes** section must be based on Contractor's actual and allowable costs, or at minimum, on a cost or pricing structure similar to the terms of payment under which Contractor is (at the time of the request or claim) being paid under the **Compensation and Invoicing** Section of this Contract.
- F. Contractor shall continue to perform, in compliance with this Contract, all Work that is not changed by a change notice, or PO or Contract amendment. Contractor's failure to submit a written claim or request for a change or amendment, within 14 calendar days of its discovery of TVA acts or omissions that it believes require a change to Work, will operate as a complete release and waiver by Contractor of any right to compensation or other relief based upon changes to the Work, regardless of the theory of liability, or whether it seeks legal or equitable remedies. TVA may reject, in whole or part and in its sole discretion, any late-submitted claim or request under this **Changes** section, even if TVA was not prejudiced by the untimeliness of the submission.

24. INTELLECTUAL PROPERTY RIGHTS

- A. TVA will own all documents, drawings, reports, computer software, and other deliverables (whether or not copyrighted by Contractor) generated, prepared, or provided to TVA by Contractor under this Contract (all such deliverables, together with any inventions embodied in equipment, parts or materials supplied hereunder, are herein collectively referred to as "Work Products"). Upon request, Contractor shall assign to TVA all copyright ownership in Work Products. Contractor retains ownership of technical data, engineering techniques and

computer software not generated, prepared or provided under this Contract but utilized for Work, but grants TVA a non-exclusive, royalty-free license to use such data, techniques and software, as required to maintain the integrity of Work performed by Contractor, including any subsequent necessary modifications. Contractor will not use third party licensed computer software that is not commercially available for Work under this Contract unless appropriate rights for TVA's continued utilization can be obtained at reasonable cost.

- B. Contractor hereby indemnifies and holds harmless TVA, and its representatives from all suits, claims, actions, losses, damages, and expenses, including attorney's fees, and at its expense shall defend any suit against TVA, in so far as it is based on the claim of infringement of any United States patent or of any copyright, for any Work or Work Products furnished to TVA. TVA shall immediately notify Contractor in writing of any such suit or claim, and permit Contractor to defend same. If in any such suit or claim, said Work or Work Products, or their utilization by TVA, Contractor, or any party on TVA's behalf, is held to constitute infringement, or is otherwise determined to violate any right secured by patent or copyright, Contractor at its expense shall procure for TVA the necessary licenses and right to continued utilization of said Work or Work Product; provided that, subject to TVA's written approval, Contractor at its expense may replace or modify said Work or Work Product so that it becomes non-infringing, and provided further, that any substituted or modified Work or Work Products must satisfy, and be subject to, this Contract's requirements. The aforementioned obligations shall not apply to Work or Work Products, the detailed design of which (excluding rating and/or performance specifications) has been furnished in writing by TVA. Contractor warrants that no information that it discloses to TVA under this Contract is subject to or violates an obligation of privilege or confidentiality to any third party.

25. TERMS INCORPORATED BY REFERENCE

This Contract incorporates by reference the following regulatory provisions, which, to the extent applicable to this Contract or the Work, apply as if they were set forth in their entirety in this Section, and are available from TVA's Supplier Portal Internet Site at <http://supplier.tva.gov/> under "Clauses Incorporated by Reference":

- A. If the Contract value exceeds \$10,000: Affirmative Action and Equal Opportunity; Asbestos Containing Materials; Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (Executive Order 11246).
- B. If the Contract value exceeds \$25,000: Walsh-Healey Act; Affirmative Action for Disabled Veterans.
- C. If the Contract value exceeds \$100,000: Anti-Kickback Procedures; Drug-Free Workplace (\$0 for contracts with individuals); Small Business Policy; Certification for Contracts, Grants, Loans and Cooperative Agreements (31 U.S.C. 1352).

26. ASSIGNMENT

This Contract or any interest therein or in any moneys due or to become due shall not be assigned, used as collateral, or otherwise disposed of without previous written consent of TVA.

27. CONTRACT INTERPRETATION AND DISPUTES

This Contract is governed by and will be construed under Federal law. In the event Federal law does not provide a rule of decision for any particular dispute, the law of the State of Tennessee will apply; provided, however, in no event shall Tennessee's choice of law provisions apply. Pending resolution of any dispute, Contractor shall proceed with the Work in accordance with the determinations, instructions, and clarifications of TVA's Contracting Officer. The parties will use their best efforts to resolve disputes informally at the lowest possible levels of decision making, and consensual alternative dispute resolution processes may be used. The parties agree that any lawsuit between them that asserts a claim or claims arising out of or related to this Contract (whether sounding in contract, tort, or otherwise) shall be filed and litigated to conclusion only in the United States District Court for the Eastern District of Tennessee, and each party hereby consents to the jurisdiction and venue of that court for all such lawsuits. The parties further agree that in any such litigation, each will waive any right it may have to a trial by jury. This Section is not a "disputes" clause within the meaning of the Contract Disputes Act, 41 U.S.C. §§ 7101-7109, and this Contract is not subject to that Act.

28. NONDISCLOSURE

Contractor agrees not to disclose to third parties, without the prior written consent of TVA, any information that a prudent business person would consider sensitive or which is designated by TVA as sensitive, restricted, proprietary or confidential, obtained from or through TVA, or developed or obtained by Contractor in connection with the performance of this Contract. Access to sensitive TVA information must be approved in advance by TVA's Contracting Officer. The nondisclosure restrictions stated in this Section do not apply to information that was: public knowledge, already known by Contractor; obtained by Contractor from a third party who did not receive the information from TVA; or independently developed by Contractor's employees who did not have access to such information. This Section and the nondisclosure restrictions herein apply to all of Contractor's subcontractors under this Contract.

29. INDEPENDENT CONTRACTOR

Contractor is an independent contractor for all purposes of this Contract, and all persons engaged in fulfilling Contractor's obligations under the Contract are the servants of Contractor or its subcontractors, and are not the servants or agents of TVA. Nothing contained in this Contract or any subcontract awarded by Contractor creates any contractual duty of TVA to Contractor's subcontractor(s).

30. ENTIRE AGREEMENT

This Contract embodies the entire agreement between TVA and Contractor and supersedes all other communications, either oral or written. The parties shall not be bound by, or be liable for any statement, representation, promise, inducement or understanding not set forth herein. No amendments or modifications will be valid unless incorporated into the Contract in writing.

NUCLEAR SITE-SPECIFIC PROVISIONS

N1. EMPLOYEE PROTECTED ACTIVITIES FOR NUCLEAR CONTRACTORS

- A. Contractor shall conduct its activities in accordance with "TVA's PRINCIPLES, Commitment to Nuclear Safety," and SPP-11.8.4, "Expressing Concerns and Differing Views," which are available from the Contracting Officer and are available at TVA's Supply Chain Internet Site at <http://supplier.tva.gov>. Contractor shall comply with 10 C.F.R. § 50.7 "Employee Protection" regulations of the Nuclear Regulatory Commission (hereinafter referred to as the "NRC") and Section 211 of the Energy Reorganization Act of 1974, (hereinafter referred to as the "ERA"), which prohibit discrimination against employees for engaging in certain protected activities. The Secretary of Labor has determined that "discrimination" means discharge or any other adverse actions that relate to compensation, terms, conditions, and privileges of employment, and that the term "protected activities" includes, among other things, employees raising nuclear safety or quality control complaints either internally to their employer or to the Nuclear Regulatory Commission (NRC). Contractor shall aggressively pursue or in the case of subcontractor actions ensure its subcontractors aggressively pursue any employee allegation of discrimination for engaging in protected activity with respect to Work and shall fully investigate such allegations. Within two working days after the earlier of Contractor or its subcontractor's receipt of (i) an allegation associated with Work by an employee or former employee of Contractor or its subcontractor of discrimination because of engagement in protected activities or (ii) notice of the filing of a 10 C.F.R. § 50.7 or ERA § 211 complaint by any such employee or former employee, Contractor shall notify TVA's Contracting Officer and the TVA Employee Concerns Staff Site Representative or TVA Employee Concerns Manager of such allegation or complaint in writing, together with a copy of any complaint. TVA and/or the TVA Office of the Inspector General ("TVA OIG") may, at its option, conduct an investigation of any such allegation or complaint.
- B. Contractor shall cooperate fully with TVA and/or the TVA OIG in order to permit a full investigation of any such allegations, shall provide TVA any investigative reports that it may prepare as a result of any such allegation or complaint, and shall also provide to TVA a full written description of any management action taken in response to any such allegation or complaint. In circumstances where any such allegation or complaint also charges TVA employees with involvement in any discriminatory activities, TVA's Office of the General Counsel ("TVA's OGC") will represent TVA in any proceedings arising out of the charges, and Contractor shall cooperate fully with TVA counsel in its representation unless Contractor's interests vary significantly from TVA's.
- C. Contractor shall ensure that no agreement affecting the compensation, terms, conditions, and privileges of employment, including, but not limited to, any agreement to settle a complaint filed by an employee or former employee of Contractor pursuant to 10 C.F.R. § 50.7 or § 211 of the ERA contains any provision which would prohibit, restrict, or otherwise discourage an employee or former employee from participating in any protected activity as described in 10 C.F.R. § 50.7, including, but not limited to, providing information to NRC on potential violations of NRC's regulations or other matters within NRC's regulatory responsibilities.
- D. Any breach of this provision shall be a material breach of this Contract. In the event NRC imposes a civil penalty against TVA as a result of any action or inaction by Contractor or any of its subcontractors which is a breach of this provision, such a civil penalty is considered by the parties to be direct and not special or consequential damage and shall be reimbursed by Contractor to TVA.
- E. Contractor agrees to place this provision, Employee Protected Activities, along with the flow-down requirement of this sentence and specifically including subpart H of this provision, as applicable, in all subcontracts of any tier entered into pursuant to this Contract, unless TVA consents in writing to exclude a particular subcontract or class of subcontracts.
- F. Nothing in this Contract shall in any way limit the TVA Office of Inspector General's authority under the Inspector General Act, as amended, including the authority to subpoena documents.
- G. In order to ensure consistent handling of 10 C.F.R. § 50.7 and/or ERA § 211 complaints involving Work, Contractor and its subcontractors shall retain the services of legal counsel experienced in the handling of such complaints. Such services shall be at Contractor's sole expense provided that, if Contractor is compensated on a cost reimbursable basis hereunder, and Contractor ultimately prevails in its defense of such complaints, TVA will reimburse Contractor for such expenses. Upon Contractor's request, TVA's OGC will provide a list of legal counsel experienced in handling 10 C.F.R. § 50.7 and/or ERA § 211 complaints.
- H. Compliance with this provision with respect to handling complaints of discrimination for engaging in protected activities or 10 C.F.R. § 50.7 or § 211 complaints shall also be in accordance with written procedures prepared by TVA which are available from TVA's Contracting Officer and at TVA's Procurement Internet Site at <http://supplier.tva.gov/>. In addition, with respect to Work performed at a TVA site or facility, the Contractor shall comply with those requirements of TVA's Employee Concerns Program specified in the latest revision of TVA Nuclear Power Group Standard Programs and Processes that address Contractor responsibilities for Employee Concerns in effect at the time of this Contract.
- I. If Contractor or its subcontractors perform Work at TVA's operating nuclear plant sites or those under active construction, it shall comply with the terms of Nuclear Power Group Standard Program and Process NPG-SPP-11.10, "Adverse Employment Action," which is available from TVA's Contracting Officer and at TVA's Procurement Internet Site at <http://supplier.tva.gov/>. NPG-SPP-11.10 is designed to help ensure that certain significant proposed personnel actions are adequately reviewed by Contractor and TVA in order to comply with NRC employee protection (10 C.F.R. § 50.7) requirements, TVA Standard Program and Process, TVA-SPP-11.8.4, "Expressing Concerns and Differing Views," and this provision. In addition, application of NPG-SPP-11.10 will assist in determining whether the proposed action could negatively impact the safety-conscious work environment and allow for actions to mitigate any potential chilling effect resulting from those significant proposed personnel actions. Contractor shall be responsible for its subcontractors' compliance with NPG-SPP 11.10, this provision TVA-SPP-11.8.4, and the referenced NRC regulation.

N2. NUCLEAR INCIDENTS

- A. For purposes of this Contract, “nuclear incident” has the meaning given that term in the Atomic Energy Act (42 U.S.C. § 2014(q)).
- B. Prior to, or at the time of shipment of the first nuclear fuel to the TVA nuclear facility, TVA will furnish nuclear liability protection in accordance with Section 170 of the Atomic Energy Act (42 U.S.C. § 2210) and applicable regulations of the Nuclear Regulatory Commission (“NRC”). If this system of protection is repealed or changed, TVA will seek comparable liability coverage or protection, to the extent available on reasonable terms, and maintain such protection in effect during the period of operation of the nuclear facility so as not to materially impair the protection afforded to Contractor and its subcontractors under the existing system.
- C. In the event of losses or liability resulting from nuclear incidents at the TVA nuclear facility:
 - 1. TVA waives any claim it might have against Contractor or its subcontractors because of damage to, loss of, or loss of use of any property at the TVA nuclear facility; and
 - 2. TVA will indemnify Contractor and its subcontractors and save them harmless from any claims, losses or liability arising as a result of damage to, loss of or loss of use of any property at the TVA nuclear facility.
 - 3. For purposes of this Section only, “subcontractors” mean any of Contractor’s suppliers of material, equipment, or services for the Work, regardless of tier. This subsection does not affect any Contractor warranty obligations under this Contract.
- D. In return for the indemnification stated in subsection C, above, Contractor waives any claim it might have against any third party because of damage to, loss of, or loss of use of its property at the TVA nuclear facility, resulting from nuclear incidents.
- E. The waiver and indemnification provisions stated in this Section apply to the full extent permitted by Applicable Laws and regardless of fault.

N3. NANTEL

The National Academy for Nuclear Training and the Institute of Nuclear Power Operations (INPO) have agreed to a new nationwide web-based instruction and qualification system known as the National Academy of Nuclear Training electronic Learning (NANTEL) that includes standardized, generic training for those working at or frequenting nuclear plants in the United States. NANTEL should facilitate common training and qualification on knowledge and skills needed by those working at nuclear plants and thereby enable individual utilities to focus more on site-specific training.

TVA has agreed to accept the generic training offered through NANTEL and all TVA Nuclear plants are participating in NANTEL. In addition, each TVA Nuclear site has site-specific training (web based or on-site classroom) that complements and augments NANTEL generic material. INPO will manage and operate NANTEL.

Contractors are required to ensure that personnel provided by it or its subcontractor(s) are trained in accordance with applicable TVA procedures, including but not limited to TVAN Training Procedure TRN-2, General Employee Training, as amended from time to time.

N4. OVERSIGHT PLANS

The CTS may request Contractor to provide an oversight plan containing one or more of the following oversight methods for physical work at a TVA Nuclear (TVAN) site: (1) direct oversight of

performance; (2) review of planning and preparation activities; (3) review of training records and qualifications; and (4) review of performance by performance indicators, work-off curves, and/or spending curves. The CTS may require involvement of Contractor’s Executive management in the development, review, implementation, and performance, of the plan.

N5. FITNESS FOR DUTY - NUCLEAR

- A. All personnel performing Work at a TVA nuclear Site, as defined in NPG-SPP-14.1, “Fitness for Duty,” under this Contract or under subcontracts entered into under this Contract, all personnel with unescorted access to TVA nuclear plants, and all personnel required to report in person to any TVA emergency response center under TVA’s emergency plans and procedures are “Covered Personnel” for purposes of this Fitness for Duty section. All Covered Personnel must comply with TVA’s fitness-for-duty (FFD) requirements, as set forth by the latest revision of NPG-SPP-14.1 and any subsequent revision(s) thereto. Covered Personnel who have been denied access to or removed from work at any nuclear plant as a result of any violation(s) of any FFD program are prohibited from performing Work at a nuclear Site, unless TVA’s Corporate Nuclear Security and CTS approve a Contractor’s written request for an exception to such prohibition.
- B. All Covered Personnel must report to TVA’s Check-In Coordinator at the Site, and successfully complete TVA’s FFD program training. Training for Covered Personnel above must be completed at least once every twelve (12) months. During the term of this Contract, Contractor must supply the CTS with names of those Contractor employees promoted to manager or supervisor positions (this includes temporary assignments), on a monthly basis and upon TVA’s written request. Contractor agrees to notify TVA’s Corporate Nuclear Security within 24 hours of becoming aware of any violation of TVA’s FFD requirements by any Contractor personnel.
- C. Contractor also agrees to allow authorized representatives of the NRC to inspect, copy, or take away copies of any contractor’s records, documents, or reports related to implementation of TVA’s or Contractor’s FFD Program. Contractor shall comply with all applicable NRC requirements related to FFD programs, including but not limited to those in 10 C.F.R. Part 26. Contractor agrees to include the requirements of this provision in any subcontract(s) related to the performance of this Contract, regardless of tier.
- D. Contractor and its subcontractor personnel that are not subject to drug testing pursuant to the FFD requirements stated and referenced in this section are subject to the requirements of the **Drug Testing** section of this Contract.

N6. HUMAN PERFORMANCE/DYNAMIC LEARNING CENTER

Contractor’s and its subcontractor(s)’ personnel who perform Work inside a nuclear Site’s power block, or other nuclear Site areas as determined by the CTS, must successfully complete one of the following training programs prior to commencing on-Site Work, or at the earliest feasible time thereafter: (1) prescribed training courses (including Human Performance training and Human Error Reduction tools training, as set forth in TVA NPG SPP 22.200, and (as appropriate) 22.202, 22.205, or 22.206) at the Site’s Dynamic Learning Center, or (2) aa Contractor training program that TVA’s CTS has pre-approved, in writing, as a substantial equivalent of TVA’s training program, which Contractor and subcontractor personnel may complete in lieu of completing TVA’s on-Site training.

N7. FACILITY ACCESS FOR NUCLEAR CONTRACTORS

- A. This section applies to all Contractor's and its subcontractor(s)' employees (for purposes of this section, "Covered Persons"), and Contractor is responsible for such employees' compliance with this section.
- B. Citizenship Requirements. Contractor shall comply with requirements of the United States Citizenship and Immigration Services (USCIS) related to eligibility to work in the United States. These include, but are not limited to, acquiring, verifying and maintaining appropriate documentation such as USCIS Form I-9. All Covered Persons are required to have a valid Social Security number, which must be provided to designated TVA representatives upon request.
- C. Screening Employment Candidates Through WCSS - All TVA Sites. Contractor is required to check all Covered Persons through TVA's Web-based Contractor Security System (WCSS) before permitting them to perform Work on a Site. For instructions on accessing WCSS, see TVA's Supplier Portal at <http://supplier.tva.gov/> under "Web Contractor Security System (WCSS) Instructions," or contact the TVA Contracting Officer.
- D. IDs and Access Cards - Non-Nuclear Sites. TVA may provide a Site ID, photo ID card, and/or an access control card for each Covered Person. All ID and access cards are TVA property, and each must be returned to TVA by Contractor immediately when the Covered Person no longer requires access, but in no event later than such employee(s)' completion of Work.

Contractor will reimburse TVA in the amounts of \$30 per photo ID and \$35 per access card that is or are not returned to TVA. TVA may enter restrictions into the WCSS for Covered Persons whose IDs or cards are not returned.

- E. Fingerprinting - All TVA Sites. When and as requested by TVA, Covered Persons may be subject to fingerprinting by TVA.
- F. Additional Requirements for Access to Nuclear Plant Protected Area. All Covered Persons who perform Work within a TVA Nuclear Power Plant Protected Area must be (1) escorted by authorized TVA personnel for short-term access requirements, or (2) meet (as a minimum) the following requirements for unescorted access, for those Covered Persons who need long-term access in order to perform Work:
 - (i) background investigation, psychological screening (to include a clinical interview with a licensed psychologist, if applicable), and
 - (ii) fingerprinting, drug/alcohol testing, and successful completion of Plant Access and Fitness for Duty training.
- G. TVA will pay the initial administrative costs of implementing these nuclear Site access requirements for Covered Persons, except as otherwise specifically stated in this section. Contractor must include the requirements of this subsection in any subcontract(s) (regardless of tier) related to the performance of Work at a TVA nuclear Site.
- H. Contractors with approved access authorization and/or Fitness for Duty programs shall utilize the program to complete the requirements for background investigations and psychological screening for its and its subcontractor(s)' employees, in accordance with 10 C.F.R. 73.56; Nuclear Regulatory Commission (NRC) Order for Compensatory Measures Related to Access Authorization, EA-02-261, dated January 7, 2003 (and any

subsequent revisions); and latest revision of Nuclear Energy Institute (NEI) 03-01, Nuclear Plant Access Authorization Program. Contractor must complete these requirements in a timely manner to support the schedule requirements of this Contract, and TVA will not reimburse or pay Contractor any additional costs or amounts, or agree to extend any Work performance schedule(s) due to Contractor's failure to comply with the requirements stated in this section.

- I. Contractors with approved access authorization and/or Fitness for Duty programs shall maintain all records associated with the granting of unescorted nuclear Site access and shall not destroy any such record without the prior approval of TVA's Nuclear Security.

N8. PROCEDURE USE AND ADHERENCE

The following TVA nuclear power program procedures establish minimum requirements for the use, preparation, revision, and approval of technical procedures that involve operation and construction-related activities at TVA's nuclear plant Sites. For TVA's Nuclear Power Group (NPG), NPG-SPP-01.2, "Administration of Site Technical Procedures," applies to activities conducted at Browns Ferry Nuclear Plant, Sequoyah Nuclear Plant, and Watts Bar Unit 1. For TVA's Nuclear Construction (NC) organization, NC PP-1, "Procedure Control," applies to activities at Watts Bar Unit 2, and BPP-01.2, "Administration of Site Technical Procedures," applies to activities at Bellefonte Nuclear Plant. Contractors (or their subcontractors at any tier) whose work involves or impacts the technical procedures referenced therein are required to comply with, as applicable, NPG-SPP-01.2, NC PP-1, and BPP-01.2. Special notice is directed to Section 3.2.1 of NPG-SPP-01.2, Section 3.6 of NC PP-1, and Section 3.2 of BPP-01.2, which describe responsibilities for procedure adherence and the consequences of failing to follow procedures, including the penalties associated with knowingly providing false, inaccurate, misleading, or incomplete statements or information under Applicable Laws, specifically including NRC regulations.

N9. RADIATION EXPOSURE

- A. TVA shall provide radiological control personnel to review and discuss radiological conditions and safe work practices with Contractor prior to any Radiological Controlled Area (RCA) Work activities that Contractor is scheduled to perform at a TVA nuclear Site. Contractor shall ensure that its employees follow all TVA radiological control instructions while working at TVA Sites.
- B. Contractor, in performing Work in RCAs, shall ensure that each of its and its subcontractor(s)' employees, immediately prior to entry onto a TVA nuclear Site, must be at least 18 years of age at their last birthday, and have: (1) occupational radiation exposures less than 50% of the NRC annual whole body (TEDE) dose limit of 5 Rems from all occupational sources, not to exceed a lifetime whole body dose of 1N Rem, where N is the individual's age at his/her last birthday, (2) the sum of the deep-dose equivalent and the committed dose equivalent to any individual organ or tissue less than 50% of the NRC annual dose limit of 50 Rems; and (3) an eye dose equivalent less than 50% of the NRC annual limit of 15 Rems, and a shallow-dose equivalent to the skin and to the maximum exposed extremity less than 50% of the NRC annual limit of 50 Rems.
- C. For each of Contractor's or its subcontractor(s)' employees who perform Work in RCAs, Contractor must, prior to or upon each employee's assignment to a Site, provide TVA with documents that

demonstrate (for each such employee) the past occupational radiation exposure history for the current calendar year, a written and signed statement of their cumulative occupational radiation dose, and validation of their date of birth through a government issued document, such as a driver's license. TVA will use this information to complete Form NRC-4. The current year records must include each location where the employee was monitored for occupational radiation exposure. TVA may deny access to the Site to any employee for whom Contractor fails to provide records in compliance with this subsection C.

- D. Contractor acknowledges and agrees that each of its or its subcontractor(s)' employees who perform Work hereunder may receive the annual dose limits as prescribed by 10 C.F.R. § 20.1201(a). Upon written request by Contractor, TVA may, in its sole discretion, and upon both parties' execution of an amendment to this Contract grant an exception from the individual requirements of subsections B and C, above, or agree to a lower annual dose limit for specified employee(s).
- E. TVA will decontaminate materials and tools used by Contractor or its subcontractor(s), TVA equipment, or both, without cost to Contractor, under the following limited circumstances, and to the extent necessary to permit Contractor to perform the Work: (i) in the event of a nuclear incident (as defined in the **Nuclear Incidents** section of this Contract), or (ii) as specified in this Contract's scope of Work, or in an amendment to this Contract. TVA and Contractor also may agree to ship Contractor's or its subcontractor(s)' materials or tools, which TVA cannot or elects not to decontaminate within a TVA site's RCA, to Contractor's or a third party's facility that is licensed under Applicable Laws to decontaminate or store such radiologically contaminated materials or tools. Unless otherwise agreed in writing by both parties, Contractor will pay the costs of such shipment to a non-TVA facility.
- F. Contractor must include the provisions of this Section in any subcontract entered into for the performance of Work hereunder.
- G. Contractor shall, at its own expense, assume the defense of and save TVA harmless from all radiation injury claims filed by Contractor's or its subcontractor(s)' employees with respect to Work performed at facilities owned or operated by Contractor or its subcontractor(s).

N10. NUCLEAR FATIGUE RULE

Contractor shall track and report to TVA the number of hours worked by individual Contractor and subcontractor employees, including shift schedules and shift cycles of such individuals, who are subject to the work hour requirements established in 10 C.F.R. § 26.205, and provide TVA with copies of all such records. Contractor must track such Work hours with computer software acceptable to TVA, and notify TVA as soon as it becomes apparent that any such individual is at risk of noncompliance with the NRC's Fatigue Rule, as set forth in 10 C.F.R. Part 26, Subpart I. Contractor must report to TVA at least daily during Site outage periods and weekly during non-outage periods. Contractor shall (1) furnish TVA with its recommendations regarding any fatigue assessment to be performed with respect to an employee of Contractor or its subcontractors; and (2) submit all requests for waiver approvals to TVA in sufficient time to allow TVA to make a waiver approval determination. Contractor must comply with this section's requirements in order to enable TVA to make final determinations regarding fatigue assessments, waiver approvals, and accurately assess the risks of non-compliance.

N11. NUCLEAR SITE EMERGENCY PREPAREDNESS

Contractor shall ensure that its and its subcontractor(s)' personnel working at or near a TVA nuclear Site are aware of Site emergency information, including, without limitation, accountability and evacuation procedures that they must follow during a Radiological Emergency. At a minimum, Contractor must provide each Contractor and subcontractor employee with a copy of **Attachment E**.

ATTACHMENT E: EMERGENCY PREPAREDNESS INFORMATION TO BE FURNISHED TO ALL CONTRACTOR EMPLOYEES WORKING ON OR NEAR A TVA NUCLEAR PLANT SITE

The following information is related to TVA Emergency Preparedness within the area owned and operated by the Tennessee Valley Authority (TVA) for nuclear sites. In the unlikely event of an accident, all onsite personnel will be notified by one of the following means:

1. *Sirens would be sounded for three minutes. (See site specific information below for routine siren test schedule.)*
2. *TVA personnel may enter the area and provide instructions.*

If Contractor personnel are alerted by either of the above, Contractor personnel should:

3. *If TVA personnel are present, follow their instructions.*
4. *If no TVA personnel are present, and the sirens are not sounding during the test schedule below, Contractor personnel should immediately exit TVA property.*
5. *As soon as possible, listen to one of the radio stations noted below for any additional information which may be provided by State Authorities.*

If there is a potential that Contractor personnel may have been exposed to radioactive material, he or she would be instructed to go to a designated location for monitoring or decontamination.

For further information on these emergency plans, please contact TVA Emergency Preparedness at the numbers listed below.

Site Specific Information:

Browns Ferry Nuclear Plant

- a) Sirens are normally tested at 9:15 AM on the 2nd Monday of each month.
- b) WVNN (AM 770) WZYP (FM 104) WKAC (AM 1080)
- c) Emergency Preparedness - (256) 729-2038

Sequoyah Nuclear Plant

- d) Sirens are normally tested at noon on the 1st Wednesday of each month.
- e) WSKZ (FM 106.5)
- f) Emergency Preparedness - (423) 843-7088

Watts Bar Nuclear Plant

- g) Sirens are normally tested at noon on the 1st Wednesday of each month.
- h) WSKZ (FM 106.5) WIVK (FM 107.7) WIVK (AM 990)
- i) Emergency Preparedness - (423) 365-8004