


[Instructions: Use this pro forma to subcontract with an Institution of Higher Education or Non-Profit Organization or state, local or Indian tribal government for research on a cost-reimbursement no-fee basis for the National Alliance for Water Innovation (NAWI) project. Red text indicates instructions, alternate/optional text, or areas where fill-in information is necessary. Complete the form as appropriate (including the Article Numbers), delete all instructions and inapplicable alternate text, and change all text to black before printing/saving.]

<p>STANDARD RESEARCH SUBCONTRACT NO. XXX</p>	 <p>The Regents of the University of California Lawrence Berkeley National Laboratory One Cyclotron Road Berkeley, CA 94720</p>
<p>Subcontractor:</p> <p>[Name] Attention: _____ [Address] [City, State, Zip] Phone: _____ Fax: _____ E-Mail: _____</p>	<p>University Procurement Representative:</p> <p>Name: _____ Title: _____ Phone: (510) _____ Fax: (510) _____ E-Mail: _____@lbl.gov</p>

Introduction

This is a cost-reimbursement, no-fee, standard research subcontract (hereinafter “Subcontract”) for [general description of the work].

This Subcontract is between The Regents of the University of California, (hereinafter “University”) and the party identified above as the “Subcontractor”.

This Subcontract is issued under Prime Contract No. DE-AC02-05CH11231 between the University and the United States Government (hereinafter “U.S. Government”), represented by the Department of Energy (hereinafter “DOE”) for the management and operation of the Lawrence Berkeley National Laboratory (hereinafter “LBNL”) and the performance of research and related work.

This Subcontract is funded from DOE’s Advanced Manufacturing Office (AMO) under Funding Opportunity Announcement (“FOA”) No. DE-FOA-0001905 for the National Alliance Water Innovation Hub (“NAWI” or “Hub”), and LBNL is the lead for the NAWI Hub. The AMO will be substantially involved in the NAWI Hub regarding the management, control, direction, and performance of the Hub. The strategic goal for NAWI is to advance technologies that will enable pipe parity water for a range of non-traditional water sources using energy-efficient, water-efficient, cost-competitive, and manufacturable technologies.

Agreement

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

[SUBCONTRACTOR'S NAME]

**THE REGENTS OF THE
UNIVERSITY OF CALIFORNIA**

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

SCHEDULE OF ARTICLES

ARTICLE 1 - SCOPE OF WORK

- A. Description. The Subcontractor shall conduct certain research work, generally identified as [Insert brief description of R&D work]. The work is more specifically described in the incorporated [Title of the Technical Scope/Spec Document/Statement of Work, without its Date.] _____. All work performed under this Subcontract must be performed in the United States unless a foreign work waiver is obtained. The Subcontractor must flow-down this requirement to its collaborators or other entities performing work on its behalf for NAWI or providing cost share, except to a DOE National Laboratory. If the Subcontractor fails to comply with the Performance of Work in the United States requirement, the costs of the work may be deemed unallowable by LBNL, regardless if the work is performed by the Subcontractor or its lower tier subcontractors.
- B. Roles and Responsibilities. The Subcontractor will provide proper and timely execution and delivery of assigned deliverables. The Subcontractor is responsible for the execution and completion of the Work, and compliance with the financial and administrative requirements described herein. The Subcontractor must obtain University Technical Representative and University Procurement Representative approval for scope changes, including but not limited to, any change in plans that may result in a need for additional Federal funding. Changes to the subcontract are subject to the *Changes* clause in the incorporated General Provisions.

The Subcontractor shall comply with the NAWI Consortium Agreement and its Operative Documents incorporated in Article [#] Incorporated Documents. In the event of a conflict, this Subcontract and its General Provisions shall take precedence over the NAWI Consortium Agreement and its Operative Documents. The Subcontractor will use best efforts to support LBNL and NAWI efforts to operate the Hub through proper and timely execution and delivery by Subcontractor of assigned deliverables under this subcontract. The Subcontractor is responsible for collaborating and cooperating with NAWI Consortium Members and supporting LBNL in the overall Project, in the execution, technical and project management, reporting, financial and administrative Project responsibilities and Hub activities as assigned in the attached Scope of Work.

- C. Key Personnel. It is understood and agreed that the Subcontractor's key personnel designated below are considered to be essential to the work being performed hereunder and shall not be reassigned or replaced without prior University approval, except where such circumstances are beyond the reasonable control of the Subcontractor. The Subcontractor shall notify the University Procurement Representative reasonably in advance and shall submit justification (including proposed substitutions) in sufficient detail to permit evaluation of the impact on the performance of this Subcontract.
1. Principal Investigator. The Principal Investigator assigned by the Subcontractor for the performance of the research is [Insert PI's name]. If for any reason the Principal Investigator becomes unavailable, the Subcontractor shall notify the University and a mutually acceptable successor shall be assigned.

2. Participating Researchers. All Subcontractor employees and affiliates assigned by the Subcontractor for the performance of the research must be identified in the table below. If for any reason any of the participating researchers becomes unavailable or is not able to complete the LBNL affiliate process (<https://hrss.lbl.gov/service-offerings/affiliates/>) as implemented for NAWI at LBNL within six (6) months of the start date of this Subcontract, the Subcontractor shall notify the University and a mutually acceptable successor shall be assigned. The University's Project Representative will facilitate the LBNL affiliate process with Subcontractor personnel identified below in conjunction with the LBNL Site Access Office.

[All Subcontractor personnel proposed that will be funded directly, not an indirect cost, by both University and Subcontractor's cost share, should be listed below].

NAME TITLE

- D. Conflict of Interest. As Subcontractor becomes aware, the Subcontractor shall notify NAWI through the University's Project Representative within ten calendar days of any significant conflict of interest issues in accordance with the incorporated NAWI Research Consortium Agreement Appendix D – Conflict of Interest Plan.

[Optional-Include if the work will be performed at Non-Subcontractor location(s).]

- E. Performance Location. The work shall be performed by the Subcontractor at _____ [Y/N], at the LBNL, and at other location(s) approved by the University. **[If the location is outside of the US, then confirm through UPR, and add the following sentence:]** Subcontractor has submitted and obtained a foreign work waiver in compliance with the process provided in the incorporated NAWI Research Consortium Agreement Appendix I - Foreign Entity Participation Plan. **[If the location is in the US state, add these sentences:]** The Subcontractor shall advise the University Project Representative if the Subcontractor is proposing to conduct work outside of the United States prior to conducting such work. The Subcontractor is responsible for submitting the required request to NAWI through the University Project Representative for obtaining a foreign work waiver, if applicable.

[Optional-Include if any of the Work will be performed at an off-site location other than subcontractor facilities.]

- F. Off-Site Requirements. For work performed at non-LBNL locations, other than the Subcontractor's facilities, the Subcontractor shall be solely responsible for identifying and complying with all environmental protection, safety, health, and security requirements applicable to those locations, including all related laws, regulations, codes, standards, and any site-owner/manager requirements. The Subcontractor shall advise the University Project Representative of all such site-owner/manager requirements.

[Optional-Include if the Subcontract involves the delivery of any electrical items.]

- G. Electrical Device Certification Requirement. Any electrical equipment, components, conductors and other items delivered to the University of the type requiring testing by a Nationally Recognized Testing Laboratory (NRTL) recognized by the Occupational Safety and Health Administration (OSHA) shall be NRTL listed, labeled, and certified in accordance with Part 1910, *Occupational Safety and Health Standards*, of Title 29 of the Code of Federal Regulations (29 CFR 1910). The Subcontractor shall notify the University Technical Representative, in writing, of any item to be delivered that does not meet this requirement. The University reserves the right to refuse delivery

of or return any such items. Information on required NRTL testing is available at <http://www.osha.gov/dts/otpc/nrtl/>.

H. Notice to Proceed

The following documents shall be submitted to the University. Acceptable documents, as determined by the University, must be submitted and a Notice to Proceed must be issued before any work may commence, unless otherwise noted below. [Add sentence if an insurance certificate is required] All work contemplated under this Subcontract shall be considered as requiring insurance unless otherwise noted in the Insurance Article of the Subcontract. The Subcontractor may perform any work not requiring insurance, including work at the Subcontractor's or lower-tier subcontractor's facilities without an insurance certificate, before the Notice to Proceed is issued by the University.

1. All organizational and individual compliance certifications required by the incorporated NAWI Research Consortium Agreement and its Operative Documents found at the [NAWI website](#) regarding intellectual property, export control, conflict of interest, foreign talent recruitment program participation, or cost share support.
2. NAWI Alliance and Consortium Agreements executed by Subcontractor.
3. **Insurance Certificate and Endorsements**
An insurance certificate and any required endorsements shall be submitted and accepted by the University, through the University's contracted third party vendor, Insurance Tracking Services, Inc. (ITS). A formal written Notice to Proceed letter must be issued by the University Procurement Representative to the Subcontractor before any work may commence requiring insurance.
4. **Individual Investigator Agreement (IIA) for Human Subject Research**
5. **Institutional Review Board Authorization Agreement (IRBAA) for Human Subject Research**

ARTICLE 2 - REPORT PREPARATION REQUIREMENTS

- A. Subcontractor agrees to cooperate and provide all requested reports and documentation to NAWI through University's Project Representative to support University in its periodic reporting to AMO's Technology Manager (AMO TM) regarding University's management, control and direction of the NAWI Hub and the overall performance of projects in the NAWI Hub.

The Subcontractor shall submit written intermediate reports on the work and any cost share spend as required by the University Project Representative [AND/OR] Statement of Work (SOW). [Optional-Include if the Subcontract contains any milestone requirements] Written milestone reports must be submitted on the indicated milestone dates within the SOW.

- B. All reports shall fairly and completely describe the efforts applied to and the results obtained toward achievement of objectives of the work. If an objective is not accomplished, such failure shall be fully documented and explained in the report.
- C. All reports shall fairly and completely describe the efforts applied to and the results obtained toward achievement of objectives of the work. If an objective is not accomplished, such failure shall be fully documented and explained in the report.

- D. The final report shall cover all of the work under this Subcontract, and include the following elements: (a) an abstract briefly describing the overall objectives, results, and conclusions; (b) a full statement of each objective, the performance efforts applied, the work objectives achieved, and the Subcontractor’s conclusions; (c) a list of any publications or other releases of information, or data developed or maintained, by the Subcontractor through the performance of the Subcontract; and (d) any other relevant information. If requested by the University Project Representative, the Subcontractor shall submit a draft copy of the final report for review prior to finalization. The University Technical Representative need not approve the Subcontractor’s reported conclusions of the research.
- E. As the Subcontractor becomes aware, the Subcontractor shall promptly notify NAWI through the University’s Project Representative of any critical business issues or litigation concerning the Subcontractor and any Consortium members that are part of the Hub Activities funded under this subcontract that may have material adverse effect on the Project or individual Hub Activities.
- F. Subcontractor shall use best efforts to notify and communicate planned publicity information regarding Subcontractor’s Hub activities prior to release. The Subcontractor must provide sufficient notice through the University Project Representative, to ensure that the Hub leadership, including the AMO Technology Manager (TM) and other AMO representatives, are provided the opportunity to participate in Subcontractor planned Hub events including Hub meetings, key reviews and experiments, and project management and monitoring activities. The Subcontractor must notify NAWI through the University Project Representative a minimum of ten business days before the Hub events and provide all distributed documentation.
- G. The reports shall be submitted to the following recipients at the indicated email or mailing address:

Lawrence Berkeley National Laboratory
 Attention: [Intended Recipient; see below]
 One Cyclotron Rd., Mail Stop [see below]
 Berkeley, CA 94720

<u>Recipient</u>	<u>Mail Stop</u>	<u>Email</u>
Name		_____@lbl.gov
Name		_____@lbl.gov

ARTICLE 3 - PERIOD OF PERFORMANCE

This Subcontract is effective as of [insert start date. If there was a pre-contract cost agreement, insert the start date indicated on that agreement]. The completion date is on or before [insert end date].

[OR, if there is a milestone schedule, change to:] in accordance with the following milestones:

<u>Milestone</u>	<u>Completion Date</u>
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Neither party guarantees that the stated period of performance is sufficient for performance and completion of the work under this Subcontract, and the work shall cease on the last day mentioned above unless the Subcontract is modified to extend the period of performance for such period of time as is

mutually agreed as appropriate for completion of the work. Such an extension of time shall not be a basis for any claim by the Subcontractor.

ARTICLE 4 – ESTIMATED COST AND LIMITATIONS

A. Estimated Cost and Cost Share. The University and the Subcontractor agree to share the actual cost of performance under this Subcontract. The estimated cost for the performance of this Subcontract is as follows:

Total Estimated Cost Amount: \$
 Subcontractor Estimated Cost Share \$
 University Estimated Cost Share \$

[List Budget Periods and related Cost Share below:]

<u>Budget Period</u>	<u>Year</u>	<u>Start Date</u>	<u>End Date</u>	<u>Subcontractor Cost Share</u>	<u>University Cost Share</u>
1	1	mo/day/yr	mo/day/yr	\$	\$
2	2	mo/day/yr	mo/day/yr	\$	\$
3	3	mo/day/yr	mo/day/yr	\$	\$
4	4	mo/day/yr	mo/day/yr	\$	\$
5	5	mo/day/yr	mo/day/yr	\$	\$
				Total \$	Total \$

The estimated cost is based upon the estimated levels of effort in the Subcontractor's cost proposal. The Subcontractor shall endeavor to perform this Subcontract within the total stated estimated cost amount above. The Subcontractor agrees to support the University in meeting the required cost share amount for NAWI.

Subject to Article 4.B Allocation of Funding, the amount shown as estimated Total University Cost Share specified above shall be the limit of the University's liability for all costs incurred under this Subcontract at project completion, any other provision of this Subcontract notwithstanding, and shall not be exceeded by the Subcontractor. The price to be paid to the Subcontractor, by the University, for performance of the work under this Subcontract as shown above includes all allowable expenditures and termination costs. The Subcontractor will share in the cost of completion of the statement of work by incurring allowable and allocable costs without reimbursement from the University for the Subcontractor's Cost Share expressed above.

Any shared costs or matching funds and all contributions, including cash and third party in-kind contributions, will be accepted as part of the non-Federal entity's cost sharing or matching when such contributions meet all of the following criteria:

1. Are verifiable from the non-Federal entity's records,
2. Are not included as contributions for any other Federal award,
3. Are necessary and reasonable for accomplishment of project or program objectives,
4. Are allowable under Subpart E—Cost Principles of 2 CFR 200 **[Change to FAR Subpart 31.2 if the entity is a non-profit entity subject to FAR 31.2 based on listing in 2 CFR 200, Appendix VIII]**

5. Are not paid by the Federal Government under another Federal award, except where the Federal statute authorizing a program specifically provides that Federal funds made available for such program can be applied to matching or cost sharing requirements of other Federal programs,
6. Are provided for in the approved budget and,
7. Conform to provisions of 2 CFR 200, as applicable.

If the Subcontractor becomes reasonably certain that it is unable to meet either its cost share amount in any budget period, or its cumulative cost sharing obligations, or if the Subcontractor has spent project costs where insufficient cost share has been identified, the Subcontractor must notify the University in writing immediately. The notification must include the following information: (1) whether the Subcontractor intends to continue or phase out the project, and (2) if the Subcontractor intends to continue the project, how the Subcontractor will secure replacement funding for the Subcontractor's share of the total project costs.

If the Subcontractor fails to meet its cost sharing obligations, University may recover some or all of the funding provided under this Subcontract, and the amount University would seek to recover under this term would be predicated on University's analysis of Subcontractor's compliance with its cost sharing obligations.

[Include this Paragraph "B" if Fully Funded.]

- B. Allocated Funding. This Subcontract is fully-funded and is subject to the *Limitation of Cost* clause of the General Provisions.

[Include this Paragraph "B" if Incrementally Funded.]

- B. Allocated Funding. This Subcontract is incrementally funded and is subject to the *Limitation of Funds* clause of the General Provisions. The amount presently available and allotted to this Subcontract for payment by the University is as follows:

Allocated Funding Amount: \$ _____

It is contemplated that further allocations of funds, up to the total of the estimated cost amount identified above, will be made by the University, by a written unilateral modification to this Subcontract specifically increasing the allocated funding amount.

[Include this Paragraph C if the Subcontractor is an Institution of Higher Education.]

- C. Allowability. The University shall reimburse the Subcontractor for its direct costs and allowable and allocable indirect costs as determined in accordance with the *Allowable Cost and Payment* clause of the General Provisions and 2 CFR 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, subpart E and appendix III, as supplemented by 2 CFR Part 910, except as otherwise limited or excluded by other provisions of this Subcontract.

Any travel costs will be reimbursable in accordance with the federal travel cost principles in **[SELECT]** 2 CFR 200.474 and the Subcontractor's institutional travel policy **[OR-If the Subcontractor's travel policy is deemed unacceptable for compliance with federal travel cost principles]** *the incorporated Subcontractor Guide to Reimbursable Travel Expenses*. All travel not specifically included in the Subcontractor's cost proposal must be approved in advance by the University Procurement Representative.

[Select this Paragraph if the Institution of Higher Education has Predetermined Rates.]

In determining the allowable indirect costs under this Subcontract, the Subcontractor's government-approved predetermined indirect rates shall apply. As provided in 2 CFR 200, Appendix III, if the Subcontractor's negotiated rate agreement does not extend through the entire period of performance for the work, the negotiated (predetermined or fixed) indirect cost rate(s) for the last year of the rate agreement shall apply to the remaining period of subcontract performance.

[OR-Select this Paragraph if the Institution of Higher Education only has Provisional Rates.]

The Subcontractor's government-approved provisional indirect rates shall be used for interim billing purposes, pending finalization. **[Optional-Only include if, due to significant uncertainty about the provisional rates, ceiling rates are desired. Uncertainty could stem from an entity that may be downsizing, a small entity without negotiated federal rates, an entity without predetermined rates and little to no history. This should rarely be used for institutions with fixed or pre-determined rates being negotiated by a federal agency.]** However, the finalized rates shall not exceed the following ceiling rates, except as otherwise approved in writing by the University Procurement Representative:

<u>Rates:</u>	<u>Ceiling</u>
Fringe	
Overhead	
Material Handling	
FCCM	
G&A	
[Other]	

[If there was a precontract cost agreement for this award, add the following paragraph:]

Date of Incurrence of Costs. The Subcontractor shall be entitled to reimbursement for costs incurred in an amount not to exceed [*amount*] during the period [*date*] to [*date*], which, if incurred after this Subcontract had been entered into, would have been reimbursable under the provisions of this Subcontract.

[Include this Paragraph C if the Subcontractor is a Non-profit or State, Local or Indian Tribal Government Organization]

- C. *Allowability.* The University shall reimburse the Subcontractor for its direct costs and an allocable amount of its indirect costs as determined allowable and allocable in accordance with the *Allowable Cost and Payment* clause of the General Provisions and 2 CFR 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, subpart E and appendix III, as supplemented by 2 CFR Part 910 **[OR, if the subcontractor is a non-profit entity listed in Appendix VIII of 2 CFR 200]** FAR Subpart 31.2, as supplemented by DEAR 931.2, except as otherwise limited or excluded by other provisions of this Subcontract.

Any travel costs will be reimbursable in accordance with **[SELECT]** 2 CFR 200.474 and the Subcontractor's institutional travel policy a **[OR - If the Subcontractor does not have an acceptable Travel Policy]** the incorporated *Subcontractor Guide to Reimbursable Travel*

Expenses. All travel not specifically included in the Subcontractor’s cost proposal must be approved in advance by the University Procurement Representative.

For travel to LBNL, lodging is available at the on-site Berkeley Lab Guest House (<http://berkeleylabguesthouse.org/>) at the GSA CONUS per diem rate.

In determining the allowable indirect costs under this Subcontract, the University agrees to use the government-approved pre-determined or final indirect expense rates. If the Subcontractor does not negotiate pre-determined or annual final indirect expense rates with a federal government agency, then the Subcontractor must submit a final indirect expense rate proposal to established approved final indirect expense rates to the University Procurement Representative within six months after the end of each Subcontractor fiscal year during performance of this Subcontract. The Subcontractor’s government-approved or University-approved pre-determined or provisional indirect rates shall be used for interim billing purposes, pending finalization. **[Optional-Only include if, due to significant uncertainty about the control over indirect rates, ceiling rates are desired. Uncertainty about control of rates could stem from an entity that may be downsizing, a small entity without negotiated federal rates, an entity without predetermined rates and little to no history for actual rates. Ceiling rates should NOT be used to pay less than federally negotiated final rates for subcontractors that have such rates negotiated.]** However, the finalized rates shall not exceed the following ceiling rates:

<u>Rates:</u>	<u>Ceiling</u>
Fringe	
Overhead	
Material Handling	
FCCM	
G&A	
[Other]	

[If there was a precontract cost agreement for this award, add the following paragraph:]

Date of Incurrence of Costs. The Subcontractor shall be entitled to reimbursement for costs incurred in an amount not to exceed [*amount*] on or after [*date*], which, if incurred after this Subcontract had been entered into, would have been reimbursable under the provisions of this Subcontract.

- D. Sales Taxes. Items purchased hereunder for delivery to the University are considered for resale, per the University’s California State Resale Permit No. SR-CH 21-835970. Accordingly, the University shall not be charged for, and payments hereunder shall not include, any California or other State sales or use tax for such items, if shipped to California.

The University of California State Resale Permit No. SR-CH 21-835970 for LBNL is available at: <http://procurement.lbl.gov/supplier-forms/>.

- E. Audits. This Subcontract involves the expenditure of federal funds and the Subcontractor shall include expenditures on this Subcontract in its annual Schedule of Expenditures of Federal Awards provided to its Single Audit Act auditor. The federal program name should include “LBNL” as the pass-through entity and this Subcontract number; as required by 2 CFR 200.510. Unless the

University Project Representative has provided a Catalog of Federal Domestic Assistance (CFDA) number, use 81.000. Otherwise, the University or the U.S. Government may individually audit the Subcontractor's costs incurred under this Subcontract. In such event, the University will endeavor to arrange for the audit to be performed by the cognizant government audit agency. As required by 2 CFR 200.331(f), the Subcontractor is responsible for ensuring that cost type (cost reimbursement, time and material and labor hour) lower-tier subcontracts are also subject to federal, Single Audit Act or Subcontractor-performed audits of actual expenditures.

ARTICLE 5 - INVOICES AND PAYMENT

A. Invoices

1. The Subcontractor shall email invoices (as an attachment) directly to the LBNL Accounts Payable Office at APInvoice@lbl.gov. The "subject" line of the email shall state the Subcontractor's name and the Subcontract number.

If the Subcontractor is unable to submit an invoice by email, it may submit the invoice to the following address:

Lawrence Berkeley National Laboratory
Accounts Payable Office, Subcontract No. XXX
One Cyclotron Road, M/S 971-AP
Berkeley, CA 94720

To avoid delays in processing and payment, Subcontractors should include only one attachment per email. Multiple invoices should be combined and attached as a single portable document format (PDF) or Microsoft Word or rich text format (RTF) file (up to 30 individual invoices per attachment) or emailed separately (one attachment per email). Do not include icons/pictures in the email (logos, etc.) and ensure only one subcontract number is listed on the invoice.

2. Interim invoices must be submitted on a monthly basis. A "Final Invoice" must be submitted within 60 days of completion of the work or expiration or termination of this Subcontract and settlement of final indirect expense rates and completion of all pertinent Single Audit Act or other audits of subcontract costs. If not submitted timely, then any amounts paid by the University to that point may be considered by the University to represent satisfaction in full by the University under this Subcontract and an Accord and Satisfaction. The University will not be obligated to make any further payments under this Subcontract.
3. The Subcontractor shall submit monthly invoices by tasks **For cost sharing subcontracts, include this** including cost share using the NAWI Invoicing Cover Sheet (template provided) with a copy to the University Project Representative. An acceptable invoice(s) shall include the required incorporated *NAWI Invoicing Cover Sheet* with completed table, and the invoice shall state: the Subcontract number; clearly identify the Subcontractor (including business heading or logo); bill to address (same address as above); invoice date; unique invoice number; remittance address; sufficiently identify the incurred cost being invoiced, delineated by cost element, including cumulative amounts incurred; and identify any separately payable freight charges (with receipts if available) and taxes. Invoice(s) in a spreadsheet format are not acceptable, but a spreadsheet can be used to support an invoice.

The Subcontractor shall maintain records which support all invoiced amounts, and provide them to the University Procurement Representative upon request.

B. Payment

All invoices except the final invoice shall be payable within 30 days of receipt; provided, however, that payments made thereafter shall not be subject to any penalty, interest, or late charges. Only those items/services identified in this Subcontract or a Subcontract Modification will be considered for payment. Payment amounts may be adjusted for any applicable credits, offsets, or withholds. The final invoice shall be payable upon determination of the final allowable costs and the Subcontractor's compliance with all terms of this Subcontract. For inquiries about the status of an invoice, call (510) 486-6954 or email aphelp@lbl.gov.

[Optional – Include when foreign travel is proposed]

ARTICLE 6 – FOREIGN TRAVEL

A. All foreign travel is subject to the requirements of the Contractor Requirements Documents (CRD) (Attachment 1) in DOE Order 550.1, *Official Travel*, and must be approved in advance, even if the travel is included in the Subcontractor's cost proposal or indirectly charged. The Subcontractor shall submit the following information to the University Technical Representative at least 45 days prior to the departure date.

1. Destination (country, business location and lodging location).
2. Trip departure and return dates for each business location (city and country).
Subcontractors are required to disclose any planned vacation or personal time to be done in conjunction with official business.
3. Business purpose(s). Describe the activities that will be conducted for each business location (response limited to between 230 and 1500 characters).
4. Trip description and benefit. Describe how the trip will benefit the University/DOE and what the Subcontractor expects to accomplish (response limited to between 230 and 2000 characters).
5. Host and accommodation information. Provide the in-country host name, telephone number, and institution for each business location (country). Also provide the hotel name, complete address and local telephone number (i.e., no 800-numbers) for each business location.
6. Venue location. If the event/meeting is being held at a location different from host affiliation, provide the name and complete address for the venue.
7. Conference information. If applicable, provide the conference name and acronym along with conference's website URL and conference role (participant, presenter, chair, etc.).
8. Travel information. Provide a copy of the proposed airline/rail travel itinerary.
9. Subcontractor employees' internationally enabled cell phone number.
10. Supervisor's information. Provide supervisor's name, email address, office and mobile numbers. This can be the supervisor of the traveler, or a supervisor at the University that is overseeing the work the traveler will be doing.

B. Foreign travel is travel (whether wholly or partly on official business) from the United States (including Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands, and the territories and possessions of the United States) to a foreign country (including Canada and Mexico) and return; and travel between foreign countries by persons, including foreign

nationals, when the related salaries or travel expenses are funded under this Subcontract or the traveler is conducting business on behalf of the U.S. Government.

ARTICLE 7 - SUBCONTRACT ADMINISTRATION

- A. Notices, Requests, and Modifications. The Subcontractor shall submit all notices and requests for approval by email to the University Procurement Representative indicated on the signature page or at the following mail address:

Lawrence Berkeley National Laboratory
Attn: [University Procurement Representative]
One Cyclotron Road M/S 971-PROC
Berkeley, CA 94720

Only the University Procurement Representative is authorized to modify the terms, conditions, and requirements of this Subcontract, including any changes to the description of the work, and to issue any notices and approvals required by this Subcontract.

- B. University Technical Representative. [Name of Technical Representative] is the University Technical Representative for this Subcontract. The University Technical Representative is the person designated to interpret and clarify the technical requirements, but is not authorized to make changes to the work or to modify any of the terms and conditions of this Subcontract, including those related to the completion schedule or pricing.
- C. University Project Representative. [Name of Project Representative] is the University Project Representative for this Subcontract. The University Project Representative is the person designated to monitor performance of the work, but is not authorized to make changes to the work or to modify any of the terms and conditions of this Subcontract, including those related to the completion schedule or pricing.
- D. Closeout. The Subcontractor shall, as a condition of full payment, assist the University after the completion of the work in accomplishing the administrative closeout of this Subcontract, including, as necessary or required, the furnishing of documentation and reports, the disposition of property, the disclosure of any inventions, the execution of any required documents (including an *Assignment and Release* form if this form is an incorporated document), the performance of any audits, and the settlement of any interim or disallowed costs.

ARTICLE 8 –FURNISHED AND ACQUIRED PROPERTY

- A. University Furnished Property. The University will furnish the following U.S. Government Property for use as required under this Subcontract:

NONE [OR list/describe below. Include items to be furnished or were previously acquired with federal funds under a previous contract or subcontract and will be used on this subcontract.]

<u>Barcode #</u>	<u>Description</u>	<u>Make/ Model</u>	<u>Quantity</u>
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- B. Subcontractor Acquired Property. The Subcontractor is authorized to acquire, fabricate, or provide the tangible personal property items identified in the Subcontractor’s proposal for use under this

Subcontract, including the items listed below. The Subcontractor shall not acquire other tangible personal property for use under this Subcontract without the University Procurement Representative's advanced written approval.

NONE [OR list/describe SAP below that:

(1) Are on the Sensitive Property List, or are high risk and/or require special coordination before the award (per SP 45.1).

(2) Won't be consumed or incorporated into the Order Item(s) and so must be delivered to LBNL or otherwise dispositioned after Subcontract expiration.]

<u>Description</u>	<u>Make/ Model</u>	<u>Quantity</u>	<u>Est. Value</u>
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\$

The Subcontractor shall notify the University Procurement Representative upon receipt of Subcontractor Acquired Property (SAP) listed above and upon receipt of future authorized SAP acquisitions. These notifications shall include a detailed description of each item to include the manufacturer, model & serial numbers, the quantity, the acquisition cost (including transportation and other related costs such as installation), dates of acquisition and receipt, and the specific location of the equipment (building and room numbers).

- C. Disposition. All University Furnished Property and Subcontractor Acquired Property (SAP) listed above shall be identified, utilized, accounted for, and protected in accordance with the *Property* clause (DEAR 970.5245-1) of the General Provisions. Disposition of such property shall be as directed by a University Property Representative. For such property, the Subcontractor shall submit, upon request, a completed *Final Property Certification* form, as incorporated herein or provided, confirming the property disposition.
- D. Notice. The Subcontractor must provide notice to the University prior to any removal or disposition of equipment or other property acquired in whole or in part with Federal funds received under this Subcontract or cost share or where DOE accepted such property as cost share under this Subcontract where the equipment or property fair market value at the end of the Subcontract exceeds \$5,000. In addition, the Subcontractor shall provide prompt notice to University if the Subcontractor intends to use such equipment for purposes other than the authorized purposes of the Subcontract.

[Optional—Include if items to be shipped to LBNL; if to be drop-shipped, change the shipping address. Reference SP 47.1 transportation for additional information. Ensure consistency between the selection below and the Price & Payment terms of the subcontract.]

ARTICLE 9 – SHIPPING REQUIREMENTS

[Include if Freight Prepaid; Select the FOB Type.]

- A. Shipping Terms. The shipping terms are FOB Destination **[OR] Origin (Note: destination is preferred)**, freight included/prepaid. All shipments shall be shipped via the Subcontractor's vehicles or a licensed common carrier selected by the Subcontractor, at the Subcontractor's expense.

[Include if Freight Included; Select the FOB Type.]

- A. Shipping Terms. The shipping terms are FOB Destination **(OR)** Origin. **(Note Destination is preferred)**, freight included. All shipments shall be shipped via the Subcontractor's vehicles or a licensed common carrier selected by the Subcontractor, at the Subcontractor's expense.

[Include if Freight Prepaid and Add; Select the FOB Type & Designate a Carrier, if known.]

A. Shipping Terms. The shipping terms are **FOB Destination** [OR] **Origin, freight prepaid and add.** All shipments shall be shipped via _____ [OR-If a carrier has not yet been identified] a **licensed common carrier selected by the Subcontractor**, at the University's expense.

[Include if Freight Collect; Select the FOB Type & Designate a Carrier, if known.]

A. Shipping Terms. The shipping terms are **FOB Destination** [OR] **Origin, freight collect.** All shipments shall be shipped via _____ [OR-If a carrier has not yet been identified] a **licensed common carrier selected by the University**, at the University's expense.

[Optional-Include if FOB Origin is a foreign shipping point.]

A. Shipping Terms. The shipping terms are **Delivered Duty Paid (DDP)** (per *Incoterms 2010*) to the delivery address. [OR-If duty free or LBNL is processing through customs] The shipping terms are **Delivered Duty Unpaid (DDU)** (per *Incoterms 2010*) to the delivery address. All shipments shall be shipped via a U.S. flag air carrier or U.S. ocean vessel and a U.S. licensed common carrier selected by the Subcontractor, at the Subcontractor's expense.

B. Shipping Address. All shipments shall be shipped to the following address:

Lawrence Berkeley National Laboratory
For the U.S. Department of Energy
One Cyclotron Road, Building 69
Berkeley, CA 94701

C. Shipping Point. The shipping point is: _____ (City, State or Foreign country).

[Optional-Include if shipping point is a foreign country and Incoterms are anything OTHER than DDP [which would require LBNL to process through customs].]

D. Customs Clearance. To facilitate customs clearance, 48 hours prior to vessel departure Subcontractor shall email or fax interfreight copies of the following documents to Aeronet Worldwide (broker identified below) and the University Procurement Representative (identified in the Subcontract):

- Bill of Lading
- Commercial Invoice
- Packing List

Aeronet Worldwide
850 Mitten Rd.
Burlingame, CA 94010
Phone: (650) 259-2155
Fax: (650) 259-2150
Email: SFOimport@aeronet.com

[Optional-Include if the Subcontract will involve on-site work]

ARTICLE # - LBNL SITE ACCESS REQUIREMENTS

A. All Subcontractor and lower-tier subcontractor employees requiring access to any LBNL-controlled facility or site are subject to DOE access restrictions. Any questions should be directed to either the subcontract designated Technical Representative or Procurement Representative.

B. The Subcontractor shall not assign foreign national (non-U.S. citizen) employees or other personnel to work at any LBNL-controlled facility or site who were born in, are citizens of, are employed or sponsored by or represent a government, company, institution, or other organization

based in a country on the Department of State's List of State Sponsors of Terrorism (<https://www.state.gov/j/ct/list/c14151.htm>) without prior written approval from DOE Headquarters. It is the Subcontractor's responsibility to monitor the Department of State's List for changes. Requests for access must be submitted to LBNL Site Access Office at least 180 days in advance to allow time for approval from the DOE.

- C. The University is also required by DOE to document all foreign national employees who were born in, are citizens of, are employed or sponsored by or represent a government, company, institution or organization based in a foreign country and who require access to an LBNL-controlled facility or site. To obtain site access, the Subcontractor must provide LBNL with the place of birth and citizenship for all foreign national employees/personnel working on this Subcontract who may access an LBNL-controlled facility or site prior to arrival. Employees/personnel from the DOE list of sensitive countries may need additional processing and/or be subject to specific restrictions as required by DOE Order 142.3A. Sensitive country processing and approval may take 30 days or longer.

[Optional]– Include if the Subcontract will involve on-site “hands-on” work. “Hands-on” work, per PUB-3000 Chapter 31, *Non-Construction Safety Assurance for Subcontractors, Vendors and Guests*, includes all on-site activities except administrative office work and similar activities. See the List of Examples of Hands-On Work Activities.

ARTICLE # – SUBCONTRACTOR SAFETY ASSURANCE

- A. The Subcontractor shall sufficiently prepare, and provide sufficiently trained personnel and resources, to perform the Services in a safe manner, and shall comply with DOE Acquisition Regulation (DEAR) 970.5223-1, *Integration of Environment, Safety, and Health into Work Planning and Execution*.

[Include this version of B. if the Requester has created an online sJHA for the Subcontractor to complete:]

- B. Upon award of the Subcontract, the Subcontractor shall complete and submit on-line a *Subcontractor Job Hazard Analysis and Work Authorization Form For Non-Construction* (sJHA) for all Services to be performed at any LBNL site, utilizing the following internet link: <http://sjha.lbl.gov/> **[Insert remainder of web link here]**. Instructions for completing the online sJHA are at <http://sjha.lbl.gov/>.

[Include this version of B. if the Subcontractor has an existing sJHA:]

- B. Upon award of the Subcontract, the Subcontractor shall complete and submit on-line a *Subcontractor Job Hazard Analysis and Work Authorization Form For Non-Construction* (sJHA) for all Services to be performed at any LBNL site, unless the University accepts an existing sJHA for the Services. Instructions for completing the online sJHA are available at: <http://sjha.lbl.gov/>.

[Include this version of B. if the Requester has NOT yet created an online sJHA for the Subcontractor to complete, and the onsite portion of the work will be completed after an extended period of offsite work, e.g. fabrications with installation:]

- B. Upon award of the Subcontract, the Subcontractor shall complete and submit on-line a *Subcontractor Job Hazard Analysis and Work Authorization Form For Non-Construction* (sJHA) for all Services to be performed at any LBNL site, utilizing an internet link provided by the University Technical Representative, unless the University accepts an existing sJHA for the Services. Instructions for completing the online sJHA are at <http://sjha.lbl.gov/>.

- C. The Subcontractor shall not commence the Services at any LBNL site until the University Technical Representative or a designee reviews the sJHA with the Subcontractor and approves the sJHA, authorizing commencement of the Services. For hazardous Services, the University may require additional authorizations before allowing performance of Services at an LBNL site. The Subcontractor may proceed with all other Services required by the Subcontract in preparation for performance of the Services at an LBNL site.
- D. The Subcontractor shall also ensure that all personnel who will perform the Services at an LBNL site review the brochure entitled *EH&S Orientation for Non-Construction Subcontractors, Vendors, and Visitors*, which is available at <http://www.lbl.gov/ehs/ssa/assets/docs/nssa/EHS-Orientation-Subcontractors-Vendors-Guests.pdf>.
- E. The University's review and approval of the sJHA and issuance of work authorizations will satisfy the requirement of DEAR 970.5223-1 for the Subcontractor to submit documentation of a safety management system that identifies, analyzes, and establishes controls for the hazards associated with the Services; however, it shall not be considered a determination of the adequacy of the Subcontractor's protections. Ensuring the adequacy of the protections for personnel at the work site, the public, and the environment shall at all times remain the responsibility of the Subcontractor.

[Optional-Include in Subcontracts for work involving activities not exempt per SP 28.2.]

ARTICLE # – INSURANCE

A. Types of Coverage

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

<u>Commercial General Liability Insurance</u>	<u>Minimum Limit</u>
• Per Occurrence	\$ 1,000,000
• Products/Completed Operations Aggregate	\$ 2,000,000
• Personal and Advertising Injury	\$ 1,000,000
• General Aggregate	\$ 2,000,000

[Optional Include the below Umbrella insurance in subcontracts for work to be performed at a Wareham leased facility, (e.g., Potter Street, 5885 Hollis Street #320 & 4th Floor, or 5858 Horton Street.)]

<u>Umbrella/ Excess Insurance</u>	<u>Minimum Limit</u>
• Per Occurrence	\$ 4,000,000

[Auto liability is required for all subcontracts for services performed at a Wareham facility. Auto liability is required for all other situations that require insurance, unless confirmed in writing that the Subcontractor's vehicles (owned, scheduled, non-owned or hired) will be used only for commute purposes and no University furnished U.S. Government owned vehicles are used.]

Business Automobile Liability Insurance

Minimum Limit

- Per Occurrence

\$ 1,000,000

The automobile liability insurance shall cover liability to third parties related to the Subcontractor’s use of any autos, including the Subcontractor’s use of, and any resulting loss or destruction of, or damage to, University-furnished U.S. Government owned vehicles.

[Remove Workers’ Compensation if it has been confirmed in writing that the Subcontractor is a sole proprietor, does not have any employees, and confirms that s/he does not consider him/herself an employee of LBNL/Regents.]

Workers’ Compensation as required under California or other applicable State law for any work not performed in California, and Employer’s Liability Insurance with a minimum limit of \$1,000,000 per accident and employee.

[Optional-include if the Services are for the Subcontractor’s professional expertise or advice.]

Professional Liability Insurance

Minimum Limit

- Per Claim
- Annual Aggregate

\$ 1,000,000

\$ 2,000,000

The professional liability insurance shall include an extended reporting period that covers work performed solely under this Subcontract for a period of three years following the end of performance of this Subcontract, and Contractual Liability coverage.

[Optional – Required for all moderate risk, and high risk construction projects, and all subcontracts if mold or hazmat related work is being performed. Also include if the Services involves working with or transporting hazardous materials, e.g. asbestos abatement. Contact Lab Counsel for coverage minimums and requirements.]

Pollution Liability Insurance

Minimum Limit

- Per Occurrence
- General Aggregate

\$ X,000,000

\$ X,000,000

[Optional-include if the Data Security document is to be incorporated.]

Privacy, Technology and Data Security Liability, Cyber Liability, or Technology Professional Liability Insurance

Minimum Limit

- Each Occurrence
- Annual Aggregate

\$ 1,000,000

\$ 5,000,000

Privacy, Technology and Data Security Liability, Cyber Liability, or Technology Professional Liability insurance policy shall provide coverage for privacy and data security breaches, including coverage for reasonable costs in investigating and responding to privacy and/or data breaches.

B. Insurance Certificate Requirements

1. Waiver of Subrogation Endorsement. The general, auto, [Y/N]and [Insert any other types of insurance requiring a waiver of subrogation, e.g., Professional, Pollution, and delete auto if not required (Waiver of Subrogation is not applicable to Workers’ Compensation Policies)]

liability insurance, by a valid endorsement, shall include a waiver of subrogation in favor of the University and the U.S. Government. Statements on the certificate providing a waiver of subrogation will not suffice, an endorsement is required.

2. Additional Insured Endorsement. The general, auto, [Y/N] and [Insert any other types of insurance requiring an additional insured, e.g. Pollution, and delete auto if not required (Additional Insured requirements are not applicable to Professional, Workers' Compensation Policies)] liability insurance, by a valid endorsement, shall designate "The Regents of the University of California and the U.S. Government" as additional insureds with respect to performance of this Subcontract by the Subcontractor and its lower-tier subcontractors. An endorsement naming additional insureds, as shown above, is required for umbrella policies when the underlying liability policies do not meet the stated requirements listed above. Statements on the certificate assigning additional insureds will not suffice, an endorsement is required. [Optional Include the below requirement in subcontracts for work to be performed at a Wareham leased facility, (e.g., Potter Street, 5885 Hollis Street #320 & 4th Floor, or 5858 Horton Street.)] A second insurance certificate must be provided for Wareham Development for services performed at their locations, and shall designate Wareham Property Group, Wareham Development, and their affiliated entities, which includes applicable property ownership(s) as additional insureds with respect to performance of this Subcontract by the Subcontractor and its lower-tier subcontractors. Statements on the certificate assigning additional insureds will not suffice, an endorsement is required.
3. Primary and Noncontributory Endorsement. The general liability insurance coverage, by a valid endorsement, shall be primary and noncontributory and shall not participate with or be in excess over any other valid collectible insurance or program of self-insurance of the University or the U.S. Government. Statements on the certificate designating the insurance as primary and noncontributory will not suffice, an endorsement is required.
4. Certificate Holder. The Certificate Holder shall be listed as follows. [Optional Include the below requirement in subcontracts for work to be performed at a Wareham leased facility, (e.g., Potter Street, 5885 Hollis Street #320 & 4th Floor, or 5858 Horton Street.)] A second insurance certificate must be provided for Wareham Development for services performed at their locations.

The Regents of the University of California and the U.S Government
Lawrence Berkeley National Laboratory
c/o Insurance Tracking Services, Inc. (ITS)
P.O. Box 20270
Long Beach, CA 90801

[Optional Include the below requirement in subcontracts for work to be performed at a Wareham leased facility, (e.g., Potter Street, 5885 Hollis Street #320 & 4th Floor, or 5858 Horton Street.)]

Wareham Property Group
Wareham Development
1120 Nye Street, Suite #400
San Rafael, CA 94901

5. Rating. The required insurance shall be obtained from insurance companies authorized to do business in California that have an A.M. Best rating of A: VII or better, or an equivalent Standard & Poor's rating of AA or better or Moody's rating of Aa or better; or that are acceptable to the University.
6. Deductible. The certificate must state the deductible for the General Liability and Automobile Liability policies.
7. Self-Insurance Retention. The insurance shall not be subject to a self-insurance retention (SIR) or deductible of \$100,000 or more without the written approval of the University Procurement Representative. Prerequisite to obtaining written approval of self-insurance retention (SIR) or deductible of \$100,000 or more, Subcontractor shall submit to the University Procurement Representative a Certificate of Self Insurance, and a copy of the subcontractor's independent recent CPA audited or reviewed set of financial statements, including a balance sheet with the CPA's report, each acceptable to the University. If any of the insurance is written on a claims-made form, it shall continue for three years following completion or termination of this Subcontract and provide for a retroactive date of placement prior to or coinciding with the effective date of this Subcontract.
8. Applicability. The insurance certificates submitted may be able to be applied to future LBNL Subcontracts, and it is preferred that it not be made applicable, or reference, a specific Subcontract.

C. Notification

The Subcontractor or its insurers shall provide written notification to the University Procurement Representative and Insurance Tracking Services, Inc. (ITS) at least 30 days in advance of any modification, change, or cancellation of any of the insurance coverage.

[Select the following version of Section D if a certificate is required.]

D. Certificate Submission

The University has contracted with Insurance Tracking Services, Inc. (ITS), a third-party responsible for verifying the Subcontractors compliance with the insurance requirements contained in the subcontract with the University.

ITS will correspond directly with the Subcontractor to convey insurance deficiencies, policy renewal requests and any other insurance documentation that may be lacking in order to establish full compliance with the University's insurance requirements.

Prior to commencing any Services at a location other than the Subcontractor's or lower-tier subcontractor's facilities, the Subcontractor shall provide certificate(s) of insurance and any necessary endorsements or other documentation confirming the required insurance coverage, by submitting them to the University's authorized insurance compliance monitoring representative, ITS at lbl@instracking.com, or fax to (562) 435-2999, or mail to:

The Regents of the University of California and the U.S Government
Lawrence Berkeley National Laboratory
c/o Insurance Tracking Services, Inc. (ITS)
P.O. Box 20270
Long Beach, CA 90801

[OR- Select the following version of Section D if a certificate is not required per SP 28.2; i.e., if the work is for more than \$25K but it is on the DCSL and will be in a Normal-Hazards Work Area, or it is repair, maintenance, or calibration work on unmodified products by the manufacturer or manufacturer-trained or authorized personnel in a Non-Hazard Work Area.]

D. Certificate Submission

The University has contracted with Insurance Tracking Services, Inc. (ITS), a third-party responsible for verifying the Subcontractors compliance with the insurance requirements contained in the subcontract with the University.

ITS will correspond directly with the Subcontractor to convey insurance deficiencies, policy renewal requests and any other insurance documentation that may be lacking in order to establish full compliance with the University's insurance requirements.

Upon request by the University Procurement Representative, the Subcontractor shall provide certificate(s) of insurance and any necessary endorsements or other documentation confirming the required insurance coverage, by submitting them to the University's authorized insurance compliance monitoring representative, ITS at lbl@instracking.com or fax to (562) 435-2999, or mail to:

The Regents of the University of California and the U.S Government
Lawrence Berkeley National Laboratory
c/o Insurance Tracking Services, Inc. (ITS)
P.O. Box 20270
Long Beach, CA 90801

E. Lower-Tier Subcontractor Insurance

[Include the below requirement for work performed on laboratory premises or facilities not controlled by the Subcontractor]

The Subcontractor shall require its lower-tier subcontractors performing work at the worksite to maintain general, automobile, and employer's liability insurance with a minimum per-occurrence or aggregate limit of \$1,000,000, as well as Workers' Compensation insurance at the statutory limit, and to confirm the required coverage before allowing the work at the worksite to commence.

[Include the below requirement in subcontracts for work to be performed at a Wareham leased facility, (e.g., Potter Street, 5885 Hollis Street #320 & 4th Floor, or 5858 Horton Street.)

The Subcontractor shall require its lower-tier subcontractors performing work at the worksite to maintain general, automobile, and employer's liability insurance with a minimum per-occurrence or aggregate limits defined above, as well as Workers' Compensation insurance at the statutory limits, and any endorsements required, and to confirm the required coverage before allowing the work at the worksite to commence.

Prior to commencing any Services, the Subcontractor shall furnish Wareham Development with certificates, and endorsements evidencing lower tier subcontractor's compliance with the insurance requirements above.

[Optional – Include ‘F. Identified Work Not Requiring Insurance’, as required for the subject subcontract.]

F. Identified Work Not Requiring Insurance

The following work has been separately identified and may commence upon Subcontract effective date without the submission and acceptance of an insurance certificate:

[State what work is allowable, if any, for immediate performance without insurance]

[Optional–Include if the Subcontract involves delivery or on-site use of any hazardous materials (i.e., any item or chemical which is a “health hazard” or “physical hazard” as defined by OSHA in 29 CFR 1910.1200.)

ARTICLE # - SAFETY DATA SHEETS - HAZARDOUS MATERIALS

The Subcontractor shall make available to the University, upon request, Safety Data Sheets (SDS) for products, including any chemicals or chemical products, compounds or mixtures, furnished or used on-site under this Subcontract and deemed by the Federal Occupational Safety and Health Administration (OSHA) to contain potentially harmful substances as defined in 29 CFR 1910.1200.

[Optional–Include if any technical data must be submitted for the University’s approval.]

ARTICLE # – 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.

Unless otherwise specified, the University requires a period of 10 working days from date of receipt to review and approve the data. If the University does not approve the data within the allotted time period, the parties will establish a new time period for review and approval of the data and, if necessary, the delivery schedule or completion date will be equitably adjusted.

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 # - PATENT RIGHTS AND RIGHTS IN DATA

The term “NAWI Funding” includes all Federal funding and cost share in support of NAWI. The Subcontractor is responsible for providing all rights, and meeting the NAWI requirements and obligations as an entity receiving or contributing to NAWI Funding under the University’s Work Authorization. Subcontractor agrees that the following Program Requirements apply to Subcontractor under the Work Authorization for Subcontractor’s participation in NAWI and Subcontractor’s Hub activities:

1. Appendix H – U.S. Manufacturing Plan in the incorporated NAWI Research Consortium Agreement and the incorporated “National Alliance Water Innovation Hub – Patent Rights Clause

for Domestic Small Businesses, Universities and other Nonprofit Organizations” apply to this Subcontract, and are incorporated in Article # Incorporated Documents. The requirement and enforcement of the U.S. Manufacturing Plan is in accordance with the Determination of Exceptional Circumstances (DEC) executed by DOE on September 11, 2013. This Patent Rights clause has been modified to include the following paragraph:

(m) U.S. Manufacturing Plan

(1) The Contractor shall comply with the U.S. Manufacturing Plan that was part of the application used to secure this contract. In accordance with the U.S. Manufacturing Plan:

The Contractor agrees that any products embodying or produced through the use of any Subject Invention will be manufactured substantially in the United States, unless the Recipient can show to the satisfaction of DOE that it is not commercially feasible to do so. In the event DOE agrees to foreign manufacture, there will be a requirement that the Government's support of the technology be recognized in some appropriate manner, e.g., recoupment of the Government's investment, etc. The Contractor further agrees to make the above commitment binding on any assignee or licensee or any entity otherwise acquiring rights to any Subject Invention, including subsequent assignees or licensees.

(2) The above commitment does not apply to a Subject Invention that the Government has title pursuant to this patent rights clause due to Contractor electing not to take title, fails to file a patent application or decision not to continue patent protection for the Subject Invention.

(3) Upon breach of the above commitment, the Government may take title of all Subject Inventions of the Contractor.

2. If any lower-tier subcontractor is contemplated, Subcontractor or their lower-tier subcontractor must contact University to determine the proper Patent Rights and Rights in Data clauses that must be flowed down to the lower-tier subcontractor.

ARTICLE # - SITE VISITS AND PRELIMINARY INSPECTION

University and AMO TM (or their authorized representatives) reserves the right to make site visits at locations where the work is conducted at reasonable times to review project accomplishments and management control systems and to provide technical assistance, if required. Subcontractor must provide any information, documents, site access, or other assistance requested by University and AMO TM or their authorized representatives for the purpose of their Federal stewardship or substantial involvement in the Hub. Subcontractor must provide reasonable access to facilities, office space, resources, and assistance for the safety and convenience of University and AMO TM or their authorized representatives in the performance of their duties. University and AMO must provide at least five (5) business days’ notice prior to such site visit reviews along with an agreed upon scope of such site visit review. All site visits and evaluations must be performed in a manner that does not unduly interfere with or delay the work.

[Optional–Include if the Subcontract involves non-sensitive, prudent to protect data (See Data Security Desk Guide)]

ARTICLE # – ACCESS TO UNIVERSITY DATA, COMPUTERS AND NETWORK RESOURCES

- A. **General Standard of Care.** Subcontractor agrees to handle all access to University Computer, Network, Data and Information resources (collectively referred as “Information Resources”) with due care to protect those resources against foreseeable confidentiality, integrity, and availability risks. As such, Subcontractor shall deploy commercially reasonable measures, including technical, administrative, and physical controls to protect those Information Resources pursuant to industry standard information security practices. In implementing those controls, subcontractor shall balance the nature of the risks of loss of confidentiality, availability, and/or integrity against the costs of implementing commercially reasonable, industry standard measures to mitigate those risks as well as monitor and audit those controls to ensure they function as intended.
- B. **Applicable University Policies When Accessing University Resources.** Access to University Information Resources by the Subcontractor shall be in accordance with and subject to Lawrence Berkeley National Laboratory (LBNL) information technology policies and procedures, including, but not limited, to the policies found at <http://go.lbl.gov/itpolicy>. The University information technology policies and procedures are applicable whether such access occurs at LBNL, at the Subcontractor's facility, or elsewhere.
- C. **Scope of Access.** Access to Resources by the Subcontractor is only permitted as required to perform the work authorized under this Subcontract. Information Resources which are not designated for access by Subcontractor may not be accessed without specific written permission from the Requester or University Technical Representative.
- D. **Monitoring.** Consistent with University Policies, any or all uses of Information Resources may be intercepted, monitored, recorded, copied, audited, inspected, retained, and disclosed to authorized University and the Department of Energy (DOE), and Law Enforcement personnel. The University also reserves the right to review the contents of all files on University computers. Subcontractor will inform its employees that they have no expectation of privacy when using University Information Resources.
- E. **Security Incident Reporting.** The Subcontractor shall provide prompt notification to the Requester or University Technical Representative of any incidents impacting University Information Resources, suspected or otherwise.
- F. **Intellectual Property.** Unless specifically stated, all information or data furnished by the University or obtained from or developed on University Resources by the Subcontractor remains the property of the University. Upon completion or termination of the Subcontract, all University information or data must either be returned or disposed of as agreed upon by the Subcontractor and the University.

ARTICLE # – ENVIRONMENTALLY PREFERABLE PRODUCTS AND SERVICES

[Include the following un-lettered version of Paragraph “A” if Paragraph B, C, or D Are NOT included.]

In the performance of this Subcontract, the Subcontractor shall specify, furnish, and use environmentally preferable products and services (i.e., products and services with a lesser or reduced effect on human health and the environment), to the maximum possible extent consistent with the Subcontract requirements

and the intended end use of the products or services. Information on environmentally preferable products and services is available at: <https://www.epa.gov/contracts/greening-government-procurement>.

The Subcontractor agrees to use good faith efforts to utilize smart-size packing; to customize box sizes in order to reduce packaging waste, and to minimize the number of shipments per order. Recycling practices and methods should be used to minimize the adverse effects on the environment. The Subcontractor shall use every reasonable effort to use cardboard and paper-based packaging materials for shipments to the University.

[OR, Include the following lettered version of Paragraph “A” if Paragraph B, C, or D ARE included.]

- A. General. In the performance of this Subcontract, the Subcontractor shall specify, furnish, and use environmentally preferable products and services (i.e., products and services with a lesser or reduced effect on human health and the environment), to the maximum possible extent consistent with the Subcontract requirements and the intended end use of the products or services. Information on environmentally preferable products and services is available at: <https://www.epa.gov/contracts/greening-government-procurement>.

The Subcontractor agrees to use good faith efforts to utilize smart-size packing; to customize box sizes in order to reduce packaging waste, and to minimize the number of shipments per order. Recycling practices and methods should be used to minimize the adverse effects on the environment. The Subcontractor shall use every reasonable effort to use cardboard and paper-based packaging materials for shipments to the University.

[“B” is Optional–Include if the Subcontract will involve any EPA-Designated Item(s). EPA-Designated Items are types of items containing recovered / recycled materials, including construction, landscaping, nonpaper office, paper and paper products, park and recreation, transportation, vehicular, and miscellaneous products. If included, enter the “green purchasing” information on the PeopleSoft PO line (Attributes tab).]

- B. EPA-Designated Items

The Subcontractor shall specify, furnish, and use products containing recovered materials that are EPA-designated items if they can be acquired (1) competitively within a timeframe providing for compliance with the Subcontract performance schedule; (2) meeting Subcontract performance requirements; or (3) at a reasonable price.

“EPA-designated item” means a product that is or can be made with recovered material. The product categories include: building and construction, carpets, cleaning, electronics, fleets, food services, landscaping, meetings and conferences, office supplies, and paper. They are listed by the EPA in a comprehensive procurement guideline at 40 CFR Part 247 and <https://www.epa.gov/smm/product-resource-guides-comprehensive-procurement-guideline-cpg-program>, and the EPA has provided purchasing recommendations in related Recovered Materials Advisory Notices (RMANs), available at <https://www.epa.gov/smm/consolidated-recovered-materials-advisory-notices-rmans-comprehensive-procurement-guidelines-cpg>.

“Recovered material” means some or all of the material of a product comes from material that was recovered or diverted from solid waste streams, excluding materials and by-products reused within an original manufacturing process.

If this Subcontract exceeds \$100,000, the Subcontractor shall, within 30 days of completion of the Subcontract, submit a report to the University Procurement Representative the University’s

Sustainability Representative (Business-Assurance-Sustainable@lbl.gov) summarizing any EPA-designated item(s) delivered or furnished and used in performance of the Subcontract, consisting of the following:

1. The total dollars spent for the EPA-designated item(s), and
2. An estimated percentage of the total recovered material in the EPA-designated item(s), including, if available, the percentage of post-consumer material content (i.e., material used as a consumer item and discarded for disposal or recovery).

If EPA-designated item(s) were available but not delivered or furnished and used, the Subcontractor shall provide a written explanation, based on the reasons listed above.

A sample format will be provided to the Subcontractor by the University Procurement Representative.

["C" is Optional—Include if the Subcontract will involve any Energy-Consuming Products. If included, enter the “green purchasing” information on the PeopleSoft PO line (Attributes tab). Energy-Consuming Products are products listed in the Energy Star Program or FEMP at the web sites listed below.]

C. Energy-Consuming Products

The Subcontractor shall ensure that energy-consuming products are energy efficient products if the products are: (1) delivered to the University hereunder; (2) acquired by the Subcontractor for use in performing services at an LBNL facility; (3) furnished by the Subcontractor for use by the University; or (4) specified in the design of a building or work, or incorporated during its construction, renovation, or maintenance.

“Energy efficient product” means a product that (i) meets the criteria for use of the Energy Star trademark label, or (ii) is in the upper 25 percent of efficiency for all similar products as designated by the DOE Federal Energy Management Program (FEMP).

This requirement applies unless: (1) the energy-consuming product is not listed on the following ENERGY STAR® Program or FEMP web sites, or (2) otherwise approved in writing by the University Procurement Representative.

ENERGY STAR®: <http://www.energystar.gov/products>

FEMP: <https://energy.gov/eere/femp/federal-energy-management-program>

["D" is Optional—Include if the Subcontract will involve any USDA-Designated Biobased Products. If included, enter the “green purchasing” information on the PeopleSoft PO line (Attributes tab).]

D. Biobased Products

The Subcontractor shall make maximum use of biobased products that are U.S. Department of Agriculture (USDA) designated items unless the product (1) cannot be acquired: (a) competitively within a time frame providing for compliance with the Subcontract performance schedule, (b) meeting the Subcontract performance requirements, or (c) at a reasonable price; or (2) is otherwise exempt per 7 CFR 2902.10, et seq.

A biobased product is a product determined by the USDA to be a commercial or industrial product (other than food or feed) composed, in whole or in significant part, of biological products, including renewable domestic agricultural materials (including plant, animal, and marine materials) or forestry materials. Biobased products include building materials, construction and road maintenance materials, furniture and furnishings, houseware and cleaning supplies, industrial

supplies, landscaping and agriculture materials, office supplies, personal care items, and outdoor gear.

A catalog of biobased products is available at:

<http://www.biopreferred.gov/BioPreferred/faces/pages/AboutBioPreferred.xhtml>

[“E” is Optional–Include if the Subcontract will involve any imaging equipment, televisions or personal computer products. If included, enter the “green purchasing” information on the PeopleSoft PO line (Attributes tab).]

E. Electronic Product Environment Assessment Tool (EPEAT)

The Subcontractor shall only furnish to the University, or acquire for use at federally-controlled facility, imaging equipment, televisions and personal computer products, as defined in FAR 52.223-13, -14 and -16, under this Subcontract that are EPEAT Bronze registered or higher. EPEAT Bronze is the first level specified in clause 1.4 of the *IEEE 1680 Family of Standards for Environmental Assessment of Personal Computer Products*. For information about the standard, see www.epa.gov/epeat.

The Subcontractor shall submit quarterly EPEAT reports by the 15th of January, April, July and October, and annual reports by October 15 in a format approved by the University Procurement Representative. These reports must contain a list purchases of electronic products categories that are covered by EPEAT program—whether they are granted EPEAT Gold, Silver, or Bronze status or not. The searchable EPEAT registry can be found online here: <http://ww2.epeat.net/searchoptions.aspx>.

Lawrence Berkeley National Laboratory
Attention: [Intended Recipient; see below]
One Cyclotron Road, Mail Stop [see below]
Berkeley, CA 94720

<u>Recipient</u>	<u>Mail Stop</u>	<u>Email</u>
[Insert UPR Name]	971-PROC	[Insert UPR Email] @lbl.gov
Business Assurance Sustainable	971-PROC	Business-Assurance-Sustainable@lbl.gov

[Optional - Include if the FAR 52.222-54 “E-Verify” Clause applies, the Subcontract has a period of performance / term of 30 days or more, and the Subcontractor’s or eligible lower-tier subcontractor’s enrollment(s) have not been verified.]

Delete Paragraph 1 if the Subcontractor is a self-employed individual or its enrollment has been verified, but the lower-tier subcontractors’ enrollment(s) have not been verified.

Delete Paragraph 2 if there are no lower-tier subcontracts, other than with self-employed individuals, or the lower-tier subcontractors’ enrollment(s) have been verified.

The E-Verify Clause applies if the Subcontract is for any SERVICES (commercial or non-commercial) or CONSTRUCTION in the U.S. exceeding \$3,500, EXCLUDING ‘commercial services’ that is (1) part of a purchase of a ‘commercial-off-the shelf’ (COTS) item (including minor modifications), (2) normally provided for that COTS item and performed by the Subcontractor.]

ARTICLE # - E-VERIFY PROGRAM ENROLLMENT

Pursuant to the *Employment Eligibility Verification* clause of the General Provisions (FAR 52.222-54), the Subcontractor shall:

1. Enroll as a federal contractor in the online E-Verify System at: <https://e-verify.uscis.gov/enroll>, and within 10 days of award of this Subcontract provide the University Procurement Representative with written verification of the enrollment, such as a copy of the Subcontractor's "Company Information" page from the E-Verify System.
2. Include the clause in each lower-tier subcontract for construction or services exceeding \$3,500, as required by the clause (excluding those with self-employed individuals), and within 10 days of award thereof provide the University Procurement Representative with written verification of the subcontractor's enrollment in the E-Verify System.

[Optional-Include for subcontracts less than \$150K, and a completed Representations and Certifications form was NOT obtained from the Subcontractor.]

ARTICLE # – ELIGIBILITY CERTIFICATION

By acceptance of this Subcontract, the Subcontractor certifies that:

- A. To the best of its knowledge and belief, it and its principals are not presently debarred, suspended, proposed for debarment, or declared ineligible by any agency of the federal government for the award of contracts (including subcontracts); and
- B. To the extent it has had previous U.S. Government contracts or first-tier subcontracts subject to the *Equal Opportunity* clause (FAR 52.222-26) of the General Provisions, it has developed and has on file all written affirmative action programs and it has filed all prescribed compliance reports, as required by the rules and regulations of the Secretary of Labor (41 CFR 60-1 and 60-2).

[Optional-Include if the subcontract exceeds \$3,500 unless work involves emergency operations, such as responses to natural or environmental disasters or national or civil emergencies, or the subcontract is with an individual for work performed outside the U.S. If this clause is applicable, include in the subcontract even if subcontractor's enrollment has been verified prior to award.]

ARTICLE # – SYSTEM FOR AWARD MANAGEMENT (SAM)

By acceptance of this Subcontract, the Subcontractor certifies that it will be registered in the SAM database (www.sam.gov) within 30 days of subcontract award per Federal Acquisition Regulation (FAR) 52.204-7, *System for Award Management*, and acknowledges the requirement heretofore to maintain said registration in the database in accordance with FAR 52.204-13, *System for Award Management Maintenance*, during performance of this subcontract. The Subcontractor is responsible for the accuracy and completeness of its data within the SAM database in accordance with the stated requirements. In any event, failure to complete the registration within the required timeframe or to maintain such registration throughout subcontract performance is considered a breach of subcontract.

ARTICLE # – EXPORT CONTROL NOTIFICATION

Under no circumstances may foreign entities (organizations, companies or persons) receive export controlled information, software, equipment, components, systems or material unless proper export control procedures have been satisfied. The Subcontractor will ensure measures that properly protect export controlled items are in place as required by the NAWI Export Control Plan – Appendix C in the incorporated NAWI Research Consortium Agreement.

ARTICLE # - FOREIGN GOVERNMENT TALENT RECRUITMENT PROGRAMS (FG RTP)

The Subcontractor must comply with the requirements of the Contractor Requirements Document (CRD) (Attachment 1) in DOE Order 486.1, *Department of Energy Foreign Government Talent Recruitment Programs*.

Subcontractor must provide a signed certified statement to the University annually, based on Subcontractor's due diligence, that none of Subcontractor's personnel working under this Subcontract is a participant in foreign government talent recruitment programs of countries designated by DOE as a foreign country of risk.

All notifications required by paragraph 2 of the CRD must be sent to the University Procurement Representative via email. An initial notification and signed certification is due within 30 calendar days after the University signed the Subcontract and must state whether or not anyone performing work on this Subcontract is, or is believed to be, a participant in a foreign government talent recruitment program of any foreign country of risk (while DOE has identified countries of risk, each participant's FGTRP activity should be disclosed). To the extent corporate resources are made available under the subcontract, the individuals made available as corporate resources must be included in any required notification or reporting by the subcontractor. This provision does not apply to ministerial corporate resource support (e.g., HR, legal, travel personnel, timekeeping personnel, benefits, etc.).

All positive notifications must include the following information:

1. The name of the government that is sponsoring the FGTRP
2. The name of the organization or talent recruitment program that the employee is working with
3. The nature of the employee's responsibilities under this FGTRP
4. The duration of the employee's commitment under the FGTRP
5. The amount of compensation the employee(s) is receiving as a result of participating in the FGTRP
6. A complete copy of any agreement that the employee(s) have signed under the FGTRP

All quarterly reporting required by paragraph 3 of the CRD must be sent to the Laboratory Procurement Representative via e-mail. The quarterly reports are due by the first business day of the last month of each calendar quarter (March, June, September and December). The quarterly report must include the following information:

1. Names of any employee found during the previous 3 months who is performing work under this Agreement on or at a DOE or National Nuclear Security Administration (NNSA) site or facility, including DOE or DOE/NNSA Contractor leased space, including any LBNL facility, and who is a participant in a foreign government talent recruitment program of any foreign country of risk
2. Statement as to whether any of the employees named above were not part of a previously submitted notification
3. The required notification information listed above if not previously submitted

If the University does not receive a statement or report from the Subcontractor by a quarterly reporting deadline, the Subcontractor is certifying that there is no change in disclosure status to report.

During period of performance of this Subcontract, Subcontractor must continue to exercise due diligence and annually file reports with signed certifications to DOE on whether there is a reasonable basis to report that any individual on the project team is a participant in a foreign government talent recruitment program of a foreign country of risk. Further, under the Research Consortium Agreement Appendix D – Conflict of Interest Plan, Subcontractor must notify NAWI through the University Project Representative within five (5) business days upon learning that an individual on the Subcontractor's project team is or is believed to be participating in a foreign government talent recruitment program of a foreign country of risk.

All individuals on Subcontractor's project team must submit a signed statement to Subcontractor within the first quarter of Budget Period 1 or within thirty days of joining the project team, which (1) certifies the individual is not a participant in a foreign government talent recruitment program of a foreign country

of risk, (2) discloses the individual's ties to foreign universities, private entities and governments of countries designated by DOE as foreign country of risk, and (3) requires the individual to provide an updated signed statement should the individual's circumstances change in a manner that would impact the accuracy of the individual's earlier signed statement. Subcontractor must certify to the University that no individuals on their project team are participants in a foreign government talent recruitment program of a foreign country of risk. Upon request by University, the Subcontractor will provide the signed statements submitted by the individuals.

[Optional – Include if Subcontractor is allowed to subcontract to lower-tier subcontractors]

ARTICLE # - FLOW DOWN REQUIREMENTS

- A. Foreign Involvement. Subcontractor agrees that all work under this Subcontract must be performed by eligible domestic entities, including its lower-tier subcontractors. To be eligible, all participants, including Consortium Members, lower tier subcontractors, and CRADA participants, in the Hub must be incorporated (or otherwise formed) under the laws of a State or territory of the United States with majority domestic ownership or control and have a physical place of business in the United States. Entities who do not meet these requirements are considered foreign entities.

Subcontractor agrees to seek and obtain a foreign entity waiver approved by NAWI for any lower-tier subcontractor that is not an eligible domestic entity. The waiver request must follow the process detailed in the incorporated NAWI Foreign Entity Participation Plan as part of the consortium agreement.

All work performed under this Subcontract must be performed in the United States unless a foreign work waiver is obtained. The Subcontractor must flow-down this requirement to its collaborators or other entities performing work on its behalf for NAWI or providing cost share, except to a DOE National Laboratory. The Subcontractor shall advise the University Project Representative if the a lower-tier subcontractor is proposing to conduct work outside of the United States prior to conducting such work. The Subcontractor is responsible for submitting the required request to NAWI through the University Project Representative for obtaining a foreign work waiver, if applicable.

- B. NAWI Flow Down Requirements. In addition to the other applicable terms contained herein, Subcontractor agrees to flow down NAWI specific program requirements to its lower-tier subcontractors performing research and development and demonstration or providing services specifically identified in the following sections:
- a. Introduction, Articles 1-4; 5.A.3; 8.C; 8.D;
 - b. Patent Rights and Rights in Data Article #;
 - c. Site Visits and Preliminary Inspection Article #;
 - d. Export Control Notification Article #;
 - e. Foreign Government Talent Program Article #;
 - f. Flow Through Requirements Article #;
 - g. Incorporated Documents Article #; and
 - h. Any additional Program Requirements within the Scope of Work identified as required.

[Optional–Include if no Reps/Certs have been obtained]

ARTICLE # – REPRESENTATION REGARDING CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

By acceptance of this Subcontract, the Subcontractor certifies that:

It will not provide “covered telecommunications equipment or services” as defined in FAR 52.204-25 to the Government in the performance of this subcontract. Covered telecommunications equipment or services, critical technology, and substantial or essential component, have meanings provided in clause 52.204-25. Covered telecommunications equipment or services means (1) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities); (2) For the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company (or any subsidiary or affiliate of such entities); (3) Telecommunications or video surveillance services provided by such entities or using such equipment; or (4) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

ARTICLE # - INCORPORATED DOCUMENTS

The following documents are hereby incorporated as a part of this Subcontract. The order of precedence for each document must be as specified in Clause 12 – Entire Agreement and Order of Precedence in the General Provisions. The documents marked with an asterisk are available at:

<http://procurement.lbl.gov/supplier-forms/>

- _____ [Title of the Technical Scope/Spec Document/Statement of Work] _____, dated _____
- National Alliance Water Innovation Hub – Patent Rights Clause for Domestic Small Businesses, Universities and other Nonprofit Organizations* [If Subcontractor is Large Entity, include National Alliance Water Innovation Hub – Patent Rights Clause for Domestic Large Businesses in accordance with W(C) 2016-004*]
- [NAWI Consortium Agreement, including its Operative Documents \(Appendices A-J\)](#) dated February 12, 2020
 - Appendix A – Intellectual Property Management Plan (IPMP)
 - Appendix B – Non-Disclosure Agreement (NDA)
 - Appendix C – Export Control Plan
 - Appendix D – Conflict of Interest Plan
 - Appendix E – Publication Plan
 - Appendix F – Data Management Plan
 - Appendix G – Communications Plan
 - Appendix H – U.S. Manufacturing Plan
 - Appendix I – Foreign Entity Participation Plan
 - Appendix J – Current Consortium Members
- [Include if there is a CRADA partner identified on NAWI tracking sheet or requisition.] Cooperative Research and Development Agreement (CRADA), dated _____
- [Optional: Include if there is a small business subcontracting plan for subcontracts over \$700K.] Small Business Subcontracting Plan, dated _____

- **[Optional–Include if any GFP or SAP is listed in the Property Article.]**Final Property Certification Form, dated 7/9/14*
- Invention Reporting and Patent Responsibility *
- [NAWI Invoicing Cover Sheet](#)
- **[Optional–Include if Subcontract exceeds \$150,000]**Assignment and Release Form, dated 4/26/13 *
- **[Optional-Include if Subcontractor does not have an acceptable travel policy]**Subcontractor Guide to Reimbursable Travel Expenses, dated 9/27/18 *
- **[Optional – Include if Insurance and an insurance certificate is required]** Insurance Certificate Instructions, dated 7/26/18*

ARTICLE # - GENERAL PROVISIONS

The following General Provisions are incorporated by reference into this Subcontract and are available at: <http://procurement.lbl.gov/welcome-to-procurement-property/become-a-supplier/general-provisions/>.

- A. General Provisions for Standard Research Subcontracts, dated 6/1/2020 are incorporated by reference into this Subcontract and are available at: <http://procurement.lbl.gov/welcome-to-procurement-property/become-a-supplier/general-provisions/>.
- B. The FAR and DEAR clauses listed in the *Clauses Incorporated by Reference* clause of the 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.

[If Subcontractor is an Institute of Higher Education (IHE) and the criteria listed below applies, you can, with specific Legal Counsel approval, include the following provision to add Alternate IV of FAR Clause 52.227-14, Rights in Data-General, and delete paragraph (d)(3) of DEAR 927.409, thus allowing the Subcontractor to claim the copyright to any data it produces under the Subcontract. The criteria are: (1) the Subcontractor is an Institution of Higher Education, (2) software is not being developed/modified and delivered, and (3) the Technical Representative agrees.]

- C. The reference for FAR Clause 52.227-14, *Rights in Data-General*, in the *Clauses Incorporated by Reference* clause of the General Provisions is hereby revised to add Alternate IV and remove paragraph (d)(3) of DEAR 927.409. The additional statements accompanying the reference are unchanged. The revised reference shall read as follows:

FAR 52.227-14 RIGHTS IN DATA-GENERAL (DEC 2007), with Alternates IV & V
and substituting Paragraph (a) with DEAR 927.409(a). *Definitions*

- D. The reference for DEAR Clause 52.227-11, *Patent Rights – Retention By the Contractor (Short Form) (Mar 1995)*, in the *Clauses Incorporated by Reference* clause of the General Provisions is hereby deleted. The National Alliance Water Innovation Hub – Patent Rights Clause for Domestic Small **[Large]** Businesses, Universities and other Nonprofit Organizations are incorporated and shall apply.

[Optional – Include the following if adding additional FAR or DEAR clauses]

- E. The following clauses is/are hereby added to the *Clauses Incorporated by Reference* clause of the General Provisions, under the “Applicable to all Subcontracts” section:

[Select the following appropriate version of the lettered paragraph if the subcontract is >\$2M.]

[If the Subcontract is >\$2M, is not eligible for an exemption per a submitted CAS Notices & Certification and the Subcontractor is an Education Institution.]

- X. The cost accounting standards requirements apply to this Subcontract and the Subcontractor is an institution of higher education. Accordingly, the *Cost Accounting Standards- Education Institution* and *Administration of Cost Accounting Standards* clauses of the General Provisions (FAR 52.230-5 and -6) shall apply. FAR clauses 52.230-2 and -3 shall not apply.

[If the Subcontract is EXEMPT from CAS, per a submitted CAS Notices & Certification.]

- X. The cost accounting standards requirements do not apply to this Subcontract. Accordingly, the related clauses of the General Provisions (FAR 52.230-2, -3, -5, and -6) shall not apply.

[If the Subcontract is subject to Full CAS coverage (non-profit subcontractors only).]

- X. The cost accounting standards, full coverage requirements apply to this Subcontract. Accordingly, the *Cost Accounting Standards* and *Administration of Cost Accounting Standards* clauses of the General Provisions (FAR 52.230-2 and 52.230-6) shall apply. FAR clauses 52.230-3 and 52.230-5 shall not apply.

[If the Subcontract is subject to Modified CAS coverage (non-profit subcontractors only) per a submitted CAS Notices & Certification.]

- X. The cost accounting standards requirements apply to this Subcontract and the Subcontractor certifies it is eligible for and elects to use modified coverage. Accordingly, the *Disclosure and Consistency of Cost Accounting Practices* and *Administration of Cost Accounting Standards* clauses of the General Provisions (FAR 52.230-3 and 52.230-6) shall apply. FAR clauses 52.230-2 and 52.230-5 shall not apply.

[If the Subcontract is not exempt from CAS and is a foreign non-profit subcontractor.]

- X. The cost accounting standards requirements apply. Accordingly, the *Disclosure and Consistency of Cost Accounting Practices* and *Administration of Cost Accounting Standards* clauses of the General Provisions (52.230-6) shall apply. FAR clause 52.230-4 is substituted for FAR clause 52.230-3. FAR clauses 52.230-2 and 52.230-5 shall not apply.

[If Subcontract includes the Foreign Government Talent Recruitment Programs article, add the following.]

- X. The Contractor Requirements Document (CRD) (Attachment 1) in DOE Order 486.1, *Department of Energy Foreign Government Talent Recruitment Programs*, is hereby added to the *Clauses Incorporated by Reference* clause of the General Provisions, under the "The Following DOE Orders (Contractor Requirements Documents Only) Apply to All Subcontracts" section.

(END OF SCHEDULE OF ARTICLES)