

TENNESSEE VALLEY AUTHORITY

Contract Terms: Purchase Orders Valued at Less than \$2,000,000

1. DEFINITIONS

- a. "Acceptance" means receipt by TVA of Work meeting the Contract or Work Release requirements and written acknowledgement by an authorized representative of TVA that Contractor's Work has met or complied with such Contract or Work Release requirements.
- b. "Affiliate" means a corporate entity (1) in which a Party owns or controls, directly or indirectly, greater than 50% of the entity's controlling interests; or (2) that is the parent of, or is owned or controlled, directly or indirectly, by the same parent entity that owns or controls the Party, provided that, the parent entity must own greater than 50% of the controlling interests of both the Party and the other corporate entity to be considered an "Affiliate" of both.
- c. "Applicable Laws" means those federal, state, or local laws, regulations, ordinances, treaties, judicial or administrative decisions, Permits, orders (including, without limitation, administrative authority or commission consent orders and confirmatory orders) or injunctions, Executive Orders, or any other legal pronouncements of a Governmental Authority that have the force or effect of law, which apply to Contractor's performance of the Work (as defined herein), the locations at which the Work is performed, or the liabilities of either party related to the Work.
- d. "Assign" or "Assignment" means a party's transfer or disposal of this Contract to any person or entity that is not a party, in whole or in part, or any interest in it, including use of this Contract or any payment or performance obligations under it as collateral.
- e. "Change of Control" means any transaction that changes the legal ownership or control of: (i) the party entity itself, or (ii) the party entity's immediate or ultimate parent Affiliate(s).
- f. "Contract" means these Contract Terms (as amended from time to time), the Work Release(s) that reference them, and all exhibits, attachments, and specifications attached to or referenced in such Work Release(s).
- g. "Contract Information" means any non-public information related to this Contract and the Work, including but not limited to any TVA Confidential Information disclosed to Contractor.
- h. "Contracting Officer" means the individual assigned by TVA to have authority over this Contract, including the authority to authorize changes and amend this Contract, terminate this Contract, seek remedies for nonperformance including termination, and otherwise act on behalf of TVA for all purposes and in all matters regarding this Contract.
- i. "Contractor's Representative" means the individual designated by the Contractor in writing to have authority over this Contract, including the authority to agree to amendments of this Contract, and otherwise act on behalf of the Contractor in all matters regarding this Contract.
- j. "Contractor" means the person or entity executing the Work Release as Vendor.
- k. "Contract Technical Steward" or "CTS" means the individual(s) assigned by TVA to assist the Contracting Officer with respect to technical matters or specifications relevant to Work under this Contract.
- l. "Credit" means the amount(s) of any adjustment, allowance, income, payment or re-payment, rebate, refund, or other credit, including any accrued interest on such amount(s), owed, and payable by Contractor to TVA.
- m. "Defect" means Work that fails to meet the requirements of any required test, inspection or approval, and any Work that meets the requirements of any test or approval, but does not comply with other requirements of this Contract.
- n. "Dollar" or "dollar" means the unit of currency of the United States of America, which is abbreviated herein as "\$" (the dollar sign), "US\$" or "USD."
- o. "EFT" or "Electronic Funds Transfer" means any electronic or wire transfer of monetary funds to or from a TVA-designated bank account.
- p. "Force Majeure Event" means the following or similar (in nature and severity) event(s): act of God, act of civil or military authority, war, terrorist attacks, riot, insurrection, Unusual or Severe Weather, inability of TVA to obtain any required permits, licenses, or authorizations, blockades, embargoes, sabotage, or epidemics, in any of the foregoing cases, which: (i) are outside the control and without fault or negligence of a party claiming that such event has occurred, and (ii) either directly and actually cause delay(s) in critical path Work, or prevent a party's performance or completion of Work
- q. "Foreign Person(s)" means: (i) any person who is not one of the following: (1) a U.S. citizen; (2) a U.S. lawful permanent resident (including "Green Card" holders); or (3) a U.S. "protected person" under 8 U.S.C § 1324b(a)(3) (i.e., political refugees

and political asylum holders), (ii) a non-U.S. Governmental Authority or a legal entity organized or having a principal place of business in a nation, country, territory, or geographic location that is not governed by the United States of America, or (iii) representative(s) of any of the foregoing persons or entities.

- r. "Governmental Authority(ies)" means any federal, state, provincial or local administrative or regulatory authority, including non-U.S. authorities, that has or have authority or jurisdiction under Applicable Laws over a party's or its suppliers' or subcontractors' real and personal property, or current and future employees or operations, including but not limited to, TVA Sites, Work Products, and Work described herein or in any Work Release issued hereunder.
- s. "Hazardous Materials" means: (i) toxic substances, hazardous substances or hazardous wastes, as such terms are defined by Applicable Laws, and (ii) any other pollutant or substance that is (x) regulated by, or (y) the release or discharge of which may cause liability for costs of response or remediation under, any Applicable Laws.
- t. "Information System" means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of Contract Information.
- u. "Materials" means any tangible items, equipment, or personal property that Contractor will manufacture, distribute, repair, provide, or deliver to TVA under a Work Release.
- v. "Permits" means all licenses, permits, approvals, and authorizations required by Applicable Laws, issued by Governmental Authorities, and necessary or required for performance of Work under this Contract.
- w. "Personally Identifiable Information" or "PII" means any information or representation of information, in any media, which: (i) potentially can be used, directly or indirectly, to uniquely identify, contact (physically or online), or locate a single individual (e.g., age, gender, or weight), (ii) if disclosed without prior written authorization, could create a substantial risk of identity theft from such individual (e.g., social security number, bank account number, or home address), or (iii) a Governmental Authority intends to use to indirectly identify specific individuals in conjunction with other data elements, such as a combination of gender, race, birth date, geographic indicator, and other descriptors.
- x. "Proper Invoice" means a numbered and current (within three business days after completion of the Work being invoiced, or within any other invoicing period established by this Contract) dated invoice, certified by Contractor's Representative, which states this TVA Contract number, purchase order number, and Work Release number(s), as applicable, and contains an itemized description of Work, and prices, rates or costs per corresponding line item(s), material(s), quantity, or hours of Work being invoiced, a brief statement of payment terms, consistent with this Contract, and other details and supporting documentation, as required by this Contract or Work Release(s) issued hereunder.
- y. "Records" means all recorded information, regardless of form or characteristics, which is: (1) made or received by TVA under federal Applicable Laws, or (2) created, received, or maintained by Contractor; provided that such Records (i) may include Work Product(s), to the extent TVA retains or preserves them, and (ii) excludes all Personally Identifiable Information.
- z. "Restricted Personally Identifiable Information" or "RPPI" means PII the unauthorized disclosure of which could create a substantial risk of identity theft (including, without limitation, social security number or bank account numbers).
- aa. "Site" means any property on or to which TVA has any property interest (including, without limitation, ownership or lease, license, or easement rights).
- bb. "Subcontractor(s)" means Contractor's Affiliates, subsidiaries, subcontractors, suppliers, and agents, whether entities or persons, and the employee(s) of such entities or persons, at any tier, in each case, which or who supply or perform Work on Contractor's behalf under this Contract.
- cc. "Unusual or Severe Weather" means seismic activity, floodwater levels, category(ies) of hurricanes, or classification(s) of tornado(es) that is or are outside of the applicable ten (10) year monthly average parameters or measurements (as measured by the National Oceanic and Atmospheric Administration station nearest to the Work location).
- dd. "Work" means the total of all actions, management, services, Materials, Work Products, IT Work, testing, transport, tools, equipment, items and responsibilities to be furnished or performed by the Contractor under a Work Release.
- ee. "Work Release" means a written TVA Purchase Order (PO) or other written document issued by TVA and executed by both parties, which authorizes Contractor to perform specific Work, or amends the requirements or scope of prior Work Release(s).

2. WORK SCOPE

As authorized by TVA and agreed by both parties on Work Release(s), Contractor will perform, provide, or deliver the Work within the scope described on or in attachments to the Work Release.

3. WORK AUTHORIZATION

TVA shall establish scope of Work, funding levels, and schedule(s) on a program, project, or major activity basis by issuance of Work

Release(s). Work Release(s) are subject to and incorporates these Contract Terms. Work Release(s) must be executed by authorized representatives of both parties. Contractor will not perform Work outside the performance period, nor invoice to TVA any amounts for Work, outside or in excess of the schedule(s) and value authorized by individual, fully-executed Work Releases, unless both parties execute a revised Work Release.

4. TERM OF CONTRACT

These Contract Terms are effective upon execution of Work Release(s), consistent with Sections 2 and 3, above (the "Effective Date") and will remain in effect until the date that the earliest of the following occurs: (a) Work under the Contract is complete, and no undisputed Proper Invoices remain unpaid, (b) TVA terminates the Contract in accordance with Section 5, below, or (c) the parties otherwise agree in writing to terminate or amend the Contract. Termination of this Contract for any reason will not affect the parties' obligations or liabilities hereunder, if and to the extent such obligations or liabilities, by their nature or by express provision of these Contract Terms, survive termination.

5. TERMINATION

- a. TVA may terminate this Contract or any Work Release(s) in whole or in part: (1) for TVA's convenience, pursuant to subsection b., below, or (2) if one or more Event(s) of Default (as defined below) occur, pursuant to subsections c. and d., below. In either case, TVA will deliver a written Notice of Termination to Contractor that states whether the termination is for TVA's convenience, or due to Event(s) of Default, and specifies the extent to which the Contract, and Work Release(s), or performance of Work, or any combination of the foregoing, is or are terminated, and the date upon which such termination will become effective.
- b. **Termination for Convenience.** TVA's Contracting Officer may determine that a termination for convenience is in the best interest of TVA. Upon receipt of a Notice of Termination under this subsection b., and unless the notice directs otherwise, Contractor shall:
 1. cease performing Work, terminate all contracts with its Subcontractor(s), and execute no further contracts with Subcontractors related to the Contract;
 2. transfer title and deliver to TVA: (i) completed or partially completed items, equipment, materials, or components of the foregoing, and (ii) Contract Information and Work Product(s), which Contractor would have provided to TVA if the terminated Work had been completed; and
 3. submit to the Contracting Officer, promptly but no later than ninety (90) days from the effective date of termination, a termination claim based on the following criteria:
 - i. All amounts due and stated on Proper Invoices for non-Defective Work completed and for which TVA has provided Acceptance, subject to subsection f. below;
 - ii. Direct and documented expenses incurred in the completion of Work, but which Contractor has not invoiced to TVA as of the termination date;
 - iii. The cost of settling and paying claims caused by the termination of contracts with Subcontractor(s), which are directly chargeable to the terminated portion of the Work; and
 - iv. The reasonable administrative expenses directly incurred in the settlement of the termination claim.
- c. **Termination for Default.** Contractor is liable to TVA for any and all rights and remedies provided at law or in equity if Contractor:
 1. Performs Work that does not comply with the requirements or specifications stated or referenced in this Contract or Work Release(s);
 2. Fails to comply with Contract or Work Release schedule(s), or fails to make progress so as to endanger performance of the Work;
 3. Abandons or refuses to proceed with any or all Work, including modifications directed pursuant to terms and conditions of this Contract, unless excused from such performance under the terms of this Contract;
 4. Causes TVA to have reasonable grounds for insecurity (including, without limitation, Contractor's filing for relief under any chapter of the U.S. Bankruptcy Code, becoming insolvent, or making a general assignment for the benefit of creditors) with respect to Contractor's ability to perform Work or comply with this Contract, and fails to provide adequate written assurance (in TVA's reasonable discretion) of such performance or compliance; or
 5. Violates any Applicable Laws or material terms of this Contract.

Each of the foregoing is an "**Event of Default.**" If Contractor does not cure the Event(s) of Default identified in TVA's Notice of Termination within ten (10) calendar days from the date stated in such notice, or sooner if the notice identifies threats to person(s)' health or safety, the Contract will terminate on the date and as stated in the notice. The parties may agree, within the time period stated in the notice, that Contractor's submission of a definitive plan, reasonably acceptable to and approved in writing by TVA, to timely cure the Event(s) of Default, will delay the Contract's termination date.

- d. If and to the extent TVA terminates the Contract due to Event(s) of Default, then TVA may exercise any of the following non-exclusive remedies, on or after the termination date:

1. Direct Contractor to take the actions identified in subsections b(1) and b(2), above, and (as applicable) submit to TVA a report or inventory list identifying any Work in progress, and demobilize all Contractor and Subcontractor personnel from TVA Site(s);
 2. Take possession of and utilize any materials, items, equipment, or Work Products necessary to complete the Work;
 3. Charge to Contractor all reasonable costs incurred by TVA in terminating the Contract and completing the Work, including costs to contract with third party contractors.
- e. No later than 45 days after the termination date stated in a Notice of Termination, Contractor shall submit to TVA: (1) a final Proper Invoice for all Work performed, and (2) all books, records, documents, and other evidence bearing on Contractor's claimed costs and expenses relating to the Work terminated hereunder. TVA will neither accept nor pay invoices received later than 45 days after the termination date.
- f. Under this Section, TVA will owe Contractor no more than the lesser of: (1) the Contract Monetary Limit, (2) the total compensation due under this Contract for that portion of the Work that Contractor has completed as of the date of TVA's termination notice, less the sum of: (i) any amounts owed by Contractor to TVA, plus (ii) the amounts of any disputed invoices, and (iii) any payments already made by TVA for the Work. If the Notice of Termination states a partial termination for convenience, then TVA would owe Contractor any amounts due pursuant to subsection f(2), above, in addition to any amounts TVA previously had agreed to pay Contractor for Work not terminated.
- g. Except as specifically stated in this Contract, TVA is not liable to Contractor or any Subcontractor(s) for any monetary damages or equitable relief or sanction, including, without limitation, any indirect or consequential damages, unearned fee(s) or profits, lost revenue, lost opportunities, or changes in business condition, related to a termination under this Section.

6. MONETARY LIMIT

The total of payments under this Contract shall not exceed the Approval Amount or sum of the Approval Amounts stated on the Work Release(s) (the "Contract Monetary Limit"). TVA does not guarantee that it will authorize Contractor to perform any minimum amount of Work. Contractor expressly understands and agrees that TVA will not be liable for any amounts in excess of the Contract Monetary Limit except pursuant to a written amendment to this Contract signed by both parties.

7. COMPENSATION

- a. If the relevant Work Release specifies:
1. A firm, fixed, or "lump sum" price for the Work (a "Fixed Price"), TVA will pay Contractor such Fixed Price upon the satisfactory completion of the Work. The Fixed Price(s) include all costs that Contractor and Subcontractors incur in the performance and completion of the Work. The Fixed Price(s) will not be changed except pursuant to a fully executed written amendment to this Contract.
 2. That Work will be performed on a time and materials basis, based on rate(s) set forth therein ("Rates" or "T&M Rates"), then TVA will pay Contractor in accordance with such rate(s) for time spent performing Work and for the provision of materials necessary to complete the Work.
 3. That Work will be performed on a fixed unit rate basis, then TVA will pay Contractor based on the quantity of each Work item completed multiplied by its corresponding fixed unit rate, with quantities measured by Contractor and verified by TVA, excluding any time spent in travel ("Fixed Unit Rate(s)"). Fixed Unit Rate(s) are firm, include all markups and fee, and will not be changed except pursuant to a fully executed written amendment to this Contract.
- b. Each Work Release will specify on what basis(es) TVA will pay Contractor (Fixed Price, Time and Materials, or Fixed Unit Rate), and which travel-related expenses TVA will reimburse to Contractor. TVA may reimburse such expenses in accordance with applicable U.S. General Services Administration (GSA) federal travel regulations, available at <https://www.gsa.gov/policy-regulations/regulations/federal-travel-regulation>, subject to the following:
1. Actual cost (up to 100%) of the most current GSA "Max Lodging" rates. The traveler's location at midnight determines the applicable locality rate.
 2. If overnight lodging is necessary, the current, applicable GSA Meals & Incidental Expenses (M&IE) rate for each full day of business travel, and 75% of the full M&IE day rate for the first and last days of travel.
 3. Actual cost of coach class airline tickets, airport parking, reasonable and cost-effective costs of commercial transportation to and from the airport, airline baggage fees, and documented airfare penalty or cancellation charges incurred by Contractor if TVA alters the work schedule after Contractor already has purchased an airline ticket; however, TVA will not reimburse any additional fees (including, without limitation, personal accident insurance, seat upgrades, priority boarding, priority check-in, and in-flight wi-fi) in connection with air travel.
 4. Actual rental cost for the most economical vehicle that is available and sufficient for the number of travelers, and the cost of fuel from commercial fuel stations for such vehicle. Except as specifically approved by TVA's CTS in advance and in writing, TVA will not reimburse any additional costs, fees, or options related to rental vehicles (including, without limitation, costs of

rental vehicles above the intermediate class, collision damage waivers, personal accident insurance, or rental agency fueling charges).

- c. TVA will not reimburse Contractor for its or its Subcontractor(s)' employees' for any travel-related expenses incurred in connection with their employee(s)' daily commute(s) to or from a Site or other Work location.
- d. TVA will not reimburse any travel-related expense that otherwise may be reimbursable under this Section, and may reject any invoice that seeks such reimbursement, if any of the following occur or apply: (i) TVA has not authorized Contractor, in advance and in writing, to incur the expenses, (ii) Contractor or Subcontractor(s) incur the expenses during any employee's leave of absence from Work that exceeds one-half of that employee's daily scheduled working hours, (iii) the expenses are or are invoiced as a cost burden, administrative fee, or other markup or charge to any travel-related expenses, or (iv) TVA determines that the expenses are unreasonable.
- e. TVA may, in its sole discretion audit all Contractor claims for reimbursement of travel-related expenses, and adjust claimed or issued reimbursements accordingly.

8. INVOICING AND PAYMENT

- a. TVA will make payments to Contractor in accordance with the payment schedule set forth in the Work Release(s), not more than 45 calendar days, after TVA Accounting's receipt of Proper Invoices, including supporting documentation: (i) through the Maximo Portal within TVA's Supplier Connections website, at www.tva.com/supplier (if TVA enables Contractor's access to such portal), or (ii) by electronic mail (PDF or TIF file) to accountspayable@tva.gov. Contractor shall not submit any invoices to TVA until it has completed the Work being invoiced to TVA's satisfaction.
- b. Contractor certifies that: (i) to the best of its knowledge and belief, all information contained in each Proper Invoice is true and correct, (ii) all costs, charges and expenditures submitted were made and incurred in accordance with the provisions of this Contract, and have been actually paid by Contractor, and (iii) payment for the amounts on such Proper Invoice has not been received from TVA or otherwise paid or reimbursed to the Contractor by any other party, in whole or in part.
- c. Contractor must submit all Proper Invoices, including the final Proper Invoice, no later than one hundred twenty (120) days after it has completed all Work or delivered all Materials under this Contract. Contractor's acceptance of TVA's final payment releases TVA and its officers, employees, and agents from all claims by and liability to Contractor for anything done or furnished, for or relating to the Work performed by Contractor, and for any act or omission of TVA or of any other person or entity relating to or affecting the Work performed by Contractor.
- d. All undisputed payments due to either party under this Contract will bear interest at the rate or rates identified in the Prompt Payment Act, 31 U.S.C. §3901-3907.

9. PROMPT PAYMENT ACT

All undisputed payments due from either party to the other are subject to the applicable provisions of the federal Prompt Payment Act, 31 U.S.C. §§ 3901-3907.

10. TERMS OF PAYMENT (RECEIVABLES)

If Contractor owes any Credit to TVA under this Contract, Contractor will provide such Credit, at TVA's option, either: (1) by issuing and reflecting such Credit on its next Proper Invoice, submitted in accordance with the **Invoicing and Payments Section**; or (2) by Electronic Funds Transfer. TVA accepts Electronic Funds Transfers through the Automatic Clearing House (ACH) network (EFT-ACH), and Contractor must comply with "Instructions for Making Electronic Funds Transfers" in order to ensure that TVA's Treasury Management group can confirm that an EFT of a Credit is complete. For the instructions, see TVA's Supplier Connections at <https://www.tva.com/Information/Supplier-Connections/Existing-TVA-Supplier> under "Instructions for Electronic Funds Transfer to TVA", or contact the TVA Contracting Officer or designee.

11. TERMS OF PAYMENT – DISCOUNTS FOR TVA EARLY PAYMENT

- a. In addition to any other early payment discounts specified in this Contract, the parties may agree to apply early payment discount(s) to TVA's payment of Contractor's Proper Invoices, through the use of TVA's Maximo Portal at www.tva.com/supplier. Specific terms of early payment discount(s) will be stated in the Maximo Portal. For Suppliers without access to TVA's Maximo Portal, proposed early payment discounts can be submitted to TVA Accounts payable accountspayable@tva.gov for consideration.
- b. In connection with any such early payment discount, time shall be computed from: (1) the date on Contractor's Proper Invoice, or (2) the date TVA receives a Proper Invoice through the Maximo Portal, if such invoice is not dated. For purposes of calculating the discount, TVA will be deemed to have paid Contractor on: (i) the date of the electronic funds transfer, or (ii) if payment is made by check, the date that appears on the check. If a discount due date falls on a Saturday, Sunday, or United States Federal holiday, the agreed discount will be applied without offset, if TVA makes payment on the following business

day.

12. TAXES

- a. As a corporate agency and instrumentality of the United States government, and pursuant to Section 13 of the TVA Act of 1933, TVA (federal EIN # 62-0474417) is expressly exempt from state and local taxation. By entering into this Contract, Contractor certifies that no sales or use taxes imposed on any Work purchased by TVA, by a state, county, municipality, or any subdivision or district of the foregoing jurisdictions, are or will be included in the amounts invoiced to TVA. Contractor is responsible for payment of any other taxes imposed on it related to the Work, and for taking appropriate measures to identify and claim any available tax exemptions or reductions.
- b. Contractor is responsible for payment of any other taxes it incurs in performance of this Contract, including sales or use taxes on products installed or consumed by Contractor rather than sold directly to TVA, and for taking appropriate measures to identify and claim any available exemptions or reductions to such taxes (such as exemptions for electrical generating equipment under Tennessee Code Ann. § 67-6-209(e)). Contractor must incorporate any applicable taxes (including, without limitation, any applicable Federal excise taxes or duties) into its Fixed Price(s) or fixed rate(s) invoiced to TVA. If Applicable Laws enacted after the Effective Date effect additions, deletions, or changes to such applicable taxes that materially increase Contractor's costs to perform Work, the parties will negotiate a Change Notice pursuant to the **Changes** Section of this Contract, below.
- c. TVA shall reimburse Contractor on a pass-through basis for fuel taxes for which no exemption or refund could have been properly asserted by Contractor, which are not already incorporated or reflected in a Work Release or Contract Attachment, and which Contractor properly itemizes on Proper Invoices.

13. AUDIT RIGHTS – SHORT FORM

Contractor shall keep accurate records and books of accounts in machine readable form supporting the amounts invoiced to TVA under this Contract. TVA, or its agents, shall have the right to audit without restrictions and at no additional cost to TVA, at any time during normal working hours, all amounts invoiced by Contractor to TVA and may examine Contractor's records specifically relating thereto. Contractor shall refund to TVA any amounts invoiced to and paid by TVA that are not in accordance with Contract terms or that are not supported by valid evidence. If TVA makes an overpayment to Contractor as a result of Contractor overbillings, Contractor is liable to TVA for interest on the amount of such overpayment, to be computed (1) for the period beginning on the date the overpayment was made to Contractor and ending on the date TVA receives a refund of such overpayment from Contractor, and (2) at the rate or rates identified in the Prompt Payment Act. Contractor shall preserve and make available its records, both manual and those which are in machine readable form, for a period of six (6) years from the date of final payment by TVA.

14. NOTICES

- a. A notice by either party to the other party is not valid or binding unless the conditions stated in this Section are satisfied. Oral notice by either party, or constructive notice by one party to the other, does not fulfill a party's notice obligations under this Contract.
- b. All notices by either party to the other must be in writing and Delivered: (1) by hand, (2) by a nationally or internationally recognized delivery service entity, with all fees prepaid, (3) by registered or certified mail, return receipt requested, and all fees prepaid, to the party's designated recipient and address stated in this Section, or (4) by means of electronic mail, if confirmed by an electronic read receipt or separate electronic mail acknowledgement, to each party's contact person(s) listed on the Work Release(s).
- c. A notice valid under subsections (a) and (b), above, is deemed effective when it is Delivered to the party to which it is addressed. For purposes of this Section, "**Delivered**" or "**Delivery**" means: (i) if hand-delivered by a delivery service or otherwise, at the time and on the date that such delivery service's or other written or electronic records indicate that delivery was completed, or (ii) in the case of electronic mail delivery, at the time and on the date of such electronic mail's delivery receipt.
- d. In addition to complying with the notice provisions of this Section, Contractor shall direct: (1) all original administrative, financial or legal correspondence regarding this Contract to TVA's Contracting Officer (and, if applicable, any TVA procurement agent(s) or business service representatives), and (2) all original technical communications, documents, specifications, and information, and materials (or samples or analyses thereof, as applicable) to the designated CTS or project manager, in all of the foregoing cases, as these persons are identified on the Work Release(s) or other TVA personnel by written notice to Contractor.
- e. Consistent with the other requirements of this Section, Contractor is bound and deemed actually notified by all written, Contract-related communications that is Delivered by TVA's Contracting Officer to a Contractor Representative.
- f. Either party may modify its contact persons or information listed on a Work Release, by advance written notice to the other

party, Delivered in compliance with this Section.

15. SPECIFICATIONS, DRAWINGS, AND REPORTS

- a. Contractor's Work must comply with any specifications stated or referenced in this Contract (specifically including, without limitation, its Exhibits and Attachments), and drawings issued by TVA, or Contractor (to the extent approved by TVA, or incorporated into this Contract), or both, in connection with the Work, including revisions thereto. Amended drawings or amendments to the specifications will not be effective without the prior written approval of TVA's CTS and Contracting Officer. Upon such written approval, any such amended or additional drawings or amended specifications are Records, and Contractor shall comply with them in its performance of Work.
- b. Upon receipt of the specifications and TVA-issued drawings, Contractor shall review them and promptly notify and identify to TVA's CTS any omissions or discrepancies within or, if applicable, between the specifications and drawings. Contractor shall not proceed with Work affected by such identified discrepancies unless TVA's Contracting Officer and CTS provide Contractor with written direction to proceed, or the parties negotiate an amendment to the relevant Work Release(s). Any proposed changes to the Work resulting from Contractor's review of Specifications or drawings must be pre-approved by TVA, in accordance with subsection a, above.
- c. Contractor shall maintain at any Site Work areas a copy of the drawings and specifications, kept current with all amendments, and TVA may access these drawings and specifications at any time.
- d. Reports. As part of its scope of Work, or as specified in Work Release(s), Contractor shall, at its expense, submit various periodic reports in the frequency, form, and format directed by TVA. Such reports, once finalized and approved by TVA, also are Records. TVA may require periodic reports that provide up to date information on schedule, safety metrics, Contractor's employees and Subcontractor(s)' headcount. Contractor shall not invoice TVA, directly or indirectly, and TVA will not pay, for the expenses incurred by Contractor or Subcontractor(s) in preparing or submitting such reports.
- e. Except to the extent TVA prepares and issues drawings or additional specifications with which Contractor must comply, consistent with subsection a., above, Contractor is responsible for the development and technical preparation, review, and submittal to TVA of all designs, engineering, drawings, calculations, analyses, reports, Records and Work Products.

16. NEW MATERIALS

- a. Contractor and its Subcontractor(s) shall provide and deliver only new and unused Materials or other items to TVA. TVA may require one or both of the following: (1) Contractor must manufacture all Materials or items after a certain date, or (2) Contractor must document the manufacturing date of such Materials or items.
- b. Contractor shall notify the Contracting Officer if any Material(s) or other items that TVA has purchased or will purchase under this Contract are or will become obsolete or discontinued, and whether and under what terms TVA may purchase replacement material(s). Contractor shall deliver such notice to TVA sufficiently in advance to enable TVA to timely purchase the obsolete or discontinued Material(s) or items, or the replacement material(s) that Contractor has identified in its notice.

17. SHIPMENT AND DELIVERY TERMS

- a. Unless a Work Release states otherwise, Contractor shall ship all Materials Delivered Duty Paid (DDP, INCOTERMS 2020) (Contractor is responsible for selecting a carrier and retains title and risk of loss until delivery to TVA's Site destination). Contractor shall not charge or invoice to TVA any additional valuation or cargo insurance. Contractor and its Subcontractors shall comply with Applicable Laws governing Federal and State highway weight limitations. Unless TVA or its agent(s) directly cause shipment delays, if the actual delivery date is later than the delivery date stated on the relevant PO(s), then Contractor will be liable for all additional charges (including costs of emergency or expedited loading, shipment, and unloading) related to such delayed delivery date.
- b. Contractor and its Subcontractor(s) must package, prepare for shipment, and apply all markings and labels to its shipments of Materials or other Work, in compliance with all Applicable Laws, specifically including all applicable U.S. Department of Transportation requirements. Contractor shall comply with Work Release(s) or other written instructions, regarding delivery, unloading, and storage, consistent with terms stated in this Section. With each shipment, Contractor must provide a packing list or bill of lading that accurately identifies the Materials or other Work being shipped, including (at a minimum) Contractor's or its agents' name(s), a description of Materials or other Work, weight, dimensions, quantity(ies), and the applicable TVA Contract number.
- c. Contractor and its Subcontractor(s) must design and construct all packaging and containers, including pallets and other outside containers, so that: (1) the shipped Materials or other Work are effectively protected from damage during transit, receiving and storage, and can be safely handled and unloaded at their destination(s), and (2) when possible and commercially reasonable, the packaging or containers can be reused or recycled. Contractor is responsible and liable for any and all damage due to its or its agents' preparation of materials or other Work for shipment, receiving, material handling, or storage, that fails to comply with

Applicable Laws or the requirements of this Section.

- d. Contractor is responsible for its employees' and its Subcontractors' compliance with all Applicable Laws governing the transportation of any Hazardous Materials in connection with the Work. If Applicable Laws require that Contractor or Subcontractor(s) prepare a Transportation Security Plan (TSP), Contractor shall, as requested in writing by TVA's Contracting Officer or CTS, or in Work Release(s): (1) provide to TVA a written certification that Contractor's TSP complies with such Applicable Laws; and (2) supply a copy of its TSP to TVA.
- e. Contractor must notify the TVA requester (the Contracting Officer or Purchasing Agent who executed the Work Release) in writing within 24 hours after receipt of TVA's Work Release if it cannot deliver the requested Materials or other Work within the delivery period stated in the Work Release. Upon receipt of such notice from Contractor, TVA may cancel the shipment(s) or Work Release, without penalty or liability to TVA.

18. PROGRESS

- a. Subject to TVA's review and acceptance, prior to commencing Work or as requested by TVA, Contractor shall submit a proposed, written schedule to TVA that establishes a plan and deadlines for performing each part of the Work. Contractor shall perform Work at a rate of progress necessary to meet the Work completion date(s), as required by this Contract. If at any time Contractor's actual progress in performing or completing the Work is inadequate to meet the agreed schedule, TVA may so notify Contractor, which shall immediately take steps necessary to comply with the agreed schedule. If TVA determines that Contractor has not improved performance to meet the agreed schedule, TVA may require, by written notice to Contractor, an increase in Contractor's labor force, the number of shifts, overtime operations, additional days of Work per week, increase(s) in quantities or nature of materials and equipment, or any one or more of the foregoing. Such direction or requirements do not constitute an "acceleration" as described in the **Changes** section of this Contract.
- b. Neither notice by TVA, nor TVA's failure to issue such a notice, relieves Contractor of its obligations to complete its Work in compliance with this Contract.

19. SUBCONTRACTOR REVIEW

- a. Contractor must notify TVA's CO and CTS prior to subcontracting with any third party for performance of Work. All Subcontractors and subcontracts are subject to TVA review, and TVA may review or reject (or both) a proposed subcontract or Subcontractor. If Contractor fails to notify TVA prior to subcontracting, or fails to provide TVA an opportunity to review a proposed subcontract or Subcontractor, TVA may reject such Subcontractor's Work, and may require reperformance or replacement of such Work at Contractor's expense, consistent with **Section 20 (Inspection and Acceptance)**. If TVA notifies Contractor that it will review a subcontract, Contractor promptly shall provide copies to TVA's CO and CTS.
- b. Contractor's notice to TVA shall identify any proposed subcontracts under which: (1) a Subcontractor is a non-United States entity; (2) Work will be performed by Foreign Persons, or (3) any Contractor Affiliate will perform Work. In the case(s) of (1) or (2), above, or both, TVA must review and may accept or reject such Subcontractor prior to its performance of Work.
- c. TVA may reject any or all Subcontractors that lack the skill, experience, facilities, or record of satisfactory performance to perform the Work specified. TVA's review of, objection to, or rejection of a Contractor subcontract or Subcontractor will not relieve Contractor of its sole obligation and responsibility to negotiate subcontract(s) and manage Subcontractor(s), nor create any contractual rights, privity, or obligations between TVA and any Subcontractor. TVA may dispute or reject invoice(s) for Work performed by a Subcontractor that TVA objected to or rejected.
- d. TVA's review of a Subcontractor does not constitute an endorsement or acceptance of the Subcontractor or any subcontract. Contractor shall not submit a claim against TVA in connection with TVA's review of a Subcontractor or subcontract.
- e. Contractor is solely responsible for ensuring its Subcontractor(s)' performance and completion of Work. Contractor's subcontracts must not relieve Contractor, its Subcontractor(s), or Contractor's sureties of their responsibilities under this Contract.

20. INSPECTION AND ACCEPTANCE OF WORK

- a. TVA may, upon reasonable prior notice to Contractor, inspect and test Contractor's Work to assess compliance with Contract requirements and specifications. TVA may require that Contractor delay shipments of Materials or Work Products, or both, until TVA can complete inspection or testing. Any such inspection or testing does not constitute Acceptance, nor relieve Contractor from any of its obligations under this Contract.
- b. Contractor will bear the costs and expenses of all in-process inspection and testing during Contractor's or Subcontractor(s)' manufacture or development of Materials or Work Products, as well as in-process inspection and testing of all on-Site installation Work involving such Materials or Work Products.

- c. If before Acceptance, TVA rejects any Work provided or delivered as: (i) having Defect(s), or (ii) being non-compliant with Contract requirements or specifications, TVA will notify Contractor in writing, and Contractor promptly shall take corrective action, at its expense. Such notice of corrective action(s) to Contractor may include removal, replacement, disassembly, reinstallation, reconstruction, retesting, re-inspection, re-performance, or any of the foregoing, as necessary to deliver Work that complies with this Contract's requirements and specifications.
- d. TVA's failure or inability to inspect or to discover Defects or non-compliance in design, materials or workmanship does not relieve Contractor of its obligations under this Contract, nor prejudice TVA's rights under this Contract to reject or require the correction of Defects or non-compliance.
- e. Contractor shall notify TVA in writing when all Work under a Work Release or this Contract is complete and ready for TVA inspection, testing, or Acceptance, as appropriate to the nature and stage or phase of the Work. After a reasonable inspection period following completion or delivery, TVA's CTS or other authorized representative will: (i) evaluate whether the Work has been completed, and (ii) reject or provide TVA's Acceptance of such Work. Any Acceptance by TVA, even if non-conditional, does not constitute and will not be deemed a waiver, or settlement or Acceptance of any non-compliance or Defect. TVA may revoke Acceptance at any time upon the discovery of a latent Defect or a latent non-compliance of the Work to the Contract requirements or specifications.
- f. TVA may provide partial Acceptance for the Work. If TVA elects to provide Acceptance for non-compliant or Defective Work, it may in addition to other remedies, deduct a reasonable, proportionate amount from submitted or future Proper Invoices as compensation.

21. FOREIGN WORK

- a. Contractor shall notify TVA's Contracting Officer in writing prior to its or its Subcontractor(s)' provision to TVA of foreign items, articles (including software or hardware), or materials, or its or their performance of services related to such items, articles or materials, in a non-United States jurisdiction or by any Foreign Person ("Foreign Work"), and affirm that such Foreign Work complies with Applicable Laws, specifically including the Trade Agreements Act of 1979 ("TAA"), 19 U.S.C. §§ 2501-2581.
- b. If TVA rejects the Foreign Work, then TVA may: (i) direct Contractor, at its expense, to remove and replace, or re-perform, the Foreign Work, or (ii) notify Contractor that TVA will obtain replacement work from the United States or designated country(ies), and charge to Contractor TVA's excess costs (including, without limitation, TVA's expenses incurred in inspecting Foreign Work) of obtaining such replacement work.
- c. Prior to Contractor's or its Subcontractor(s)' provision to TVA of Foreign Work, Contractor shall: (i) provide information to TVA's Contracting Officer about the nature and sources of Foreign Work, and (ii) notify TVA's Contracting Officer if the Foreign Work is different from that which it identified to TVA under subsection a., above.
- d. Contractor or any Subcontractor must utilize U. S. Flag air carriers (scheduled or non-scheduled) to the maximum extent practicable in connection with the transportation of any items or materials between the United States and a non-U.S. country or between non-U.S. countries.
- e. Contractor is responsible for pre-payment of all charges, fees, and taxes, including import duty and brokerage fees, as required to deliver Foreign Work to the Site or other TVA-designated destination. If Contractor fails to make brokerage arrangements within the time periods required by Applicable Laws or Governmental Authorities in order to effect such delivery to TVA, TVA may employ a broker, at Contractor's expense, to clear shipments of Foreign Work through customs to avoid delivery delays.

22. EXPORT OF ARTICLES AND TECHNOLOGY

- a. Definitions.
 - 1. "Technology" means Assistance or any Work Product(s) required for the design, engineering, manufacture, installation, or use of, and any information providing, reflecting, or derived from any of the foregoing, related to any Article delivered or disclosed as part of the Work.
 - 2. "Article," for purposes of this Section, means any commodity, material, supply, facility, Site, or physical item subject to Export Control Laws.
 - 3. "Assistance" means assistance in such forms as instruction, skills, training, working knowledge, consulting services, or any other assistance as determined by a U.S. federal Governmental Authority.
 - 4. "Export Control Laws" means any Applicable Laws that govern the transfer of Articles and Technology, including but not limited to: the (i) International Emergency Economic Powers Act ("IEEPA"), 50 U.S.C. §§ 1701 et. seq; (ii) the U.S. Department of Commerce's Export Administration Regulations ("EAR"), 15 C.F.R. Parts 730-774; (iii) Arms Export Control Act, 22 U.S.C. § 2778a; (iv) International Traffic in Arms Regulations ("ITAR"), 22 C.F.R. Parts 120-130; (v) U.S. Atomic Energy Act, 42 U.S.C. §§

2011 et. seq.; (vi) U.S. Department of Energy's export regulations, 10 C.F.R. Part 810; (vii) U.S. Nuclear Regulatory Commission's export and import regulations, 10 C.F.R. Part 110; (viii) analogous export control laws of non-U.S. countries, to the extent applicable to either party or the Work; and (ix) all applicable Permits issued thereunder.

b. Handling of Export Controlled Articles and Technology.

1. Contractor shall not disclose, export, re-export, transfer, or otherwise provide physical or electronic access to Articles or Technology, to or by any Foreign Person (including, but not limited to, its employees within the United States, or Technology service providers), except in compliance with the Export Control Laws. Contractor shall indemnify and hold TVA harmless from all claims, demands, damages, costs, fines, penalties, attorney's fees and all other expenses arising from its failure to comply with this Section b.1. Contractor also shall not modify for, or divert such Technology to, any military or unauthorized application, or other end-use or end-user, prohibited by Export Control Laws.
 2. Contractor shall develop and implement Technology security procedures to ensure that Technology is accessible only by authorized Foreign Persons. Contractor must include in any subcontracts for the manufacture of Articles or provision of Technology under this Contract: (a) all the restrictions and limitations stated in this Section, and (b) a requirement that Subcontractors comply with all Export Control Laws.
- c. Export Licensing Responsibility. Contractor must at its expense, obtain and comply with any Permits required by Export Control Laws necessary to perform and complete the Work. The parties shall cooperate with each other, and provide all reasonably requested information to support the timely acquisition of such Permits.
- d. Export Classification. The parties must establish and agree on accurate export classification information for Articles or Technology provided under this Contract. Once established, such classification applies to all such Articles and Technology, and Contractor shall not use or seek approval from a Governmental Authority for alternative export classification(s).
- e. Destruction of Export Controlled Articles & Technology. Upon completion of performance of Work (or support of Work) and expiration of obligation(s) to preserve Records, Contractor shall destroy, or return to TVA all physical and electronic copies of Technology, including archived copies. Destruction shall include permanently deleting any electronic copies from all servers, systems, and local devices.
- f. Notice. Contractor promptly shall notify TVA in writing if it becomes aware of a violation of Export Control Laws, as applicable to Articles or Technology delivered to TVA, and shall cooperate fully and promptly with any internal investigation by either party, or investigation by any Governmental Authority, of such failure to comply.

g. U.S. Trade Control Screening.

1. Each Party represents and warrants that neither itself nor its personnel (including its employees, contractors, Contractor's Subcontractors, officers, directors and principal owners) are included on the Consolidated Screening List (CSL) of parties for which U.S. Governmental Authorities maintain restrictions, including on certain exports, re-exports, or transfers of Articles and Technology, as such CSL (currently available at <https://www.trade.gov/consolidated-screening-list>) is updated or revised.
 2. Each Party shall screen, against the CSL, its own personnel as well as third parties (including Subcontractors) that perform or are solicited to perform Work under or related to this Contract.
 3. A party shall notify the other party immediately, in writing, if any of its personnel, Subcontractors, or a third-party, performing or supporting Work under this Contract, is on or has been added to the CSL.
 4. Each party shall re-screen the personnel and entities subject to this Section on no less than an annual basis. Contractor shall maintain records of its CSL screening as Records for not less than five years following completion of screening, and make such Records available to TVA upon request.
 5. Each party shall incorporate the screening requirements stated in this subsection in all subcontracts with Subcontractors.
- h. The obligations stated in this Section will survive so long as the relevant Export Control Laws are in effect.

23. QUALITY CONTROL PROGRAM

Prior to the commencement of the Work, if required or requested by TVA, Contractor must submit to TVA a Work-specific or project-specific quality control program ("Quality Program"), which: (1) clearly establishes the authority and responsibility within Contractor's and Subcontractor(s)' organizations for performance and completion of the Work, (2) designates those Contractor personnel and Subcontractor(s) who will provide oversight of the Quality Program, (3) provides TVA's CTS assurance that (as applicable) Contractor's or its Subcontractors' Work complies or will comply with Work or project specifications, quality requirements, and Applicable Laws, (4) applies to Subcontractor(s)' scope(s) of Work, and (5) is designed to ensure that the Quality Program itself is reliable and repeatable for the relevant scope(s) of Work. TVA will review the Quality Program; once accepted by TVA, Contractor shall implement and maintain the Quality Program throughout the Contract term. TVA may, by written notice to Contractor, reject Work that does not comply with the Quality Program, and require corrective action to restore compliance.

24. STANDARDS

- a. If this Contract or Work Release(s) state or reference ASTM or other standards, the latest revision of such standards as of the Effective Date applies to the Work unless otherwise stated in this Contract. Any TVA-provided standards or codes will prevail over conflicting industry codes and standards. Contractor shall comply with TVA's written requirements for documentation of engineering Work, including calculations, drawings, and other Work Products.
- b. If Contractor's scope of Work under a Work Release includes engineering or design Work, Contractor must ensure that: (1) such engineering or design Work meets or exceeds applicable industry codes and standards, and any additional project or Work-specific standards or codes that TVA provides to Contractor in writing, and (2) Contractor's employees or Subcontractor(s) performing such design or engineering Work are qualified under applicable TVA procedures to prepare design packages for the Work. If Contractor cannot or is unwilling to comply with the requirements of this subsection (b), it reasonably shall agree, consistent with the **Nondisclosure** Section, below, to disclose or license to TVA and TVA's third-party engineering or design contractors the information necessary for TVA or such designated third parties to prepare design packages and implement the design or engineering parameters that Contractor provides to TVA as part of its Work. If Contractor agrees to obtain the qualifications necessary to prepare design packages under applicable TVA procedures, it shall maintain such qualifications for the term of this Contract.

25. COUNTERFEIT, FRAUDULENT AND SUBSTANDARD ITEMS

- a. Contractor shall not deliver suspect, counterfeit, fraudulent, or substandard items to TVA, and shall implement all reasonable controls to limit or eliminate use of such items.
- b. For the purposes of this Section:
 - 1. Counterfeit items mean items intentionally manufactured or altered to imitate a legitimate product without the legal right to do so.
 - 2. Fraudulent items mean items that are intentionally misrepresented with the intent to deceive.
 - 3. Substandard items mean components, parts, or materials that have a legal right or authority to be manufactured, repaired, or refurbished but do not comply with Contract requirements or specifications, Contractor's commercial standards, or applicable industry standards.
- c. If any items covered by this Contract are described using a manufacturer part number or using a product description and/or specifies an industry or TVA standards, Contractor shall ensure that the original equipment and replacement parts supplied by it or its Subcontractors, are made by the Original Equipment Manufacturer (OEM) and meet all TVA and OEM specifications and requirements.
- d. TVA may reject any Work that contains Fraudulent, Counterfeit or Substandard items. If Contractor discovers or has reason to believe that items purchased by TVA are Fraudulent, Counterfeit or Substandard, Contractor shall immediately notify TVA and promptly at its expense replace such Fraudulent, Counterfeit or Substandard items.

26. INTELLECTUAL PROPERTY RIGHTS

"Intellectual Property" means (1) data, information, or other intangible tools, methods, or materials supplied by one party to the other under this Contract; (2) any issued or pending patents owned or controlled by either party; (3) any invention, process, trade secret, or product arising out of either party's research or development, whether patented or patentable, or copyrighted or copyrightable; and (4) other technical data, methodologies, unique techniques, and know-how, developed by either party prior to the Effective Date.

"Work Product(s)" means documents, drawings, reports, deliverables (which may include customized software), Records, and other information related or integral to the Work Contractor performs under this Contract.

"Contractor Materials" means Contractor-owned information or materials, such as manuals, handbooks, training materials, instructions, and product specifications, which are not part of or integral to the Work specifically generated or prepared for TVA.

- a. Each party retains all ownership rights, title, and interest in its respective Intellectual Property and grants the other party a limited license to use its Intellectual Property to the extent necessary for Contractor to fulfill its obligations under this Contract and for TVA to use the Work Products, consistent with subsections b. and c., below.
- b. Contractor maintains ownership of its Contractor Materials. Contractor grants TVA a perpetual, non-exclusive, royalty-free license in and to use the Contractor Materials to the extent such are incorporated into Work Products, or as necessary to maintain, repair, or replace the Work, or engage third parties to perform such maintenance, repair, or replacement of Work.
- c. TVA owns all Work Products that are generated, prepared, or provided specifically to and for TVA by Contractor under this Contract, and copyright to such Work Products automatically will vest in TVA. TVA may copy, display, modify, prepare derivative works of, and disclose such Work Products to third parties.
- d. Except for any licenses granted in this Section, neither party claims by virtue of this Contract any right, title, or interest, in the

other party's Intellectual Property. Contractor will not use in its performance of Work, or incorporate into Work Products, software that is not commercially available, and is licensed from a third party, unless Contractor obtains appropriate rights for TVA's continued utilization of such software, at no additional cost to TVA.

27. INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS

- a. Contractor warrants that Work Products or other information that it provides or delivers to TVA as part of its Work under this Contract does not violate or infringe on any third party's intellectual property rights (including patent rights and copyrights), nor does its disclosure to TVA violate any separate obligation of privilege or confidentiality to any third party. Contractor hereby indemnifies, and shall defend and hold harmless TVA and its representatives, from all suits, claims, actions, losses, damages, and expenses, including costs of defense of such suits, claims, or actions, and associated attorney's fees ("Losses"), to the extent such Losses result from a claim that Contractor's or its Subcontractor(s)' Work infringes on any patent, copyright, or other intellectual property right. TVA promptly shall notify Contractor in writing, and reasonably cooperate with Contractor in Contractor's defense of any such suit, claim, or action. TVA is not liable to Contractor or any non-Affiliated third party with respect to any settlement of such a suit, claim, or action, unless it delivers to Contractor prior, written consent to such settlement.
- b. If a Governmental Authority enters a final judgment finding that Contractor's or its Subcontractor(s)' Work, or TVA's use of such Work, infringes or violates patent rights, copyrights, or other intellectual property rights, Contractor at its sole expense: (1) shall obtain and secure for TVA the necessary licenses and right to continued utilization of such infringing Work; **and** (2) subject to TVA's written approval, will replace or modify such Work so that it becomes non-infringing. Any equipment, materials, hardware, software, items, or processes that Contractor provides as substitute or modification for or to the infringing Work must comply with all Contract terms, requirements, and specifications.
- c. Contractor is not liable under this Section with respect to any Work: (1) for which TVA has provided detailed designs, drawings or specifications (excluding rating or performance specifications), **and** (2) with which TVA specifically has directed in this Contract that Contractor's Work must comply.

28. WARRANTIES

- a. Contractor represents and warrants that: (1) it is duly organized, validly existing, and in good standing under Applicable Laws in the jurisdiction of its incorporation, registration, or formation, and has and is exercising all authority required to execute, bind itself to, and fully perform this Contract, (2) it and its Subcontractor(s) has or have the competence, skill, physical resources, and number of trained, skilled, and licensed personnel (qualified by education and experience to perform its or their assigned tasks), necessary and required to safely perform and complete the Work, and (3) it has or will secure any Permits necessary to perform and complete all Work under this Contract.
- b. Contractor warrants that Work will comply with: (1) the requirements and specifications stated or referenced in this Contract or Work Release(s), and (2) Applicable Laws, and all applicable standards and rules established, issued or adopted by standards boards or industry associations applicable to the Work.
- c. With respect to any materials, items, or equipment purchased by TVA, Contractor warrants that: (1) it and its Subcontractor(s) will manufacture, distribute, supply, and deliver them free from Defects in design, material, and workmanship, (2) they will be fit for the intended use(s) and purpose(s) stated in this Contract or Work Release(s), and (3) they will be merchantable, new, and of first-class quality.
- d. Contractor warrants that all Work will render efficient and satisfactory service for a period beginning upon the earliest of the date(s) that TVA provides Acceptance for the Work, or (as applicable) installs the Work or begins normal use of the property on which Work was performed, and ending 24 months from such earliest date (the "warranty period").
- e. If the Work fails to comply with the warranties stated in this Section, during the warranty period established above, Contractor is liable for and shall pay all costs incurred in correcting such non-compliance. TVA may: (1) at Contractor's expense, return the Work for correction or replacement, or take corrective action itself in accordance with subsection (g), below, or (2) require and direct that Contractor repair, adjust, or replace the defective Work and remedy its breach(es) of warranty, in accordance with TVA's standards and schedule. The warranty period for any Work subject to corrective action under this subsection will restart on the date that such action is complete, and will extend for the same duration as the original warranty period. All such corrected Work remains covered by the substantive terms of this Section.
- f. If Contractor's corrective action fails to render the Work compliant with the warranties stated in this Section, or Contractor fails to take the appropriate corrective action within a reasonable time after receiving notice of the relevant Defect(s) or noncompliance, then: (1) Contractor shall refund to TVA all amounts paid for the noncompliant Work, and (2) TVA may terminate this Contract (in whole or in part) for default, in accordance with the **Termination for Default** Section, above.
- g. In addition to the remedies stated herein, TVA may repair or replace any Defective Work at Contractor's expense when TVA

determines that: (i) operational conditions require such action, (ii) Contractor fails to correct the Defect within a reasonable time of receiving written notification of the Defect from TVA, (iii) Contractor is unable to respond in an emergency situation, or (iv) necessary to prevent TVA from substantial financial loss. If and to the extent TVA makes repairs or replaces Defective Work, TVA will issue Contractor a written accounting and invoice of all such Work to correct Defects.

- h. Contractor, at its expense upon TVA's written request, shall assign to TVA the right to enforce any Subcontractor(s)' warranty related to the Work, to the extent such warranty is assignable.

29. INDEMNITY

- a. **Claims.** Contractor, by agreeing to perform the Work, acknowledges awareness of the location, nature and hazards of such Work. Contractor releases TVA, its agents and employees, from all liability for Contractor's personal injuries, property damage, or loss of life or property, related to the performance of Work under this Contract. Contractor shall indemnify, defend, and hold harmless TVA, its agents and employees ("Indemnitees") from and against all liabilities for personal injuries, property damage, or loss of life or property ("Claims") related to this Contract or the performance of Work, including, without limitation, all expenses (and reasonable attorneys' fees) incurred by Indemnitees related to such Claims. However, Contractor is not liable to Indemnitees under this subsection to the extent that Claims are proximately caused by the negligence of Indemnitees.
- b. **Lien Claims.** Contractor will indemnify, defend and hold harmless TVA from all Claims for material furnished or Work done, including, without limitation, mechanics or other liens related to the Work, and promptly shall ensure that no such Claims remain outstanding against any such personal or real property. TVA may withhold payment to or reject invoices from Contractor for any amounts otherwise owed to Contractor, if and to the extent that Contractor fails to satisfy or discharge any lien-related Claims.
- c. **Violations of Applicable Laws.** Contractor and its Subcontractors shall comply with Applicable Laws. Contractor shall indemnify, defend and hold Indemnitees harmless from Claims for injunctive relief, penalties, damages and interest, and all expenses incurred by Indemnitees in connection with such Claims, arising from Contractor's or its Subcontractors' violation(s) of Applicable Laws.
- d. **Survival.** Contractor's obligations under this Section will survive any expiration or termination of the Contract, Work Release(s), and completion of the Work.

30. FORCE MAJEURE AND WAIVERS

- a. Either party may notify the other party that a Force Majeure Event has occurred, if and to the extent that: (1) a failure or delay in the notifying party's performance of its obligations under this Contract is caused by a Force Majeure Event, and (2) the notifying party is without fault in causing such failure or delay.
- b. If Contractor is the notifying party, it must notify TVA in compliance with this Contract's **Notices** section within 72 hours of the occurrence of a Force Majeure Event, and: (1) explain how and why the Force Majeure Event has delayed or prevented Contractor or its Subcontractor(s) from complying with its or their obligations, and (2) state the duration or expected duration of the delays or failure. No Force Majeure Event affecting a Subcontractor excuses Contractor's delays or failures unless Contractor demonstrates to TVA that it could not have obtained replacement or substitute Work from third party suppliers in compliance with Contract or Work Release requirements or specifications. Both during and following submission of a notice of Force Majeure Event, Contractor shall diligently continue performance of the Work to the maximum extent possible.
- c. The notifying party also shall take reasonable actions to mitigate the effects of the claimed Force Majeure Event, and must demonstrate to the other party that it could not have prevented or mitigated its failures or delays by: (1) taking reasonable precautions prior to the occurrence of the Force Majeure Event, or (2) using alternate sources, work-around plans or other reasonable commercial means during or subsequent to the occurrence of the Force Majeure Event.
- d. Subject to the notifying party's compliance with the conditions stated in subsections a., b., and c., above, the parties will (by amending the Contract or affected Work Release(s), or through execution of a Change Notice under the **Changes** Section of this Contract) extend the notifying party's time for performance of its obligations, and adjust corresponding Work schedules and payment terms, as appropriate, for period(s) of time reasonably necessary to offset the effects of the delays or failures.
- e. No TVA extension of Contractor's time for performance of Work will release Contractor's sureties (if any) from their obligations. No TVA waiver of any Contractor breach of this Contract will be construed to waive any other or subsequent breach. TVA's consideration of any untimely notice or information by Contractor does not waive any time limits or schedule deadlines stated in this Contract or any Work Release issued hereunder.

31. CHANGES

- a. TVA's Contracting Officer may at any time, without notice to Contractor's sureties (if any), issue a written Change Notice, making changes in the Work within the general Work Scope of this Contract (a "Change Notice"), including, without limitation, the following changes:
 - 1. Drawings, designs or specifications.
 - 2. Method or manner of performance of Work.
 - 3. TVA's furnished facilities, equipment, materials, services or Site.
 - 4. Acceleration or deceleration in the performance of Work.
- b. A Change Notice becomes an effective Contract obligation: (1) when both parties execute the Change Notice and associated documents (for example, but without limitation, a revised specification, or milestone payment schedule); (2) subject to subsection c., below, if Contractor does not notify TVA in writing of any claims against TVA within five (5) business days of the date stated on TVA's Change Notice; or (3) immediately, if the Contracting Officer states in the Change Notice that it is impractical to delay implementation of the change. The parties also may agree to amend this Contract or any Work Release(s) affected by the issued Change Notice, in lieu of or in addition to executing the Change Notice.
- c. Pending resolution of any claims (under this Contract's **Disputes and Governing Law** Section, or otherwise), or execution of the Change Notice or any related amendment, Contractor shall proceed with the Work as modified by the Change Notice. TVA's Contracting Officer may, but is not obliged to, accept or consider any Contractor or its subcontractor(s)' claims arising from a Change Notice after the five (5) business day time period established in subsection b., above. TVA will not accept or consider any such claim after it has made final payment to Contractor under this Contract.
- d. Contractor must continue to perform all Work not modified by the Change Notice, as required in this Contract. If at any time Contractor believes that acts or omissions by TVA constitute a change to Work not covered by a Change Notice, Contractor must notify TVA in writing within ten (10) days from its discovery of such acts or omissions, in order for TVA to consider the request.
- e. Any Contractor proposal or request in response to an issued Change Notice, or pursuant to subsection d., above, must be based on Contractor's actual and allowable costs, rates, or prices (as applicable), or at minimum, on a cost or pricing structure similar to the terms of payment under which Contractor is (at the time of the proposal or request) being paid for Work under this Contract.
- f. TVA is not liable to Contractor or any Subcontractor for increased costs in connection with any Change Notice or related claims, whether in tort or in contract, except as specifically provided in this Section, or pursuant to an executed amendment to this Contract.

32. INFORMATION TECHNOLOGY

- a. This Section 32 applies to the extent that Contractor's scope of Work involves providing, servicing, or accessing one or more of the following: IT Work, Operational Technology, TVA Information Systems, or TVA Networks, as defined herein.
- b. Definitions
 - 1. "ByteDance Limited Products" means the social networking service TikTok or any successor application or service of TikTok developed or provided by ByteDance Limited or an entity owned by ByteDance Limited.
 - 2. "Contract Information" means any non-public information related to this Contract and the Work, including but not limited to any TVA Confidential Information disclosed to Contractor.
 - 3. "Cyber Asset" means any programmable electronic device, including hardware, software, information, or any of the foregoing, which are components of such devices or enable such devices to function.
 - 4. "Harmful Code" means any computer instructions, circuitry or other technological means whose purpose is to disrupt, damage or interfere with information systems or other systems and data, including, without limitation, any automatic restraint, time-bomb, trap-door, virus, worm, Trojan horse, time lock, clock or any other harmful, malicious or hidden procedure, routine or mechanism.
 - 5. "IT Work" means the total of all hardware, software, software licenses, networks, cloud services, telecom, servers, databases, electronic programs, and related actions, management, services, Operational Technology (as defined herein), Records (electronic or physical) or responsibilities, that Contractor will develop, update, upgrade, grant, deliver, transmit, perform, or provide to TVA under this Contract.

6. "Kaspersky Product" means any software code, or any information security product, solution, network, system, or service, that is or has been supplied (directly or indirectly) by AO Kaspersky Lab or any of its predecessor entities or its Affiliates (including, without limitation, Kaspersky Lab North America, Kaspersky Lab, Inc., and Kaspersky Government Security Solutions, Inc.), or any entity in which one or more of the foregoing has majority ownership or voting control.
7. "Network" means a system implemented with a collection of connected components, including routers, hubs, cabling, telecommunications controllers, key distribution centers, and technical control devices.
8. "NIST" means the National Institute of Standards and Technology, a federal agency within the U.S. Department of Commerce.
9. "Operational Technology" means programmable systems or devices that interact with the physical environment, or manage devices that interact with the physical environment.
10. "Vulnerability(ies)" means any publicly disclosed material defect or compromise to the cybersecurity of Contractor's or its Subcontractor(s)' product or service provided, serviced, or delivered to TVA as part of the IT Work; generally known as Common Vulnerabilities and Exposures (CVE).

c. Warranties and Product Integrity

1. Contractor represents and warrants that IT Work and any media used to distribute IT Work:
 - a. do not contain Harmful Code at the time of initial delivery or at the time of updates or upgrades;
 - b. do not contain and have never been affected by any Kaspersky Products, ByteDance Limited Products, or any other software products (or combination thereof) that are prohibited by Applicable Laws;
 - c. will not require the storage, processing, or communication of TVA Contract Information outside of the United States without TVA's prior, written approval; and
 - d. will not allow Foreign Persons, or other individuals not authorized under Applicable Laws, to access Contract Information or provide technical support of IT Work.
2. Contractor shall indemnify TVA from all liabilities resulting from Contractor's and its subcontractor(s) failure to comply with subsection c.1, above.
3. Contractor must provide or deliver to TVA Work Products that comply with the requirements stated in subsection (a), above, and any additional security and access controls and protocols specified on Work Release(s), including, but not limited to providing hash values, cryptographic keys, or access information for electronically delivered Work Products. Prior to implementation or installation (as appropriate) of Work Products, Contractor shall provide to TVA information or documentation sufficient to enable TVA to determine that appropriate security controls are in place and operating as expected.
4. The IT Work shall not contain so-called "shrink wrap" or "click wrap" license terms, or other terms of service that conflict with this Contract. This Contract and the applicable Work Release supersede any such conflicting terms.
5. As required by Applicable Laws (specifically including, for purposes of this Section, Executive Order 14028), Contractor shall (i) provide a self-attestation affirming compliance with NIST SP 800-218, or its equivalent, from the software producer in accordance with the Cybersecurity Infrastructure and Security Agency (CISA)-issued "Common Form," reference <<https://www.tva.com/information/supplier-connections/for-technology-providers>>, and (ii) implement or incorporate phishing-resistant multifactor authentication ("MFA") components to the IT Work. Additionally, upon request from TVA or its designated agent, Contractor shall provide a formal record containing the details and supply chain relationship of various components used in building the software provided under this Contract, commonly known as a Software Bill of Materials ("SBOM").
6. Contractor shall ensure that its Subcontractor(s) comply with this Section, and is liable for such Subcontractor(s)' failure to comply with this subsection.

d. TVA Furnished Information Technology Equipment

1. "TVA IT Equipment" means: (a) any equipment or interconnected system or subsystems of equipment that are used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching interchange, transmission, or reception of data or information; and (b) computers; ancillary equipment, data communication lines and other communication hardware, software, firmware; or similar equipment identified on Work Release(s).
2. If TVA decides to deliver to Contractor any TVA IT Equipment for Contractor's use in connection with the Work, TVA retains title at all times to such TVA IT Equipment. Any services, maintenance or support related to TVA IT Equipment, or which third-party contractors may provide to Contractor, are provided "AS IS", disclaiming any warranties by TVA or

on TVA's behalf. Contractor: (1) shall not use TVA IT Equipment except in direct support of its Work; (2) assumes the risk and responsibility for loss or damage (other than as incident to reasonable usage for purposes of the Work) to any TVA IT Equipment after its initial delivery to Contractor, and until its return to TVA, and (3) shall maintain written property control records for all TVA IT Equipment in accordance with sound business practices and will make such Records available for TVA inspection, upon TVA's request.

3. Upon completion of Work or termination of this Contract for any reason, Contractor shall follow the instructions of the Contracting Officer regarding the return and disposition of all TVA IT Equipment, and shall return all related Records to TVA's CTS.

e. Contractor Use of TVA Information System

1. Contractor's use of a TVA Information System, authorized or unauthorized, constitutes Contractor's consent to TVA's monitoring of Contractor's or any Subcontractor(s)' use of the relevant TVA Information System. TVA may provide access to its Information System and all related equipment, networks, and network devices (including internet access) only to authorized users for authorized purposes. Contractor is responsible for ensuring that its employees, its Subcontractor(s), and their agents comply with any applicable TVA procedures, including TVA-SPP-12.001 Acceptable Use of Information Resources.
2. Any Contractor employee or Subcontractor(s) that seek(s) access to a TVA Information System, or receives a TVA network ID ("Contractor Users"):
 - i. first shall complete TVA Form 40156 "TVA Contractor and TVA Nuclear Badged Employee Check-In Form Hire and/or Unescorted Nuclear Access Request." Any employee who receives a TVA network ID, or access to a TVA Information System, must complete TVA Form 40157, "TVA Contractor Check-Out Form" upon the completion of his or her Work, or the termination of this Contract or the relevant subcontract(s), for any reason; and
 - ii. is subject to and must comply with: (i) the requirements of the United States Citizenship and Immigration Services (USCIS) related to a Contractor User's eligibility to work in the United States, (ii) Export Control Laws (as defined below), and (iii) TVA Police & Emergency Management security screening requirements, as applicable to each Site. Contractor must acquire, verify and maintain appropriate documentation (such as valid U.S. Social Security number(s) and USCIS Form I-9) on all Contractor Users who seek access to a TVA Information System.
3. In order to have and maintain access to TVA Information Systems, all Contractor Users will receive an assigned TVA network ID and must (at minimum) successfully complete required cybersecurity training and testing within 14 days of their receipt of such network ID. After completion of the initial training, Contractor Users must complete required training on an annual basis (before their training anniversary date).
4. Any Contractor User's use of a TVA's Information System constitutes Contractor's agreement to comply with such system's terms of use. TVA may deny or revoke a Contractor User's access to any TVA Information System if: (1) such Contractor User fails to successfully and timely complete any Security Awareness training, (2) TVA's information or TVA Information Systems are misused or abused, or (3) TVA's terms of service are violated. TVA will not pay or reimburse Contractor, and Contractor shall not claim against TVA (under the Changes Section of this Contract, or otherwise), for any delays, costs, or other expenses incurred by Contractor or Subcontractor(s), relating to TVA's revocation or denial of system access to a Contractor User.
5. Contractor shall immediately notify the CTS or designee in writing whenever it disables electronic access by or for any of its employees or Subcontractor(s) to a Contractor's Information System, due to any action that temporarily or permanently severs the employment or Subcontractor relationship within 24 hours of the action. Upon receipt of such notice from Contractor, TVA will immediately disable the relevant employee(s)' electronic access to TVA Information Systems.

- f. Personally Identifiable Information and Privacy Act. If Contractor or its Subcontractor(s) obtain or have access to PII in connection with Work performed or delivered under this Contract, or if Work Product delivered to TVA contains modules or features that collect or the functionality of which could be updated to collect PII, Contractor shall comply with the TVA terms for Personally Identifiable Information and Privacy Act located at <https://www.tva.com/Information/Supplier-Connections/Documents--Referenced-Clauses>, as amended from time to time.

- g. External Information Systems. For any Information Systems hosted externally to TVA, by Contractor, its Subcontractor(s), or by Cloud Service Provider(s), as part of or incident to Contractor's Work, Contractor shall comply with the TVA terms for External Information Systems located at <https://www.tva.com/Information/Supplier-Connections/Documents--Referenced-Clauses>, as amended from time to time.

- h. Vulnerabilities. Consistent with Applicable Laws (specifically including NIST's definitions of "critical vulnerabilities" and "high vulnerabilities"), during the performance of any IT Work under this Contract, Contractor shall provide summary documentation of any Vulnerability, the potential impact of such Vulnerabilities, and the status of Contractor's efforts to mitigate those publicly disclosed Vulnerabilities. Additionally, Contractor shall make commercially reasonable efforts to prioritize and remediate any Known Exploited Vulnerability (KEV) as identified in the KEV Catalog, <https://www.cisa.gov/known-exploited-vulnerabilities-catalog>. Contractor, at its expense, shall implement any corrective actions, compensating security controls, mitigations, or procedural workarounds, or any of the foregoing, which it recommends as necessary to address the identified Vulnerabilities.
- i. Cyber Security Incidents: Notices and Responses.
 - 1. In addition to any notice required under this Contract, Contractor shall notify TVA promptly at (423) 751-4357 and then immediately thereafter by providing a written communication to TVA at CYBERSECURITY@TVA.GOV, whenever Contractor knows that an act or omission by any source has compromised or may adversely affect or breach: (i) the cybersecurity of any IT Work, or (ii) the physical, technical, administrative, or organizational safeguards protecting Contractor's Information Systems (any of the foregoing, a "Compromise").
 - 2. Within seven days of notifying TVA of the Compromise, Contractor shall recommend actions that TVA should take on TVA Cyber Assets to reduce the risk of a recurrence of the same or a similar Compromise, including, as appropriate, the provision of action plans and mitigating controls. Unless TVA or its agents negligently caused the Compromise, Contractor is responsible for developing and implementing those action plans and mitigating controls, at its expense. Regardless of the cause(s) of the Compromise, Contractor shall coordinate with TVA in implementing the action plans and mitigating controls. In addition, Contractor will provide TVA guidance and recommendations for long-term remediation of any cyber security risks posed to TVA Cyber Assets, and any information necessary to assist TVA in any of its recovery efforts in response to a Compromise.
- j. Remote Access. If the IT Work involves establishment or maintenance of remote access to a TVA Cyber Asset (either interactive or to and from an external Cyber Asset), Contractor shall (i) comply with TVA Cyber Asset requirements and preconditions, and (ii) coordinate with TVA's CTS to establish controls that govern any such remote access to TVA Cyber Assets.
- k. Artificial Intelligence. If Contractor offers Artificial Intelligence (AI) tools or services, or provides Work under this Contract that includes AI features, or was otherwise developed, wholly or with the assistance of AI technology, then the TVA Artificial Intelligence Terms, located at <https://www.tva.com/information/supplier-connections/documents-referenced-clauses>, as amended from time to time, will apply. If any conflict exists between TVA's Artificial Intelligence Terms and any Contractor AI terms of use, the former will supersede and govern the latter.

33. TERMS INCORPORATED BY REFERENCE

- a. This Contract incorporates by reference the following Applicable Laws, which, to the extent applicable to this Contract or the Work, apply as if they were set forth in their entirety in this Section, and are available from TVA's Supplier Connections at <https://www.tva.com/Information/Supplier-Connections/Documents--Referenced-Clauses> under "Referenced Clauses."
- b. If Contractor fails to comply with Applicable Laws, TVA may suspend payments, terminate this Contract for default, suspend or debar Contractor from Government contracting in accordance with 41 U.S.C. Section 8102(b), or take any other action required by Applicable Laws or consistent with this Contract.

34. ASSIGNMENT & CHANGE OF CONTROL

- a. Neither party will, without the prior, written consent of (respectively) TVA's Contracting Officer or a corporate officer of Contractor, which in either case shall not be unreasonably withheld, Assign or effect an Assignment regarding or with respect to this Contract, provided, however, that no such consent is required in connection with an Assignment: (i) by Contractor, to one or more financial organizations in connection with Contractor's financing needs, of its right to receive payment from TVA, or (ii) if Contractor has provided to TVA the notice and information required by subsection (c), below (addressing a Change in Control), prior to the Assignment, and the Assignment results from a corporate merger, reorganization or transfer to a U.S.-domiciled Affiliate. This Contract shall not be assigned or transferred to, or assumed by, any individual or entity listed on the U.S. Department of Commerce's International Trade Administration Consolidated Screening List (<https://www.trade.gov/consolidated-screening-list>).
- b. A party that requests the other party's consent to an Assignment must notify the latter party in writing, prior to any proposed Assignment, and in such request or notification:
 - 1. Describe the proposed Assignment and underlying transaction(s) in detail, including providing corporate organizational charts that clarify the party's ownership before and after the transaction; and
 - 2. Provide assurance to the consenting party that, post-Assignment, the assignee or transferee person or entity will, at

minimum: (i) protect the consenting party's Confidential Information, and (ii) be willing and capable to continue performance of Work, in all cases, in full compliance with Contract requirements and specifications.

- c. Each party must notify the other party in advance and in writing of any Change in Control, and in such notification:
 1. Describe the proposed Change in Control and underlying transaction(s) in detail, including providing corporate organizational charts that clarify the party's and its Affiliates' ownership before and after the Change in Control; and
 2. Provide assurance to the other party that, post-Change in Control and during the remaining Contract term, the party and its Affiliates will, at minimum: (i) protect the other party's Confidential Information, (ii) not prevent or restrict the notifying party's continued performance of Work, and (iii) as applicable, maintain or renew any bonding or other surety requirements, or guaranty(ies) provided by the notifying party's parent entity(ies) or other Affiliates, at the levels or amounts stated in the Contract.
- d. Either party's failure to comply with all requirements of this Section voids any proposed Assignment and constitutes a default, consistent with this Contract's **Termination for Default** Section.

35. APPLICABLE LAWS

- a. Contractor and Subcontractor(s), and their employees and representative(s) shall comply with all Applicable Laws in effect during performance of Work, and, consistent with this Contract's **Indemnity** Section, Contractor is solely responsible for such compliance and the liabilities resulting from non-compliance with Applicable Laws, including, without limitation: fines and penalties, corrective actions, and rework, and implementation of any injunctive sanctions or relief. Contractor shall not charge, invoice, or claim against TVA for any such costs, expenses or liabilities.
- b. If Contractor is impacted by changed or new Applicable Laws, which are enacted and were not known or foreseeable as of the Effective Date, Contractor shall notify TVA in writing of such impact, if and to the extent such impact materially and adversely impacts Contractor's cost or performance schedule(s) hereunder, in accordance with this Contract's **Changes** Section.
- c. If Contractor discovers any discrepancy or inconsistency between this Contract and any Applicable Laws, Contractor shall report the same immediately, in writing, to TVA's Contracting Officer.

36. DISPUTES AND GOVERNING LAW

- a. The parties will use their best efforts to resolve disputes or claims informally at the lowest possible levels of decision-making. Pending resolution of any dispute or claim, Contractor shall proceed with the Work in compliance with the terms of this Contract and the Contracting Officer's written determinations or instructions.
- b. This Contract is governed by and will be construed and interpreted in accordance with the federal laws of the United States of America. In the event such federal laws state no rule of decision with respect to any particular dispute or claim related to this Contract, the law of the State of Tennessee, except for Tennessee's choice of law provisions, will apply. All claims or disputes related to this Contract (whether sounding in Contract, tort, or otherwise) must be filed, prosecuted and litigated to conclusion only in the United States District Court for the Eastern District of Tennessee. With respect to any such claims or disputes, each party hereby: (1) consents to the exclusive jurisdiction of and venue in that court, and waives any objection based on jurisdiction or venue in such court, provided that, either party may bring an action which seeks to enforce a right of indemnity or contribution in any U.S. District Court with proper jurisdiction and venue, in which the underlying claim for which indemnity or contribution is being asserted, and (2) waives any right it may have to a trial by jury.
- c. This Contract is not subject to the Contract Disputes Act, 41 U.S.C. §§ 7101-7109. Neither this Section nor any provision of this Contract is or will be construed as a "disputes" clause, as defined in that Act.

37. OFFSETS

If Contractor is in breach of any requirement of this Contract or any other contract with TVA, TVA may withhold payments that may be due to Contractor and may offset any costs incurred by TVA as a result of the breach, other damages, or monies owed to TVA against funds due Contractor under this or any contract that Contractor has with TVA.

38. NONDISCLOSURE

- a. Contractor shall not disclose to third parties, without the prior written consent of TVA, any information that: (a) is marked as sensitive, restricted, controlled or confidential, or with similar words or legends, or (b) is non-public information related to this Contract and the Work ("Confidential Information"). The nondisclosure restrictions stated in this Section do not apply to information that is or was, at the time of disclosure: public knowledge, already known by Contractor; obtained by Contractor from a third party that did not receive the information from TVA; or independently developed by Contractor's employees without access to such information. If Contractor's legal counsel reasonably advises it that disclosure of Confidential Information is required by Applicable Laws, Contractor must notify TVA in writing sufficiently in advance of the effective date

of such legal requirement so that TVA can prevent or limit the required disclosure. This Section and the nondisclosure restrictions herein apply to all Subcontractors.

- b. Because Contractor's breach of its obligations under this Section could result in irreparable harm to TVA, for which monetary damages are not an adequate remedy, TVA may, in addition to exercising any other remedies available under this Contract or at law, enforce any equitable remedies against Contractor if such breach(es) occur, including, without limitation, specific performance and injunctive relief.
- c. Contractor must obtain, at its sole risk, liability and expense, all information that is owned or controlled by third parties and is necessary to perform or complete Work (such as, without limitation, procedures, drawings, software, and calculations), whether or not such third parties consider or mark such information as proprietary or confidential.
- d. Contractor warrants that its provision of any information to TVA under this Contract does not violate Applicable Laws or any confidentiality or non-disclosure obligations to any third party.

39. SURVIVAL

The obligations of TVA and the Contractor under this Contract that are not, by the express terms of this Contract, to be performed fully during the Term, shall survive termination of this Contract. Termination of this Contract for any reason will not affect the parties' obligations or liabilities hereunder, if and to the extent such obligations or liabilities, by their nature or by express provision of this Contract, survive termination.

40. BUSINESS ETHICS AND COMPLIANCE REQUIREMENTS

Contractor shall maintain a written code of business ethics and conduct, and exercise due diligence to prevent and detect criminal conduct. In connection with the award, performance, or closeout of this Contract or any subcontract thereunder, Contractor shall timely disclose, in writing, to TVA's Office of Inspector General (TVA's OIG), with a copy to TVA's Contracting Officer, any credible evidence that a principal, employee, agent, or Subcontractor of Contractor has committed (i) a violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in title 18 of the United States Code; or (ii) a violation of the civil False Claims Act (31 U.S.C. §§ 3729-3733); provided that if Contractor has credible evidence that TVA's Contracting Officer is implicated in such violation of Federal criminal law, the written disclosure shall be made to TVA's OIG with a copy to TVA's Vice President, Supply Chain. Contractor shall include the substance of this section in subcontracts valued in excess of \$5 million.

41. ORGANIZATIONAL CONFLICTS OF INTEREST

- a. An organizational conflict of interest (OCI) arises when factors create an actual or potential conflict of interest, or when the nature of the work to be performed under that contract creates an actual or potential conflict of interest on a future procurement action or contract. If Contractor is unable or potentially unable to render impartial advice or assistance to TVA, or the Contractor's objectivity in performing Work under this Contract, or any TVA contract, is or might be otherwise impaired, or the Contractor has an unfair competitive advantage, TVA may impose restrictions on Contractor to avoid, neutralize, or mitigate the OCI or the appearance of an OCI.
- b. Contractor warrants that, to the best of its knowledge and belief, there are no relevant facts that could give rise to an OCI. If during the term of this Contract, Contractor becomes aware of relevant facts that could give rise to an OCI, it shall promptly notify the Contracting Officer of those facts. TVA may take or direct Contractor to take steps to identify and evaluate, avoid, neutralize, or mitigate any OCI or the appearance of an OCI.

42. CERTIFICATION REGARDING DEBARMENT AND SUSPENSION

As of the Effective Date, Contractor certifies to the best of its knowledge that it and its principals are not presently non-responsible, debarred, suspended, proposed for debarment, or declared ineligible, or voluntarily excluded from procurement or non-procurement transactions, by any U.S. Governmental Authority, pursuant to 2 C.F.R. Part 180. During the term of this Contract, Contractor promptly shall notify TVA's Contracting Officer and TVA's Office of Inspector General if any event occurs that renders the foregoing certification inaccurate. Contractor shall include the substance of this section in subcontracts that have a value in excess of \$25,000.

43. PUBLIC COMMUNICATIONS

Contractor and Subcontractor(s) must obtain the written approval of TVA's Contracting Officer prior to making any public disclosures or communications, relating to or referencing this Contract itself, Work performed under this Contract or TVA. TVA may approve or reject proposed public communication(s), except to the extent a proposed communication or disclosure is specifically required by Applicable Laws.

44. LANGUAGE AND MEASUREMENT

All communication between the Contractor and TVA, including all documents, notes on drawings, and submissions required under this Contract, will be in the English language. Unless otherwise specified in the Contract, the US System of Measurements shall be used for

quantity measurement. All instrumentation and equipment will be calibrated in US System of Measures.

45. TIME AND DATE

Any Contract requirement that references a specific date and time means the local time or date in Chattanooga, Tennessee, USA. If the referenced date is not a regular business day for TVA, the requirement is deemed to reference the next regular business day. Day or days means calendar days. Any reference to workday, workdays, business day, or business days means regular business day(s) for TVA. Any reference to holiday or holidays means those specific Federal holidays during which TVA employees are excused from work.

46. NONEXCLUSIVE

This Contract is not a requirements contract; TVA is legally obliged to purchase only the Work for which TVA issues specific Work Releases. TVA does not guaranty, and makes no representation whatsoever, that it will purchase any estimated amount, or any amount, of Work. TVA may perform, or have all or any portion of the Work performed, by third parties.

47. SEVERABILITY

If any provision of this Contract is found to be unenforceable under Applicable Laws, the parties will replace such provision with a substitute provision that most nearly reflects their original intentions and is enforceable under Applicable Laws.

48. RELATIONSHIP OF THE PARTIES

Contractor shall perform the Work as an independent contractor. Contractor (a) does not have the power or authority to bind TVA or to assume or create any obligation or responsibility, express or implied, on TVA's part or in TVA's name, and (b) shall not represent to any person or entity that it has such power or authority.

49. ENTIRE AGREEMENT

This Contract, including any attachments hereto, embodies the entire agreement between TVA and Contractor and supersedes all other communications, either oral or written, with respect to the subject matter hereof. The parties are not bound by or liable for any statement, representation, promise, inducement or understanding not set forth herein. Except as otherwise specifically provided in this Contract's **Changes** Section, no amendments or modifications to this Contract are valid unless incorporated in a Contract amendment, executed by TVA's Contracting Officer and Contractor's Representative(s).

ON-SITE WORK PROVISIONS

These On-Site Work Provisions apply if and to the extent that Contractor's scope of Work under a Work Release involves accessing or performing any Work at a TVA Site.

1. OS SITE ACCESS REQUIREMENTS FOR CONTRACTORS

- a. Contractor's employees and Subcontractor(s) ("Covered Employees") who perform on-Site Work or seek access to a TVA Site are subject to and must comply with TVA-SPP-14.200 and Site-specific access policies (including, if applicable, the provisions of the Section, **Nuclear Sites: Unescorted Access and Fitness for Duty**), and the requirements of the United States Citizenship and Immigration Services (USCIS) related to Covered Employees' eligibility to work in the United States (Form I-9). Contractor must acquire, verify and maintain appropriate documentation on all Covered Employees who perform on-Site Work. All Covered Employees must have a valid Social Security number and provide it to designated TVA representatives upon request.
- b. Contractor must check all Covered Employees through TVA's Web-based Contractor Security System (WCSS) before Covered Employees are authorized to perform on-Site Work. If a Covered Employee does not have current fingerprints on file with TVA, he or she must be fingerprinted at a TVA designated location before accessing a TVA Site. For instructions on accessing WCSS, access <https://wcsc.tva.gov> or contact the TVA Contracting Officer or Site representative. All Covered Employees must complete, subject to TVA approval, TVA Form 40156: TVA Contractor, and as applicable, TVA Nuclear Employee Check-In Form Hire and/or Unescorted Nuclear Access Request, prior to performing on-Site Work or receiving a TVA-issued badge.
- c. Covered Employees who require access to a Site must present a US state government-issued identification document from a US state that complies with the federal REAL ID Act of 2005, Pub. L. 109-13, 119 Stat. 302. Consistent with Applicable Laws, TVA, at its sole option, may allow Covered Employees escorted access (only) to a Site, if such employees present a valid alternative form of U.S. government-issued photo identification.
- d. TVA may provide an access control badge for Covered Employees who require unescorted access to a Site in order to perform on-Site Work. To obtain a TVA-issued badge, Covered Employees will be fingerprinted and photographed at a TVA Police (TVAP) Access Control office, or at a Site location that is able to fingerprint and photograph such employees. TVA-issued badges must be prominently displayed while on TVA property. Failure to do so may result in loss of access privileges. All access control badges

are and remain TVA property, and each must be returned to TVA by Contractor immediately when Covered Personnel no longer require access. Contractor shall reimburse TVA, or TVA may withhold from Proper Invoices, an administrative charge of \$250 for each unreturned access control badge. TVA will enter restrictions into its access control system for any Covered Employee whose badge is not returned. Contractor must promptly report the loss of any TVA-issued badge to TVA's CTS and TVAP Access Control, nuclear Site Plant Access, or TVA Nuclear Security.

e. Contractor shall report to TVAP Personnel Security, or TVA Nuclear Security, as applicable:

1. immediately upon termination and through WCSS, or for nuclear Sites through the Security Screening Information System (SSIS) or Personal Access Data System (PADS) system(s), any Covered Employee who is discharged for cause from a TVA Work assignment, or has violated applicable drug screening, medical testing, or health and safety policies, so that TVA can apply appropriate Site access restrictions on such persons;
2. if TVA terminates the Work that the Covered Employee(s) are performing;
3. Contractor's dismissal of Covered Employee(s) from the Site for cause;
4. when all Contract Work is completed, and Contractor is unlikely to perform Work at that Site within the 6 months following completion; or
5. any Covered Employee who fails to return a TVA-issued badge upon request.

- f. Every Covered Employee who performs Work that requires electronic access, unescorted physical access, or both types of access, to TVA-designated critical cyber assets, must undergo a personnel risk assessment in accordance with Critical Infrastructure Protection (CIP) standards issued by the North American Electric Reliability Corporation (NERC). This personnel risk assessment will include a background check and identity verification prior to granting this access and will be conducted at least every seven years.
- g. Contractor shall not invoice (directly or indirectly) or claim against TVA (under any Section of this Contract) for any time, adjustment (equitable or monetary), cost or expense relating to Contractor's or its Subcontractors' failure to comply with the requirements of this Section, or specific Site access requirements, applicable to any Covered Employee.

2. OS SITE WORK

- a. Upon initial arrival at the Site, Contractor shall report directly to the CTS or TVA's designated Site representative. TVA will authorize Contractor and its Subcontractor(s) to begin performing on-Site Work in compliance with Site procedures. Contractor is not authorized to commence any on-Site Construction Work until Contractor: (i) obtains any required Permits, and (ii) receives written approval from TVA to begin the relevant Construction Work.
- b. While any of its personnel or its Subcontractor(s) are present on-Site, Contractor shall:
1. ensure that all on-Site Work performed by Contractor or its Subcontractor(s) comply with applicable Site Work control procedures; confine its operations to the Site areas assigned by TVA; and be solely responsible and liable for its use of any off-Site areas;
 2. promptly notify TVA of any Work impact due to collateral work by others; and
 3. coordinate its and its Subcontractor(s)' Work with the operations of TVA and TVA's third party contractors, to avoid confusion and delay.
 4. be solely responsible for its Subcontractor(s)' performance and completion of Work.
- c. In connection with on-Site Work, TVA may:
1. require Contractor to schedule the order of performance of its Work in such a manner as will minimize interference with the work of any of the parties involved;
 2. require that Contractor maintain complete and accurate records of all personal property that Contractor or its Subcontractor(s) bring onto the Site, store or use in its or their performance of on-Site Work, or any of the foregoing, and submit such records to TVA's Site representative, upon request; and
 3. upon notice to Contractor, deny access to, or expel from, the Site any Contractor employee or Subcontractor, if TVA reasonably determines that such exclusion or expulsion is consistent with Site safety or security policies.
- d. Upon final departure from the Site or the return of an access card, Contractor shall coordinate processing out with the CTS or the designated TVA Site representative, in accordance with applicable Site Work control procedures.

- e. Contractor and its Subcontractor(s) (and its or their agent(s)) shall not possess, transport, give, sell, or use controlled substances, alcohol, explosives, firearms (that Contractor is not specifically required to use on-Site as part of its performance of on-Site Work), or incendiary devices at any Site. If Contractor, its Subcontractor(s), or any of its or their agent(s) fail to comply with this subsection e., Contractor is responsible and holds TVA harmless for any fines, penalties, costs, expenses, or obligations related to such failure(s), including, without limitation, costs, expenses, or other liabilities resulting from Governmental Authority investigations, orders, injunctive actions, or enforcement actions.
- f. TVA may direct Contractor to remove from the Site, prohibit from any future on-Site Work, or both, any person that violates the restrictions stated in this Section.

3. OS PERMITS

Contractor certifies that it (or, as applicable, its Subcontractor(s)) has obtained, and will maintain at its expense, all Permits, and that such Permits are (as of the Effective Date and any relevant Work Release) in full force and effect. Upon TVA's written request, Contractor shall furnish to TVA's CTS and Contracting Officer copies of all such Permits, including details required to understand the scope and limitations of such Permits.

4. OS ON-SITE WORK CONTRACTOR RESPONSIBILITIES

- a. Contractor is responsible for: (1) loss or damage to Work in progress, materials, equipment, property, or lands, until completion and Acceptance; (2) secure and weather-protected (if storage is outdoors) storage of all Contractor and TVA furnished material and equipment, (3) transportation of materials and equipment from storage to Site Work areas, and (4) receiving, storing, and issuing of Records related to on-Site Work.
- b. Contractor shall plan and perform its Work so as not to:
 - 1. Damage or destroy land adjacent to the Site Work areas.
 - 2. Damage, close, or obstruct any highway, road, railway, right of way or other property without prior receipt of required Permits and written permission from third party property owner(s).
 - 3. Disrupt or otherwise interfere with the operation of any utility facility unless otherwise specifically authorized by this Contract.
- c. If Contractor fails to comply with subsections a and b above, it shall repair or restore damaged property, utility connections, or Records, at its expense.
- d. TVA retains and reserves title to water, soil, rock, gravel, sand, minerals, timber, and any other materials developed or obtained in any excavation or other operations of Contractor or any of its Subcontractors. TVA may permit Contractor to use any such materials in connection with its Work.

5. OS LABOR PROVISIONS

If Contractor's Work involves craft labor, it and any Subcontractors shall comply with TVA's current year labor documents, which are available through the "Labor Documents" link at TVA's Supplier Connections website, at <https://www.tva.com/Information/Supplier-Connections/Documents--Referenced-Clauses>, or from the Contracting Officer. Contractor must comply and ensure Subcontractor(s)' compliance with these requirements, depending on the nature of the Work. Contractor must direct questions regarding these labor provisions to the Contracting Officer and TVA's Manager, Labor Relations.

6. OS KEY POSITIONS

TVA may, by written notice to Contractor, designate "key positions" for particular scope(s) of Work. Individuals assigned by Contractor to TVA-designated "key positions" are subject to TVA's prior, written approval. Contractor must provide reasonable prior written notice to the CTS (sufficient to enable the CTS to evaluate the impact on the Work) and justify any proposed personnel action (adverse or otherwise) that impacts individual(s) in key position(s). Contractor shall not take any personnel action that adversely impacts the ability and availability of individual(s) in key position(s) to perform and complete Work without the CTS's prior, written approval of a replacement(s) for such key position(s).

7. OS QUALIFICATIONS OF PERSONNEL

- a. Contractor shall ensure that its and its Subcontractors' personnel are qualified and trained to perform on-Site Work. Upon TVA's written request to Contractor, Contractor shall submit to TVA's CTS a written statement that describes Contractor's personnel or its Subcontractor(s)' specific qualifications for and prior, relevant experience in performing, and skills training required to perform the on-Site Work assigned to them. TVA's CTS will review Contractor's statement and may concur or object to the proposed on-Site Work assignment(s) of such personnel.
- b. Contractor shall not assign to Work any person who fails to meet the qualifications, skills training requirements, prior

experience, Site safety or security prerequisites (if applicable), or performance requirements established by TVA or Applicable Laws. TVA may, by written notice to Contractor, direct Contractor to reassign or remove from a Site any person if: (1) such action is consistent with Site or TVA corporate health, safety, environmental, personnel, or security policies, or Applicable Laws, or (2) such person has performed or is performing on-Site Work for which such person lacks qualifications, skills training, or prior experience requirements established by TVA for such Work.

- c. TVA also may, by written notice to Contractor, reject and require Contractor to re-perform, at its sole cost, any Work performed by such persons whom TVA reasonably determines are or were unqualified to perform such Work, or otherwise failed to comply with the requirements stated in or established pursuant to this Section.

8. OS PREVAILING WAGE AND BENEFIT REQUIREMENTS FOR SERVICES CONTRACT EMPLOYEES

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

9. OS DRUG TESTING

- a. If Contractor employees or its Subcontractors are expected to perform work for more than 20 consecutive work days or 90 cumulative work days in any 180 calendar day period on TVA Site(s) Contractor shall implement and/or maintain a comprehensive substance abuse testing program that includes pre-access, reasonable suspicion, post-incident, and random testing.
- b. Employees working on TVA Site(s) less than the above-specified amounts of time but who will be performing in safety sensitive positions or safety-sensitive type functions must be tested prior to TVA Site access. Safety-sensitive positions are those positions in which an individual has the potential to cause immediate serious physical injury or harm to persons or property. Safety-sensitive functions include but are not limited to: carrying fire arms; working with explosives; working on or around energized equipment; working on or around powered equipment; working at unprotected elevations; working in or around water; performing safety inspections; piloting, co-piloting, or maintaining aircraft; performing plant maintenance, modifications, or operations; and performing Construction Work. Notwithstanding the foregoing, TVA may determine, in its discretion, which positions and functions are safety-sensitive.
- c. Contractor and its Subcontractors shall perform random testing of at least 25 percent of its employees on a calendar-year basis who have been working on TVA property for at least six months and are performing in safety-sensitive positions or safety-sensitive type functions.
- d. Contractor and Subcontractor employees performing Work on TVA property are subject to TVA conducting reasonable suspicion testing at TVA's discretion.
- e. Except as provided below for emergencies, Contractor and its Subcontractor employees subject to the above testing requirements may only begin working on TVA Site(s) if one of the following conditions is satisfied:
- f. A negative result has been reported for the employee for a drug test administered within 30 calendar days prior to or on the initial work date, and the testing program has been determined to be in compliance with TVA testing requirements.
- g. The employee has been subject to a random drug testing program within the past 30 days and the drug testing program has been determined to be in compliance with TVA testing requirements.
- h. The following chart depicts the above criteria:

Criteria for Drug Testing		
	Test Required	
Criteria	Yes	No
Performs Safety Sensitive Work	✓	
Non-Safety Sensitive ≥ 20 Consecutive Work Days	✓*	
Non-Safety Sensitive ≥ 90 Cumulative Days within 180 Calendar Day Period	✓*	
Tested within Past 30 Days		✓
Subject to Random Testing within Past 30 Days		✓

*Drug test must be conducted within 14 calendar days from when the employee exceeded such 20 work days or 90 cumulative work day periods.

- i. In case of emergency the TVA Contract Technical Steward may approve drug testing to be performed after an employee's initial work date.
- j. Contractor's drug screening program must meet the following drug testing standards:
 1. Collections and specimen transport for all drug screens must be conducted by certified collectors and follow proper chain-of-custody documentation, as required by Applicable Laws.
 2. Point-of-collection (POCT) urine drug screens must be conducted with FDA-approved testing devices.
 3. Non-negative results on initial screens (either POCT devices or laboratory immunoassays) must be confirmed by Gas Chromatography/Mass Spectrometry (GC/MS) testing at a Substance Abuse and Mental Health Service Administration (SAMHSA) certified laboratory.
 4. Non-negatives confirmed by GC/MS must be reviewed by an AAMRO- or MROCC-certified Medical Review Officer (MRO).
 5. Laboratory-based urine drug testing must be conducted by laboratories certified by SAMHSA to perform urine drug testing.
 6. All drug screens must undergo specimen validity testing that includes, at a minimum, pH, creatinine and/or specific gravity, and one or more oxidant adulterants. POCT drug screen devices, as well as any laboratory-based urine drug testing, must meet these specimen validity testing requirements.
 7. All drug screens must, at a minimum, test for the following substances at or below the cutoff levels listed in the chart below. For POCT testing, the screening device is not required to detect 6-AM or PCP.

Drug	Screening Limit (ng/ml)	Confirmation Limit (ng/ml)
Amphetamines ^{1,2}		
Amphetamine	500	250
Methamphetamine	500	250
MDMA ³	500	250
Cocaine	150	100
Marijuana (THC)	50	15
Opiates/Opioids ⁴		
Morphine/Codeine	2000	2000
Hydrocodone/hydromorphone	300	100
Oxycodone/oxymorphone	100	100
6-Acetylmorphine ⁵	10	10
PCP ⁵	25	25

¹ Amphetamines screening must detect both amphetamine and methamphetamine.

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

³ Methylenedioxymethamphetamine (MDMA) including Methylenedioxyamphetamine (MDA)\

8. ⁴ For opiate/opioid analytes (i.e., morphine, codeine, hydrocodone, hydromorphone) the immunoassay test must be calibrated with one analyte from the group identified as the target analyte. The cross-reactivity of the immunoassay to the other analyte(s) within the group must be 80 percent or greater; if not, separate immunoassays must be used for the analytes within the group. Oxycodone/oxymorphone must be separate immunoassay target analytes on a POCT device.

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

- k. Any breath alcohol testing must be conducted in accordance with 49 C.F.R. part 40.
- l. Contractor shall maintain, at a minimum, and provide to TVA upon request, the following data during the term of this Contract and for at least three years thereafter:
 1. Number of employees tested for drugs and/or alcohol
 2. Number of drug tests deemed positive by the MRO
 3. Number of individuals refused to be tested
 4. Number of individuals tampering or attempting to tamper with a specimen
 5. Specific drugs that were positive

6. Evidence of individual testing documenting compliance with the drug testing requirements contained herein

- m. Any Contractor or Subcontractor employee who tests positive under a drug screening program established by the Contractor shall be immediately removed from TVA Site(s) and will not be assigned again to perform work or provide service under contract with TVA for a period of three years for a first positive drug test result and permanently for a second positive drug test result. A refusal to be tested, adulteration, substitution, tampering, attempting to tamper with, failure to cooperate in a timely manner, or otherwise attempting to subvert the testing process will result in an employee being permanently barred from access to TVA Site(s).
- n. l. An individual providing a urine specimen that is negative and diluted may be required to provide another specimen under direct observation. A positive test result that is diluted will be considered a confirmed positive test.
- o. m. Contractor shall inform: (1) its employees and Subcontractors of these requirements and to specify the consequences associated with substituting, adulterating, and/or otherwise tampering, or attempting to tamper with a specimen and/or positive test results, and (2) TVA Security if its employees or Subcontractors have violated this section's drug testing requirements, immediately upon testing confirmation utilizing TVA's Web Contractor Security System (WCSS).
- p. n. Contractor shall bear the cost of preparing and administering a drug screening program and the cost of employees' and Subcontractor employees' time to have test performed, laboratory expenses, and expenses of test review results by an MRO.
- q. o. TVA may audit all documentation and records describing and supporting Contractor's drug screening program.

10. OS HEALTH AND SAFETY

- a. TVA is a zero-injury culture company and expects Contractor and Subcontractor(s) to be committed to a zero-injury work culture environment and prevent occupational accidents or other incidents that jeopardize human health or safety. Contractor must be proactive in taking necessary measures to avoid accidents or incidents that jeopardize human health or safety. While performing on-Site Work, Contractor will not permit its employees or its Subcontractors, or their representatives or agents, to work in surroundings or under working conditions that endanger human safety or health.
- b. Contractor shall comply and is responsible for Subcontractor(s)' compliance, with all Applicable Laws, and TVA Sites' policies and procedures, which address or govern safety and health of persons or property. Specifically, but without limitation, Contractor shall comply with:
 - 1. The TVA Safety Manual and TVA SPP 18.004 Contractor Safety Management available at TVA's Supplier Connections website at <https://tvacloud.sharepoint.com/sites/safety/SitePages/Contractor-Safety.aspx>;
 - 2. For Work at TVA nuclear Site(s), TVA Nuclear Power Group (NPG) procedures related to nuclear safety, and nuclear safety-related and Quality-Related Work (as defined in this Contract's **Approved Quality Assurance Programs** Section); and
 - 3. Site-specific requirements governing Hazardous Work. "Hazardous Work" means: (i) hazardous work, as defined in TVA SPP 18.004, (ii) Work performed underwater, at dangerous heights, within confined spaces or unhealthy environments (such as extreme temperatures, loud noise, excessive dust), around dangerous machinery, using chemical/radioactive/toxic substances, operating vibration equipment, around energized electrical circuits, or handling heavy loads, or (iii) Work identified within a Safety and Health Plan as hazardous work.
 - 4. Depending on the nature and location of the Work and Site, additional TVA Site-specific safety and health requirements, as identified by TVA's CTS to Contractor or Subcontractor(s) (as applicable), prior to performance of on-Site Work.
- c. Contractor and Subcontractor(s) shall initiate and maintain such programs necessary to comply with the Applicable Laws and requirements referenced in subsection (b) above. In the event of conflict between any Applicable Laws and TVA policies or procedures pertaining to human health, safety, or occupational standards or requirements, the more stringent requirements will apply.
- d. If a Safety and Health Plan is required for Contractor's scope of Work, TVA's CTS will review Contractor's Safety and Health Plan covering the performance of on-Site Work by Contractor and its Subcontractors prior to the start of any on-Site Work. TVA's review of or objection to a Contractor's Safety and Health Plan, Contractor's or its Subcontractor(s)' compliance with such plan, or any information Contractor submits to TVA pursuant to such plan, does not relieve Contractor of its sole obligation and responsibility to comply with this Section's requirements and to maintain sufficient safety measures related to the on-Site Work. Contractor's Safety and Health Plan must describe how it will mitigate hazards for any Work activity for which Contractor is responsible. Contractor shall ensure that its employees, Subcontractor(s), and any other personnel who enter any Site Work area that is under Contractor's control, immediately check-in with the Contractor's Representative or designee. At the check-in, Contractor's Representative or designee shall conduct a pre-job briefing (including any known hazards within or affecting the Site Work area under Contractor's control).

e. Records.

1. Contractor and any Subcontractor will maintain an accurate record of all Work-related fatalities, injuries, and illnesses in accordance with OSHA regulations (29 C.F.R. Part 1904), and analogous regulations of state or local agencies.

2. If Contractor's scope of Work includes Hazardous Work, Contractor must maintain at its sole cost, during the Contract term: (i) an active membership and subscription with ISNetworld (www.isnetworld.com), and (ii) records of any information requested by or furnished by Contractor to ISNetworld in connection with ISNetworld's evaluation of Contractor.

f. Contractor Safety Representative. Contractor shall designate and maintain one or more supervisor(s) to function as safety representative(s) at all times while on-Site Work is in progress. Contractor's safety representative is responsible for implementing Contractor's Safety and Health Plan, must have the authority to correct hazardous conditions that may occur during performance of on-Site Work, and must conduct safety briefings, as required by this Contract, prior to the start of such on-Site Work. Contractor's safety representative shall respond promptly to the CTS in order to reduce or eliminate conditions that the CTS determines constitute a threat to or appear to threaten life, health or property at the Site Work location. Prior to arriving on-Site, Contractor shall designate in writing an officer of Contractor who is responsible for oversight of its Safety and Health Plan, and for maintaining a zero injury Work environment.

g. Breach of Safety and Health Provisions.

1. Contractor is solely responsible for its employees' and Subcontractor(s)' compliance with this Section. The CTS has the right (but not the duty) to inspect Contractor's operations as he or she deems appropriate to assure that Contractor and Subcontractor(s) comply with the requirements of Applicable Laws, TVA policies, and this Section. TVA's CTS promptly will notify Contractor upon becoming aware of any noncompliance with the foregoing requirements. Upon receipt of such notice, Contractor shall immediately take such action as may be required to determine the existence of and to correct such noncompliance. If Contractor fails or refuses to correct an unhealthful or unsafe condition, the CTS has the authority to issue an order stopping all or part of the Work until Contractor completes satisfactory corrective action (a "stop order"). Any stop order issued by the CTS applies to Work performed by Contractor or any Subcontractor, and Contractor shall not submit any equitable or monetary claims (under this Contract or otherwise) against TVA, relating to time lost as the result of any stop order. The CTS may require that Contractor immediately remove any person from a Site upon the CTS's determination that the continued presence of such person on-Site endangers the safety or health of other persons.

2. If Contractor is subject to the requirements of subsection e.2, above, and Contractor's ISNetworld rating falls below "B", Contractor shall restore its rating to a "B", within thirty (30) days of its receipt of notice from ISNetworld of the rating below "B." If Contractor does not provide written notice to TVA's Contracting Officer, CTS, or both, explaining the below-"B" rating and providing adequate (in TVA's judgment) assurance that it can continue to perform Work in compliance with Applicable Laws and this Section, or cannot improve such rating to "B," within the 30 day period, then TVA may issue a stop order, or may terminate this Contract for default. TVA may not issue a stop order or terminate this Contract for default if Contractor can demonstrate to TVA's reasonable satisfaction that the lower rating is due to an ISNetworld failure or deficiency, or is non-substantive (meaning, does not reflect Contractor's non-compliance with Applicable Laws, TVA policies, or its obligations under this Section).

h. When required by TVA project or Site safety or health procedures, any employee who performs Work at a Site must: (1) wear respiratory protective equipment and therefore must be clean shaven in the area between the sealing surface of the device and the face, and (2) upon seeking access to the Site, if such employee wears corrective eyewear, have or obtain (at Contractor's expense unless TVA specifically agrees elsewhere in this Contract).

11. OS HAZARDOUS MATERIALS

a. Prior to utilizing any Hazardous Materials, in the performance of on-Site Work, Contractor or its Subcontractors shall deliver such Hazardous Materials to the appropriate on-Site location as designated by the CTS or TVA Site representative, accompanied by any labeling, Safety Data Sheets ("SDSs"), or both, to the extent required by Applicable Laws. TVA personnel will properly label the Hazardous Materials and clear them for use in accordance with TVA Site procedures, and for purposes of performing the Work. TVA may use the SDSs and the container labels for its internal safety and health purposes and for any other purpose contemplated by Applicable Laws.

b. Contractor shall: (1) comply with Applicable Laws governing hazard communication, (2) minimize the generation of any solid, universal, or hazardous waste resulting from its delivery or use of Hazardous Materials, and (3) if it or Subcontractor(s) generate any universal or hazardous waste on-Site, notify TVA's Site representative and CTS in writing, and provide accurate manifests and other information requested by TVA and required by Applicable Laws, to enable TVA to effect off-Site recycling or disposal. Contractor shall retain ownership and control of any Hazardous Materials that it or its Subcontractor(s) bring to the Site, but which are not used during the performance of on-Site Work, and shall remove all such unused Hazardous Materials from the Site upon completion of on-Site Work.

- c. Contractor shall comply with Applicable Laws, this Contract's requirements, and TVA's or its third party contractor's Site-specific requirements and procedures, which govern collection, storage, management, and removal of items or substances that are not Hazardous Materials, or regulated under Applicable Laws as universal wastes, including, without limitation, solid waste, discarded or unused materials or chemicals, or other trash, refuse, or debris (collectively, "Nonhazardous Substances"), whether generated by Contractor's or Subcontractors' Work, or otherwise. Contractor shall retain ownership and control of any Nonhazardous Substance(s) that it or its Subcontractor(s) bring to the Site, but which are not used during the performance of on-Site Work, and shall remove all such unused Nonhazardous Substance(s) from the Site upon completion of on-Site Work.

12. OS NOTIFICATION OF WORK IMPACT

- a. Contractor shall promptly notify TVA's Contracting Officer and CTS in writing within three (3) workdays after identification of any circumstances or events that Contractor believes have a material impact on the Work and necessitate modifications to the scope or cost of Work, technical requirements or schedule for the Work (including, without limitation, material impacts that result from the actions or inactions of TVA, Contractor, or third parties), differing site condition(s) (before such conditions are disturbed and before proceeding with any related Work), or changes in Applicable Laws (any of the foregoing, a "Work Impact"). Both prior to and following submission of the notice of Work Impact, Contractor shall diligently continue performance of Work to the maximum extent possible.
- b. TVA is not obligated to consider any equitable adjustment unless Contractor complies with this Section's requirements. Contractor shall not incur costs related to differing site conditions (or due to Contractor's failure to visit the Work Site or area(s)), without written authorization from both TVA's Contracting Officer and CTS, or their designees. TVA is not liable for and will reject any invoices that include such costs.
- c. Contractor's written notice of Work Impact must state, at a minimum, the information described in this subsection. If Contractor does not know or cannot provide such information within the time period stated in subsection a. above, Contractor shall, within five (5) workdays after its original notice under subsection a., above, submit to TVA the most accurate information about the Work Impact available to it, consistent with this subsection.
 - 1. the date, nature, and circumstances of the action, inaction, event; or differing site conditions;
 - 2. the name, function, and activity of each individual involved in or knowledgeable about such action or event;
 - 3. the identification of any documents and the substance of any oral communication involved in such action or event;
 - 4. the particular elements of performance of Work (i.e., material impacts to cost, schedule, technical requirements) for which Contractor is seeking an adjustment and detailed justification for such requested adjustments; and
 - 5. Contractor's estimate of the reasonable amount of time by which TVA must respond to Contractor's notice to minimize cost, delay, or disruption of performance.
 - 6. The actions Contractor is taking to mitigate the effects of the Work Impact, including, but not limited to, re-sequencing of the Work, adjustment of schedules, and the reallocation of resources and manpower. If such Work Impact continues for seven (7) or more workdays, Contractor shall provide weekly written reports detailing, as applicable, costs incurred, project schedule updates, and progress of Contractor's plan to overcome the Work Impact, until such time as the Work Impact has been resolved.
- d. TVA shall respond to Contractor's written notice and will:
 - 1. confirm or deny that the action or event of which Contractor gave notice constitutes or justifies a change to this Contract; or
 - 2. if Contractor's notice of Work Impact is inadequate to make a decision, promptly notify Contractor of: (i) what additional information is required to support a TVA decision, (ii) the date by which Contractor must submit such additional information, and (iii) the date thereafter by which TVA will respond to Contractor's additional submission.
- e. Consistent with the resolution of Contractor's notice of Work Impact, TVA may revise the affected Work Release(s), initiate a Change Notice in accordance with this Contract's **Changes** Section, or propose a Contract amendment.

13. OS CONDITIONS OF TVA PROVISION OF ITEMS OR SERVICES

- a. Contractor is solely responsible for providing everything necessary to perform the Work and comply with this Contract, except for those items or services that this Contract specifically requires TVA to provide.
- b. If TVA chooses to provide Contractor with any items or services to assist Contractor in performing the Work, then, with respect to such items or services: (1) TVA retains ownership of them and all related Work Products, and TVA may permit Contractor to use them only in connection with the Work; (2) Contractor's employees and Subcontractor(s)' must be qualified or certified (as

applicable) to use them, and such use must comply with Applicable Laws and prudent industry practices.

- c. TVA's usage of any items or services it provides to Contractor always has priority. Contractor shall not claim or invoice any reimbursement, equitable adjustment, or other monetary or equitable relief or amount, from, against or to TVA, based upon TVA's resolution of any dispute over usage priority.
- d. Unless otherwise directed by the CTS or TVA Site representatives, Contractor shall return any reusable, unused, or salvageable items provided by TVA to TVA at a location designated by the CTS (or his or her designee), or, sell such items to third parties for TVA's account. TVA may audit and investigate Contractor's use, attempted sale, or other disposition of any such items at any time. Contractor shall pay or provide TVA a Credit in the amount of: (1) repair or replacement costs of any materially damaged items, or (2) replacement cost of items that TVA provided, but for which Contractor cannot account. TVA may withhold payment of relevant invoices (in whole or in part) to the extent Contractor does not or cannot account for TVA furnished items.
- e. TVA may also provide Contractor consumable items, such as small tools, expendable materials, general office supplies, and (if necessary for the Work) computer or data processing equipment, at no cost to Contractor, and only in connection with Contractor's or Contractor's Subcontractors' on-Site Work.

14. OS USE OF TVA SITES: REAL PROPERTY (BUILDINGS AND LAND)

- a. TVA may provide or allow Contractor or its Subcontractor(s) non-exclusive rights to access or use, strictly on an "as-is" basis at the time of such access or use: (1) Site facilities such as offices, warehouses or other buildings and permanent structures ("Facilities"); (2) designated areas of land on the Site, (3) existing Site restroom facilities or portable toilets; (4) designated Site parking areas for Contractor and Subcontractor(s)' vehicles; or (5) Site elevators, if pre-approved in writing by the CTS or TVA Site representatives, in compliance with the Health and Safety Section of this Contract, all subject to specific Site permitting requirements, or any or all of the foregoing. Contractor must notify TVA's CTS in writing, at least ten (10) days before beginning on-Site Work, that such Site use or access is necessary to Contractor's performance and completion of the Work.
- b. If Contractor's on-Site Work requires placement of its or its Subcontractor(s)' mobile and modular buildings, such as Conex or mobile office trailers, or their exclusive use of Facilities, Contractor must: (1) notify TVA's CTS in writing, at least ninety (90) days before beginning on-Site use of such Facilities, and (2) coordinate such on-Site activities with TVA Site representatives, comply with all Applicable Laws (specifically including applicable local building codes). In any of the foregoing cases, TVA reserves the right to require Contractor to enter into a separate TVA Real Property license agreement or comparable use agreement governing Contractor's or Subcontractor(s)' use of and obligations with respect to such Facilities, mobile or modular buildings or trailers, or designated areas of land on the Site.
- c. Upon the earlier of Contractor's completion of on-Site Work, or termination of this Contract or any license or comparable use agreement pursuant to subsection b., above, Contractor shall promptly remove its personal property, fixtures, or equipment, repair any damage, ordinary wear and tear excepted, and leave its Site Work area(s) in a clean, neat, and workmanlike condition, satisfactory to the CTS. TVA may use or dispose of (at Contractor's expense) any such personal property, fixtures or equipment that Contractor does not remove within thirty (30) days of Contract expiration or termination.
- d. Contractor shall transport, handle, manage, use, store and dispose of or recycle (if possible) all non-Hazardous Materials, in compliance with Applicable Laws. Except to the extent that Contractor discloses to TVA in writing, prior to beginning on-Site Work, that its equipment or items brought onto the Site do not contain Hazardous Materials, Contractor affirms that all such equipment or items are free from Hazardous Materials. If Contractor does notify TVA that its on-Site Work will involve Hazardous Materials, the terms of the Contract Section **Hazardous Materials** will apply.
- e. Contractor shall not make any connections to any Site building, equipment, systems, or structure without first obtaining written approval from TVA's CTS, a Site Safety representative and, in a TVA Facilities Management maintained building, upon written approval from the Manager, Architecture and Engineering, or designee. All such modifications must meet all applicable building codes.
- f. TVA may authorize Contractor's employees and Subcontractor(s) to use Site elevators, in coordination with TVA Site representatives, and in compliance with the Health and Safety Section of this Contract. TVA's CTS and Site Safety representative must pre-approve, in writing, any Contractor use of on-Site elevators to transport equipment, materials, vehicles, or supplies.
- g. Unless and only to the extent that Contractor's scope of Work, attached to this Contract, specifically states otherwise, TVA retains and expressly reserves title to water, soil, rock, gravel, sand, minerals, timber, and any other materials developed or obtained in any on-Site excavation or other operations of Contractor or any Subcontractor. TVA may, in such scope of Work, or upon the written consent of both TVA's CO and CTS, permit Contractor to use or dispose of such materials in compliance with this Contract and Applicable Laws.

15. OS UTILITIES AND SERVICES

- a. TVA does not warrant or guarantee to Contractor or any Subcontractor(s) an uninterrupted supply of water, electricity, gas, functional electrical outlets, or compressed air. To the extent available and if (in the TVA Site Manager's judgment) Contractor's usage does not interfere with TVA's or any other contractor's activities, Contractor may use water, electricity, gas and compressed air from existing Site outlets. Contractor is responsible for obtaining utility services, equipment, and materials necessary to perform and complete the Work under this Contract, at its sole cost and expense, in the event any such utility services are not functioning at the Site, or otherwise not available from TVA.
- b. Contractor shall comply with Applicable Laws, this Contract's requirements, and TVA's or its third party contractor's Site-specific requirements and procedures, which govern collection, storage, management, and removal of items or substances that are not Hazardous Materials, or regulated under Applicable Laws as universal wastes, including, without limitation, solid waste, discarded or unused materials or chemicals, or other trash, refuse, or debris (collectively, "Nonhazardous Substances"), whether generated by Contractor's or Subcontractors' Work, or otherwise. Contractor shall retain ownership and control of any Nonhazardous Substance(s) that it or its Subcontractor(s) bring to the Site, but which are not used during the performance of on-Site Work, and shall remove all such unused Nonhazardous Substance(s) from the Site upon completion of on-Site Work. Contractor shall not make any connections to any Site fire protection equipment, systems, or make any other structural modifications, without first obtaining written approval from TVA's CTS, a Site Safety representative and, in a TVA Facilities Management maintained building, upon written approval from the Manager, Architecture and Engineering, or designee. All such modifications must meet applicable building codes.

16. OS ENVIRONMENTAL INCIDENTS

- a. Contractor shall comply and ensure that its Subcontractors comply with Applicable Laws that protect Site(s)' environmental media and regulate releases and spills of Hazardous Materials. Contractor must notify TVA immediately of any releases or spills of Hazardous Materials, or violations of Applicable Laws or environmental Permits ("Environmental Incident(s)"), which occur in connection with Contractor's or a Subcontractor's performance of on-Site Work.
- b. If Contractor's or its Subcontractor(s)' failure(s) to comply with Applicable Laws cause Environmental Incident(s), then Contractor shall indemnify and defend TVA from and against all claims and liabilities, and related fines, penalties, or injunctive orders from Governmental Authorities, related to such Environmental Incident(s) and TVA's response to them, except to the extent that TVA's or its third-party contractor(s)' (other than Subcontractors') negligence caused such Environmental Incident(s).

17. OS UNLOADING AND STORAGE OF CONTRACTOR MATERIAL

If the scope of Work requires Contractor to ship tools, materials or equipment to a Site in order to perform on-Site Work, Contractor, at its own expense, shall deliver such items to the TVA-designated Site delivery point, unload them from the shipping vehicle, place them into Site storage locations identified by TVA, and transfer them from storage to the Site installation or other Work areas, as necessary to perform and complete the Work.

18. OS MEDICAL SERVICES

TVA shall not provide any medical services to Contractor's employees or its Subcontractors. Contractor shall maintain appropriate medical coverage for its employees and Subcontractors in accordance with Applicable Laws. TVA, to the extent medical services are available, will assist in evacuating Contractor's employees or its Subcontractors to an off-Site medical treatment facility if such persons experience life-threatening medical emergencies on-Site. In connection with any such medical emergencies, Contractor releases and will defend and indemnify TVA and its employees, agents, and authorized representatives from and against any claims or liabilities related to Contractor's or its Subcontractors' use of any TVA facilities, equipment, or services. Contractor is solely responsible and liable for all costs related to medical coverage and services for its employees and its Subcontractors.

19. OS FOREIGN MATERIAL EXCLUSION

Contractor is responsible for compliance with applicable TVA foreign material exclusion (FME) policy requirements (including those stated in the most current revisions of NPG-SPP-06.5, 0-VI-NUC-000-002.0, and PO-SPP-06.009, the "FME Policy(ies)"), and shall ensure that its employees and Subcontractors of all tiers who perform on-Site Work understand and comply with the applicable FME Policy.

20. OS INSURANCE

- a. Contractor shall maintain in effect during the performance of Work, insurance policies with the Required Limits stated below:

STANDARD Coverage(s)	Required Limits
1. Workers Compensation	
Part 1. Workers' Compensation	Statutory requirements
Part 2. Employer's Liability	\$1 million, each accident/employee/policy
2. Commercial General Liability	
Combined Single Limits	\$2 million each occurrence

3.	Automobile Liability (any auto) Combined Single Limits	\$1 million each accident
	SPECIALTY Coverage(s) (if applicable)	Required Limits
4.	Professional Liability	\$1 million each claim

- b. Contractor may satisfy the Required Limits above by either securing primary insurance in the amounts specified, or by combining primary insurance with excess liability or umbrella liability insurance.
- c. Deductible amounts under the policies described herein are not subject to TVA review; however, retention amounts shall not exceed 5% of the limits.
- d. Contractor's insurers(s) must be: (1) authorized to do business in the state(s) in which Contractor or its Subcontractor(s) will perform on-Site work, and (2) rated "A-" or better by AM Best.
- e. Any Contractor insurance policy required by this Section that provides coverage on a "claims-made" basis must be in-force no later than the Effective Date, and Contractor shall maintain such coverage for a period of three years following the termination of this Contract.
- f. Contractor's Commercial General Liability policy must cover liability arising out of premises and operations, products and completed operations, and contractual liability. Contractor shall maintain products and completed operations coverage for three years following completion of the Work.
- g. All Contractor insurance policies required by this Contract must include the provisions described in subsections 1 through 4 below:
 - 1. Except for workers' compensation and professional liability insurance, include TVA (as an agent of the United States, consistent with the TVA Act, 16 U.S.C. Section 831c(h)), its directors, officers, agents, employees, and volunteers as additional insureds to the extent of Contractor's indemnity obligations.
 - 2. Contain a separation of insureds or severability of interest clause.
 - 3. Waive the insurer's rights of subrogation in favor of TVA (as an agent of the United States), its directors, officers, agents, employees, and volunteers, except where prohibited by Applicable Laws.
 - 4. State that it is primary and noncontributory for insurance claims arising from Contractor's Work.
- h. Contractor shall ensure that all Subcontractor(s) performing on-Site Work maintain insurance coverages and limits consistent with the Subcontractor's scope of on-Site Work. Contractor is solely liable for any claims related to Subcontractor(s)' performance of Work.
- i. No later than ten (10) days after the Effective Date or prior to Contractor's or any Subcontractor's commencement of on-Site Work (whichever is earlier), Contractor shall deliver, by email to the Contracting Officer and to the Supply Chain COI Portal Inbox, SCCOIPortal@tva.gov, a certificate of insurance ("COI") showing that Contractor has secured the insurance policies and limits required in this Section.
- j. Failure by Contractor to maintain required insurance policy coverages and limits, or for Contractor to deliver, by email, current COI(s) upon TVA's request, constitute default(s), for which TVA may exercise one or more of the remedies stated in the **Termination for Default** Section of this Contract. TVA's failure to review Contractor's COI(s) does not waive any of TVA's rights under this Section.
- k. If any claims or litigation related to this Contract arise and involve TVA and the Contractor insurance policies required by this Section, then Contractor shall provide TVA's designated representatives with access to and opportunities to review the relevant Contractor insurance policies, at times and places to which the parties reasonably and mutually agree.
- l. If the Work includes any of the following activities, Contractor shall notify the Contracting Officer, who may then require additional insurance coverages, limits, policy terms, or any combination of the foregoing:
 - 1. Performing maritime Work (e.g., on a barge or boat) on or near navigable waters
 - 2. Owning or operating watercraft

3. Owning or operating aircraft, either manned (fixed wing or rotor wing) or unmanned (drones or UAS)
4. Handling, storing, transporting, managing, or disposing of Hazardous Materials
5. Accessing, using, processing, storing, transmitting, or disposing of RPII or information that TVA has designated as TVA "Restricted" or "Sensitive"
6. Performing on-Site rigging or lifting Work, such as operating cranes
7. Performing vegetation management Work in TVA's transmission right-of-way
8. Performing Work involving decommissioning, demolition, or the use of explosives

21. Reserved.

22. OS TIME OF ESSENCE

For every material requirement of this Contract, time is of the essence.

NUCLEAR-SPECIFIC PROVISIONS

*These Nuclear-Specific Provisions apply if and to the extent that Contractor's scope of Work under a Work Release: (A) involves or requires access to a TVA Nuclear Site, and/or (B) requires Contractor to provide or deliver Work classified as QA-1 or QA-2 under **Section N1, below.***

N1. APPROVED QUALITY ASSURANCE PROGRAMS

- a. Contractor's and its Subcontractor(s)' compliance with the requirements stated in this Section are necessary to ensure that all Work is performed and completed in a manner that meets TVA's nuclear Sites' and related licensing commitments under Applicable Laws (specifically including Nuclear Regulatory Commission (NRC) regulatory requirements), and TVA's Nuclear Quality Assurance Plan (NQAP) requirements.
- b. As of the Effective Date, or at the latest, prior to performing any Work under this Contract that is subject to the requirements stated in this Section, Contractor and Contractor's Subcontractor(s) (the latter, if so directed by TVA, or if Contractor is a Distributor or Agent, covered under subsection d., below) must: (1) be listed on TVA's Acceptable Supplier List (ASL), and (2) maintain TVA-approved Quality Assurance (QA) program(s), and maintain its or their ASL listing(s), throughout the performance and completion of Work hereunder.
- c. TVA may apply the following internal QA classification levels to Contractor's or Contractor's Subcontractor(s)' Work:
 1. **Quality Assurance Level 1** - The TVA engineering or technical procurement classification assigned to Work consisting of basic components or services (such as training, design, inspection, testing, consulting, and installation) that may affect the nuclear safety related function of basic components, and are obtained through a nuclear safety related procurement. Contractor is solely responsible for compliance with NRC's reporting of defects and non-compliance regulations (10 C.F.R. Part 21) with respect to any Work designated as QA Level 1. Contractor immediately must send notice of any such defects or non-compliance by email to oemanager@tva.gov, and written notice by regular mail to the Contracting Officer and to: TVA Nuclear Power Group; Attention: Sr. Program Manager, Operating Experience; 1101 Market Street, LP 4A-C; Chattanooga, Tennessee 37402-2801.
 2. **Quality Assurance Level 2** - The TVA procurement classification assigned to Work consisting of basic components or services that are obtained as commercial grade and dedicated by TVA for nuclear safety related applications. If TVA is able to complete such dedication process, TVA will be responsible for compliance with NRC's reporting of defects and non-compliance regulations (10 C.F.R. Part 21) with respect to any Work designated as QA Level 2.
 3. **Quality Assurance Level 3** (Quality-Related items that are not nuclear safety related) or **Quality Assurance Level 0** (non-Quality-Related, non-safety related Work), as defined in TVA Nuclear procurement engineering procedures. "Quality-Related" means Work that is a component or part of a nuclear safety-related item or service, or requires compliance with unique nuclear engineering or NRC regulatory standards or procedures, but does not perform a nuclear safety-related function.
- d. Contractor must perform Work that TVA classifies as QA-1 in compliance with: (1) at least one of the following: (i) a nuclear safety-related program that complies with 10 C.F.R. Part 50, Appendix B; (ii) one nuclear-safety-related program that complies with 10 C.F.R. Part 50, Appendix B and a manufacturer's ASME Section III program; or (iii) a manufacturer's ASME Section III program that TVA, another nuclear utility, or the Nuclear Procurement Issues Committee (NUPIC), has audited and approved as compliant with 10 C.F.R. Part 50, Appendix B, and (2) 10 C.F.R. Part 21, as and to the extent specified on individual Work Releases. For Work that TVA classifies as either QA-2 or QA-3, TVA may specify that Contractor perform such Work in compliance with the Contractor's or a manufacturer's quality program. Contractor must provide any nuclear safety-related or Quality-Related documentation that TVA specifies on each such Work Release to TVA's Quality Assurance organization.
- e. For purposes of this Section, Contractor must designate each Subcontractor as one or more of the following, as defined below: **Supplier**, **Distributor**, or **Agent**, and prior to the Effective Date, provide such entity(ies)' name(s) and address(es) to TVA's Supply Chain organization.
 1. An approved supplier (**Supplier**) is a manufacturer or dealer of nuclear safety-related or Quality-Related items or services that has a quality assurance (QA) program (e.g., ANSI N45.2, ASME, Commercial) which has been approved by TVA's QA Organization.
 2. An approved distributor (**Distributor**) is a person or entity that is authorized by a Supplier and has a quality assurance (QA) program/procedure that TVA's QA Organization has approved for the handling, storage, and shipping of nuclear safety-related and Quality-Related material or items. A Distributor must transmit TVA quality and technical requirements to the Supplier providing the item, obtain required documentation from the Supplier, provide the information to TVA, and maintain traceability to the Supplier's production data (i.e., lot number, date of manufacture, production number, etc.).
 3. An approved agent (**Agent**) is a person or entity that TVA's QA organization has approved to represent one or more Suppliers. An Agent is not qualified to handle, store, or ship nuclear safety-related and Quality-Related material or items, and any

required certifications must be manufactured and controlled under a TVA-approved Supplier's QA program. An Agent must transmit TVA QA and technical requirements to the Supplier, but cannot certify to the quality or technical attributes of an item.

4. A **Distributor** or **Agent** for some or all of the items subject to the requirements of this Section must provide the information required in TVA Form 40738 (**Approved Quality Assurance Programs: Supplier Information**) for each Supplier of each item or group of items, to TVA's Contracting Officer and TVA's QA organization, as part of Supplier's and its Distributors' and Agents' compliance with this Section.
- f. Contractor must direct questions about its or its Subcontractor(s)' approval status on TVA's ASL to TVA's Contracting Officer, the Contract's CTS, or TVA Vendor Audit Services, at vendorau@tva.gov.

N2. UNESCORTED ACCESS AND FITNESS FOR DUTY

- a. TVA's NPG-SPP-14.1, as amended, applies to all Contractor and its Subcontractors' personnel performing Work at a TVA nuclear Site, including all such personnel with unescorted access to TVA nuclear Sites, and those personnel required to report in person to any TVA emergency response center under TVA's emergency plans and procedures (collectively, "**Covered Personnel**"). Covered Personnel who have been denied access to or removed from work at any nuclear plant as a result of any violation(s) of any FFD program are prohibited from performing on-Site Work. Upon Contractor's written request to TVA's CTS, TVA Nuclear Security may approve an exception to this requirement.
- b. All Covered Personnel must report to the TVA nuclear Site's Check-In Coordinator at the Work location, and complete appropriate FFD program training from TVA. Such Covered Personnel must complete such FFD training at least once every twelve (12) months. During the Contract term, Contractor, monthly or upon TVA's CTS's written request, will supply the CTS with names of those Covered Personnel who have been promoted to manager or supervisor positions (this includes temporary assignments). In addition, Contractor shall: (1) notify TVA Corporate Nuclear Security, in writing, within 24 hours of becoming aware of any violation of TVA's FFD requirements by any Covered Personnel, and (2) allow authorized representatives of the NRC to inspect, copy, or take away copies of any Contractor or Contractor's Subcontractors' records, documents, or reports related to implementation of TVA's or Contractor's FFD program.
- c. **Fitness for Duty Requirements: Nuclear Sites.** Covered Personnel who require unescorted access authorization (UAA) to TVA nuclear Sites to perform Work must fulfill the In-Processing Requirements at TVA's Central In-Processing Center, located at 29199 US Hwy 72, Hollywood, Alabama. Contractor shall include the requirements of this subsection in any subcontract(s) related to the performance of Work at TVA nuclear Site(s) under this Contract. Subject to these requirements TVA will bear the costs of and perform services relating to certain In-Processing Requirements (e.g., background investigation, psychological screening, fingerprinting, drug/alcohol testing, and successful completion of Plant Access and Fitness for Duty training) for Covered Personnel.
 1. For Covered Personnel who are subject to TVA's Project Labor Agreements, or other agreement between TVA and the Tennessee Valley Trades and Labor Council, the latest updated version of Labor Relations Supplement (LRS)-66, entitled "Incentive for Early Completion of Nuclear In-Processing Requirements", shall apply, provided that, in addition to the foregoing, TVA's Project Labor Agreements may stipulate specific training requirements for craft and other manual Covered Personnel; and
 2. For Covered Personnel who are non-craft, and other non-manual Covered Personnel, TVA will pay the hourly rates negotiated for each relevant personnel classification, in accordance with this Contract, up to the maximum number of hours set forth on Table C-2, below, for each required element of the In-Processing Requirements that such Covered Personnel successfully complete. Contractor shall reimburse TVA for costs, expenses and services relating (and proportional) to the failure(s) of such Covered Personnel to successfully complete applicable In-Processing Requirements, or provide a Credit in the aggregate amount of such TVA-incurred costs, expenses and services. Except as provided in this subsection 2, TVA is not responsible or liable for any costs, expenses or services related to non-craft or non-manual Covered Personnel In-Processing Requirements.

TYPICAL IN-PROCESSING REQUIREMENTS: ELEMENT DURATIONS

ELEMENT	DURATION (Minutes)	ELEMENT	DURATION (Minutes)
CHECK - IN (BRIEFING)	30	AUTHORIZED WORKER 59126	60
PHOTO/FINGERPRINT	60	ARC FLASH 59114	180
PHQ	0 (off-Site)	ASBESTOS AWARENESS NANTeL	0 (off-Site)
MMPI	180	CONFINED SPACE NANTeL	0 (off-Site)
DRUG/ALCOHOL	60	ELECT SAFETY (OSHA) NANTeL	0 (off-Site)
		EXCAVATING/TRENCHING 59118	60

PLANT ACCESS FFD (NANTeL)	0 (off-Site)	FIREWATCH 50023	0 120
PLANT ACCESS PAT (NANTeL)	0	FORMALDEHYDE AWARENESS	30
RADIATION WRKR (NANTeL)	0	HEX CHROMIUM NANTeL	0 (off-Site)
DRESS OUT (CLASS/PRACT)	180		
DOSIMETRY	30		
DYNAMIC LEARNING CENTER	180		
ELEMENT	DURATION (Min)	ELEMENT	DURATION (Min)
		S02 - OPERATOR	120
S-3 MEDICAL	60	S03 - RESPIRATOR TEST	60
RESPIRATOR (NANTeL)	60 (on-Site or off-Site)	S04 - HEARING TEST	20
PRACTICAL/FIT	60	S05 - TRUCK DRIVER	65
CYBER SECURITY (NANTeL)	0 (off-Site)	S08 - CRANE OPERATOR	80
CYBER SECURITY 69066	30	S09 - QC INSPECTOR	50
		S11 - SECURITY OFFICER	120
		MICROFIT - SECURITY OFFICER	90
FME (NANTeL)	0 (off-Site)		

Table C.2

- d. Contractor shall not invoice (directly or indirectly) or claim against TVA (under any Section of this Contract) for any time, adjustment (equitable or monetary), cost or expense relating to Contractor's or its Subcontractors' failure to comply with the requirements of this Section, or specific In-Processing Requirements, applicable to any Covered Personnel.
- e. With respect to Covered Personnel who are, as of the Effective Date or prior to seeking access to a TVA nuclear Site, authorized to access a TVA nuclear Site, or have completed Fitness for Duty In-Processing Requirements under Contractor's or its Subcontractors' Fitness for Duty program(s): (1) TVA may pre-approve qualification of such Covered Personnel at an individual TVA Site, rather than at TVA's In-Processing Center (any such approval or rejection must be in writing from TVA's CTS, within thirty (30) days of Contractor's written request); and (2) Contractor shall utilize its Fitness for Duty program to complete the requirements for background investigations and psychological screening for Covered Personnel in compliance with 10 C.F.R. 73.56; Nuclear Regulatory Commission (NRC) Order for Compensatory Measures Related to Access Authorization, EA-02-261, dated January 7, 2003 (and any subsequent revisions); and the latest revision of Nuclear Energy Institute (NEI) 03-01, Nuclear Plant Access Authorization Program. Contractor must, at its sole cost and expense: (i) perform these training and qualification activities in a timely manner to support the applicable Work schedule requirements of this Contract or Work Release(s) issued under it and (ii) maintain all records associated with the granting of unescorted Site access, and not destroy any such record without the prior written approval of TVA's Corporate Nuclear Security group.
- f. TVA will accept task qualifications awarded to Covered Personnel by Contractor, if Contractor (at its sole cost and expense) achieves and maintains compliance with the Electric Power Research Institute ("EPRI") Administrative Protocol for Portable Practical's (EPRI AP3). Contractor shall not invoice (directly or indirectly) or otherwise claim or charge TVA for time, expenses or costs for Covered Personnel associated with any training or qualification activities performed on-Site for any tasks for which approved EPRI standardized task evaluations (STEs) exist. Completion of the EPRI STEs does not guarantee Covered Personnel access to, or the right to perform Work at, a TVA nuclear Site, however, Covered Personnel who have completed TVA-approved EPRI STEs can use these STEs to meet task qualifications applicable to the on-Site Work.
- g. Contractor shall comply with all applicable NRC requirements related to FFD programs, including but not limited to those in 10 C.F.R. Part 26. Contractor shall include the requirements of this Section in any subcontract(s) for on-Site Work under this Contract, regardless of tier. Contractor's and Contractor's Subcontractors personnel that are not Covered Personnel, and who are not subject to drug testing pursuant to FFD requirements, are subject to the applicable requirements of the "Drug Testing for Non-Nuclear Contracts" Section of this Contract.
- h. **Additional Requirements for Access to Nuclear Site Protected Area.** TVA will: (1) require access control and compliance with Fitness for Duty requirements for all Covered Personnel who perform Work within the TVA Nuclear Power Plant Protected Area, or require long-term unescorted access to a nuclear Site, and (2) normally provide escorted access for such Covered Personnel's short-term access requirements.

N3. NANTeL

- a. The National Academy of Nuclear Training electronic Learning (NANTeL) has established standardized, generic training that applies to personnel who perform on-Site Work at TVA's nuclear Sites. Contractor shall, at its expense, ensure that its employees and its

Subcontractor(s) complete NANTeL's generic training courses prior to seeking access to a TVA nuclear Site to perform Work.

- b. Contractor shall not charge or invoice TVA (directly or indirectly), and TVA will not reimburse Contractor, for any time, expenses or costs incurred or charged by its employees or its Subcontractors, associated with: (1) completion of the NANTeL training courses listed below, (2) training on-Site provided by TVA personnel on the listed topics, for which training content and evaluation tools exist on NANTeL; (3) TVA's review and evaluation of Contractor's training program, or (4) failure to complete the listed NANTeL modules or courses.

Generic Plant Access
Generic Radiation Worker Training
Generic Fitness For Duty Behavior Observation Program
Generic Foreign Material Exclusion
Generic Confined Space Entrant/Attendant
Generic Fall Protection
Generic Cyber Security Awareness
Electrical Safety for Non-Qualified Workers
Generic Scaffold Safety
Electrical Safety for Qualified Workers
Generic Material Handling
Generic Hot Work Firewatch
Asbestos Awareness
Generic Lead Awareness
Human Performance

- c. In addition to the NANTeL generic training required under this Section, each TVA nuclear Site requires Contractor's employees and its Subcontractors to complete Site-specific training (web-based or on-Site classroom). Contractor shall ensure that its employees and its Subcontractor(s) complete such Site-specific training, in accordance with applicable TVA Site procedures. Contractor must notify TVA Site training managers and TVA's CTS in writing within five business days of hiring its managers or supervisors, or promoting its employees or its Subcontractor(s) to managerial or supervisory positions, to perform Work at TVA nuclear Site(s). Contractor is responsible for such managers' and supervisors' timely completion of Safety Conscious Work Environment (SCWE) training.
- d. Contractor shall maintain complete, accurate and up-to-date records of all individuals who have satisfied the Site-specific training requirements described or referenced in this subsection. Each month during the Contract term, Contractor shall provide TVA's designated Site safety representative with copies or an electronic file of all such documentation for each individual who has completed this training.
- e. TVA retains the sole right to develop and evaluate training and qualification requirements for Contractor's employees and its Subcontractors who access or perform Work on a TVA nuclear Site.

N4. EMPLOYEE PROTECTED ACTIVITIES

- a. In connection with the performance of on-Site Work at or in support of a TVA nuclear Site, Contractor shall comply, and is responsible for Contractor's Subcontractor(s)' compliance, with the following Applicable Laws (as amended) and the most current versions of the referenced policies:
1. 10 C.F.R. § 50.7 "Employee Protection" regulations of the Nuclear Regulatory Commission ("NRC") and Section 211 of the Energy Reorganization Act of 1974 (the "ERA"), which prohibit "discrimination" against employees for engaging in certain "protected activities," as these terms are defined by the U.S. Secretary of Labor and the NRC.
 2. "TVA's PRINCIPLES, Commitment to Nuclear Safety," and TVA's Standard Program and Process (SPP)-11.8.4, "Expressing Concerns and Differing Views," which are available from the Contracting Officer and are available at TVA's Supplier Connections website, at <https://www.tva.com/Information/Supplier-Connections/Documents--Referenced-Clauses>.
 3. TVA's Nuclear Power Group (NPG)-SPP-01.7, "Nuclear Safety Culture," which applies to any person performing Work at a TVA nuclear Site, and is available from TVA's Contracting Officer and at TVA's Supplier Connections website, at <https://www.tva.com/Information/Supplier-Connections/Documents--Referenced-Clauses>. NPG-SPP-01.7 describes and provides administrative guidance to support a healthy Nuclear Safety Culture (NSC) and a Safety Conscious Work Environment (SCWE).
 4. NPG-SPP-01.7.4, "Adverse Employment Action and the Executive Review Board," which is available from TVA's Contracting Officer and at TVA's Supplier Connections website, at <https://www.tva.com/Information/Supplier-Connections/Documents--Referenced-Clauses> (under **Employee Protected Activities**, NPG-SPP-01.7.4). NPG-SPP-01.7.4 is designed to help ensure that certain significant proposed personnel actions are adequately reviewed by Contractor and TVA in order to comply with NRC employee protection (10 C.F.R. § 50.7) requirements, TVA-SPP-11.8.4, "Expressing Concerns

and Differing Views," and this Section. In addition, application of NPG-SPP-01.7.4 will assist in determining whether the proposed action could negatively impact a SCWE and allow for actions to mitigate any potential chilling effect resulting from those significant proposed personnel actions.

- b. With respect to any current or former employee of Contractor or Subcontractor(s) (for purposes of this Section, "Covered Employee(s)") complaint or allegation relating to discrimination for engaging in protected activities (as defined herein), complaints under 10 C.F.R. § 50.7 or ERA § 211, or potential or actual adverse employment action that Contractor intends to or does take against such Covered Employee(s), related to the foregoing, Contractor shall:
1. notify TVA's CO, CTS, and one of the TVA Employee Concerns Staff Site Representative or TVA Employee Concerns Manager, in writing: (i) prior to (if possible), but in all cases, promptly after, it takes an adverse employment action against any Covered Employee, to enable TVA's Executive Review Board (ERB) to function in compliance with NPG-SPP-01.7.4); and (ii) within two working days after the earlier of Contractor or Contractor's Subcontractor's receipt of (x) a Covered Employee's allegation of discrimination because of engagement in protected activities, related to Work, or (y) notice of a Covered Employee's filing of a 10 C.F.R. § 50.7 or ERA § 211 complaint, provide TVA with Contractor's records of its actions, and a copy of any Covered Employee's allegations or complaint;
 2. notify TVA's Employee Concerns Manager of any internal employee concerns program(s) that Contractor maintains, and provide TVA's Employee Concerns Manager an opportunity to review such program(s);
 3. comply with, and handle and manage any complaints of discrimination for engaging in protected activities (as defined herein) or complaints under 10 C.F.R. § 50.7 or ERA § 211 in compliance with, the then-current revisions of the following policies and procedures, which are available from TVA's Contracting Officer and at TVA's Supplier Connections website, under the Employee Protected Activities heading, at <https://www.tva.com/Information/Supplier-Connections/Documents--Referenced-Clauses>: (1) TVA-SPP-11.8.4 (Expressing Concerns and Differing Views); (2) NPG-SPP-01.7.4 (Adverse Employment Action and the Executive Review Board); and (3) Procedure for Handling Complaints of Discrimination for Engaging Protected Activities against TVA Nuclear Contractor(s) and Their Subcontractors;
 4. aggressively pursue, or ensure that Contractor's Subcontractors aggressively pursue, any Covered Employee's allegation of discrimination for engaging in protected activity with respect to Work, and fully investigate such allegations, unless Contractor's interests vary significantly from TVA's, cooperate fully with TVA (represented by TVA's Office of General Counsel) or the TVA OIG (either of which may, at its option, conduct its own investigation of any allegation or complaint under this Section), provide TVA any investigative reports that it prepares as a result of any such allegation or complaint, and provide to TVA a full written description of any management action taken in response to any such allegation or complaint;
 5. ensure that no agreement affecting the compensation, terms, conditions, and privileges of employment, including, but not limited to, any agreement to settle a complaint filed by a Covered Employee pursuant to 10 C.F.R. § 50.7 or § 211 of the ERA contains any provision which would prohibit, restrict, or otherwise discourage a Covered Employee from participating in any protected activity as described in 10 C.F.R. § 50.7, including, but not limited to, providing information to NRC on potential violations of NRC's regulations or other matters within NRC's regulatory responsibilities; and
 6. include this Section, Employee Protected Activities for Nuclear Contractors, along with the flow-down requirement of this sentence and specifically including subsections b(1) and b(2) above as applicable, in all subcontracts of any tier entered into pursuant to this Contract, unless TVA consents in writing to exclude a particular subcontract or class of subcontracts.
- c. Contractor shall, at its sole expense, retain the services of legal counsel experienced in the handling of Covered Employee(s)' allegations or complaints against it or Contractor's Subcontractor(s), based on 10 C.F.R. § 50.7 or ERA § 211 (or either or both), to ensure consistent handling of such matters. TVA may reimburse Contractor for certain legal expenses if it ultimately prevails in its defense of such allegations or complaints.
- d. If Contractor or Contractor's Subcontractor(s) fail to comply with any substantive or notification requirement stated or referenced in this Section: (1) such failure constitutes a default under this Contract, and (2) if and to the extent such failure results in NRC's or any other Governmental Authority's imposition of monetary or equitable penalties or sanctions on or against TVA (including, without limitation, a confirmatory order or additional nuclear Site inspection requirements), Contractor releases and will indemnify and defend TVA and its employees from and against such liabilities. Contractor's liabilities arising under this subsection will not be deemed special or consequential damages under this Contract.
- e. Nothing in this Section in any way limits the TVA OIG's authority under the Inspector General Act, as amended, including the authority to subpoena documents.

N5. PROCEDURE USE AND ADHERENCE

The following TVA nuclear power program procedure establishes minimum requirements for the use, preparation, revision, and approval of technical procedures that involve Work at TVA's nuclear plant Sites. TVA's Nuclear Power Group (NPG) applies NPG-SPP-01.2, "Administration of Site Technical Procedures," and its Attachments, to activities conducted at Browns Ferry Nuclear Plant, Sequoyah Nuclear Plant, and Watts Bar Nuclear Plant. Contractors and Contractor's Subcontractors whose Work involves or impacts

the technical procedures referenced therein are required to comply with the latest revision of NPG-SPP-01.2, specifically including, without limitation, Section 3.2.1 of NPG-SPP-01.2, which describes responsibilities for procedure adherence and the consequences of failing to follow procedures, including the penalties associated with knowingly providing false, inaccurate, misleading, or incomplete statements or information under NRC regulations and other Applicable Laws.

N6. RADIATION EXPOSURE

- a. TVA shall provide radiological control personnel to review and discuss radiological conditions and safe work practices with Contractor and Subcontractor(s) prior to any Radiological Controlled Area (RCA) Work that Contractor or Subcontractor(s) is or are scheduled to perform for TVA under this Contract while at TVA's nuclear Site(s). Contractor shall ensure that its employees and Subcontractor(s) follow all TVA radiological control instructions while working at TVA nuclear Site(s).
- b. Prior to seeking access to a TVA nuclear Site, each Contractor or Subcontractor(s)' employee who will perform Work in a TVA nuclear Site RCA under this Contract (each, an "RCA Worker") must validate (through a current driver's license or other Governmental Authority-issued document) that he or she is at least 18 years of age, and shall provide accurate information regarding each location where the individual was monitored for occupational radiation exposure for the current calendar year, and a written and signed statement of his or her cumulative occupational radiation dose, as measured immediately prior to seeking access to a TVA nuclear Site. Unless otherwise agreed, each RCA Worker's occupational radiation exposure must: (1) be less than 50% of the NRC annual whole body (TEDE) dose limit of 5 Rems from all occupational sources not to exceed a lifetime whole body dose of 1N Rem, where N is the individual's age at his/her last birthday, (2) as a sum of the deep-dose equivalent and the committed dose equivalent to any individual organ or tissue, be less than 50% of the NRC annual dose limit of 50 Rems, (3) for an eye dose equivalent, be less than 50% of the NRC annual limit of 15 Rems, and (4) for a shallow-dose equivalent to the skin and to the maximum exposed extremity, be less than 50% of the NRC annual limit of 50 Rems. Contractor acknowledges and agrees that each RCA Worker may receive the annual dose limits as prescribed by 10 C.F.R. § 20.1201(a).
- c. TVA will use the information that each RCA Worker is required to provide under subsection b., above, and Applicable Laws, to complete Form NRC-4, and will deny access to the relevant TVA nuclear Site(s), at the RCA Worker's employer's risk and expense (such expense to be limited to Contractor's direct, incurred costs), if the RCA Worker provides incomplete or inaccurate information. Upon written request by Contractor, the parties may mutually agree to modify or grant individual RCA Worker(s) exception(s) to the requirements of subsection b., above.
- d. Consistent with Site-specific procedures, TVA will decontaminate Contractor's materials and tools used by Contractor or Contractor's Subcontractor(s) at a TVA nuclear Site; provided that, if such materials and tools cannot be decontaminated or the cost of such decontamination exceeds the value of such materials or tools, TVA will reimburse Contractor for the fair market replacement value of such tools or materials. TVA is responsible for decontamination or disposal, in compliance with Applicable Laws, of its own equipment, materials and tools (including existing casings and turbines).
- e. Contractor shall, at its own expense, assume the defense of and save TVA harmless from all radiation injury claims filed by Contractor's employees or its Subcontractor(s) with respect to Work performed at facilities owned or operated by Contractor or its Subcontractor(s).

N7. NUCLEAR SITE EMERGENCY PREPAREDNESS

Contractor shall ensure that its personnel working at or near a TVA nuclear Site are made aware of each relevant Site's emergency information regarding accountability and evacuation during a Radiological Emergency. At a minimum, prior to beginning on-Site Work, Contractor shall provide its employees and Subcontractor(s) with the Emergency Preparedness information located in TVA's Supplier Connections portal at <https://www.tva.com/Information/Supplier-Connections/Documents--Referenced-Clauses>.

N8. NUCLEAR INCIDENTS

- a. For purposes of this Contract, "nuclear incident" and "public liability claims" have the meanings given those terms in the Atomic Energy Act (42 U.S.C. §§ 2014(q), 2014(w)). For purposes of this Section only, the term "Contractor's Subcontractors" includes any of Contractor's suppliers of material, equipment, or services for the Work, regardless of tier.
- b. Prior to, or at the time of shipment of the first nuclear fuel to the TVA nuclear Site, TVA will maintain nuclear liability insurance, to cover public liability claims, in accordance with section 170 of the Atomic Energy Act (42 U.S.C. § 2210) and applicable NRC regulations. If this nuclear liability protection system is repealed or changed, TVA will seek comparable insurance coverage, to the extent available on commercially reasonable terms, and maintain such insurance in effect during the period of operation of the TVA nuclear Site, so as not to materially impair the protection afforded to Contractor and Contractor's Subcontractors under the existing system.

- c. In the event of losses or liability resulting from nuclear incidents at the TVA nuclear Site:
 - 1. TVA waives any claim it might have against Contractor or Contractor's Subcontractors because of damage to, loss of, or loss of use of any property at the TVA nuclear Site; and
 - 2. TVA will indemnify Contractor and Contractor's Subcontractors and save them harmless from any claims, losses or liability arising as a result of damage to, loss of or loss of use of any property at the TVA nuclear Site.
 - 3. The waiver stated in subsection c.1, above, does not apply to any TVA rights or remedies available against Contractor for breach of any Contractor warranty obligations under this Contract, to the extent such breach is unrelated to a nuclear incident at the TVA nuclear Site.
- d. The waiver and indemnification provisions stated in this Section apply to the full extent permitted by Applicable Laws, and regardless of fault.

SMALL BUSINESS PROVISIONS (IF WORK RELEASE VALUE EXCEEDS \$900,000)

SB-1. SMALL BUSINESS SUBCONTRACTING

- a. TVA implements its small business subcontracting goals as required by Applicable Laws and through its policies. TVA's goals are stated in the Table below and are stated as percentages of the Contract value. To assist in meeting these TVA goals, Contractor must submit one of the following subcontracting plans for TVA's approval: individual, master, or a commercial (corporate) plan, on or before the Effective Date:

A. * <u>Small Business</u> (SB)	28%
(1) Small Disadvantaged Business (SDB)	5%
(2) Small Woman-Owned Business (SWB)	5%
(3) HUB Zone Small Business (HUB)	3%
(4) Small Veteran-Owned Business (SVB)	3%
(5) Small Service-Disabled Veteran-Owned Business (SSDV)	5%
B. <u>Valley Business</u> (VB)	75%

* "Small Business," and the five listed categories (SWB, SDB, HUB, SVB, and SSDV) of Small Businesses, are defined in 48 C.F.R. § 2.101. The Small Business subcontracting goal (28%) includes these five categories.

- b. Contractor must make good faith efforts to meet the approved subcontracting plan. Contractor shall: (1) report subcontract expenditures under this Contract with each of the above SB (SDB, SWB, HUB, SVB, and SSDV) and VB categories through TVA's Subcontract Reporting System (SRS), within 30 days after the close of each calendar quarter (unless TVA has approved an annual commercial subcontracting plan) or unless TVA instructs otherwise, and (2) provide TVA with data and documentation that TVA requires in order to determine compliance with the subcontracting plan.
- c. Liquidated Damages (see 15 U.S.C. § 637(d)(4)(F)).
1. Failure to make a good faith effort to comply with the subcontracting plan, as used in this Section, means a willful or intentional failure to comply or to frustrate, the approved subcontracting plan under this Section.
 2. If, at Contract termination, or in the case of a commercial plan, at the close of the fiscal year for which the plan is applicable, Contractor has failed to meet its SB subcontracting goals, and the Contracting Officer decides in accordance with paragraph c.3 of this Section that Contractor failed to make a good faith effort to comply with its subcontracting plan, Contractor shall pay TVA liquidated damages in an amount equal to: (a) the actual dollar amount by which Contractor failed to achieve each SB subcontract goal or, (b) in the case of a commercial plan, that portion of the dollar amount allocable to this Contract by which Contractor failed to achieve each SB subcontract goal.
 3. Before the Contracting Officer makes a final decision that Contractor has failed to make a good faith effort to comply with its subcontracting plan, the Contracting Officer shall give Contractor written notice specifying the failure and permitting Contractor to demonstrate what good faith efforts have been made. TVA may treat Contractor's failure to respond to such written notice as an admission that no valid explanation exists for the specified failure(s). If, after consideration of all the pertinent data, the Contracting Officer finds that Contractor failed to make a good faith effort to comply with the subcontracting plan, the Contracting Officer shall issue a final decision to that effect and require that Contractor pay TVA liquidated damages as provided in subsection c.2 of this Section.
 4. With respect to commercial plans, the contracting officer for the relevant federal agency who approved Contractor's commercial plan will perform the functions of the Contracting Officer under this Section on behalf of all agencies that awarded contracts covered by that commercial plan.
 5. Liquidated damages shall be in addition to any other remedies that TVA may have against Contractor for violations of this Section's requirements.